

# BUILDING THE NEW SUPREMACY:

## *California's "Chinese Question" and the Fate of Reconstruction*

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The so-called "Chinese question" was one of the most important and consequential political and constitutional issues facing California in its first half-century as a state.<sup>1</sup> The Chinese were one of the fastest growing populations in the state in the second half of the nineteenth century. Their presence and status within California drove most of the bedrock political issues of the day: capital versus labor, race and gender, citizenship and nation, and the nature of local, state, and federal power, not to mention international relations. The Chinese worked in the most important economic industries in the state, including mining, railroads, and agriculture. Their willingness to work for low wages for large, often corporate, employers was viewed as a threat to the political, economic, and cultural status of white laborers.

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<sup>1</sup> I treat the "Chinese" people here as a singular people because this is how they were treated by the legal and political actors who are the focus of this paper. It is not to suggest, however, that they were in fact a singular people. Eve Armentrout-Ma, "Urban Chinese at the Sinitic Frontier: Social Organizations in United States' Chinatowns, 1849–1898," *Modern Asian Studies* 17 (1983): 107.

Ultimately, they became an “indispensable enemy” in the formation and consolidation of California’s labor movement. Their inscrutable foreignness also made them appear to be a threat to the public at large, especially their “opium dens” and brothels. Ultimately, the Chinese became an indispensable outlet for the economic frustrations of communities throughout the West. Massacres and “roundups” of Chinese people became a regular occurrence in the late nineteenth century in California and the West.<sup>2</sup>

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<sup>2</sup> There is a substantial and ever-growing literature on the Chinese experience in California and the United States in the nineteenth and early twentieth centuries. On legal history, see Lucy E. Salyer, *Laws Harsh as Tigers: Chinese Immigrants and the Shaping of Modern Immigration Law* (Chapel Hill: University of North Carolina Press, 1995); Charles J. McClain, *In Search of Equality: The Chinese Struggle Against Discrimination in Nineteenth-Century America* (Berkeley: University of California Press, 1994); David C. Frederick, *Rugged Justice: The Ninth Circuit Court of Appeals and the American West, 1891–1941* (Berkeley: University of California Press, 1994): ch. 3; Christian G. Fritz, *Federal Justice in California: The Court of Ogden Hoffman, 1851–1891* (University of Nebraska Press, 1991); Gordon Morris Bakken, “Constitutional Convention Debates in the West: Racism, Religion, and Gender,” *Western Legal History: The Journal of the Ninth Judicial Circuit Historical Society* 3 (1990): 213; Harry N. Scheiber, “Race, Radicalism, and Reform: Historical Perspective on the 1879 California Constitution,” *Hastings Constitutional Law Quarterly* 17 (1989): 35; Christian G. Fritz, “A Nineteenth Century ‘Habeas Corpus Mill’: The Chinese Before the Federal Courts in California,” *The American Journal of Legal History* 32 (1988): 347.

On labor history, see Stacey L. Smith, *Freedom’s Frontier: California and the Struggle over Unfree Labor, Emancipation, and Reconstruction* (Chapel Hill: The University of North Carolina Press, 2013); Moon-Ho Jung, *Coolies and Cane: Race, Labor, and Sugar in the Age of Emancipation* (Baltimore: Johns Hopkins University Press, 2006); Peter Kwong, *Forbidden Workers: Illegal Chinese Immigrants and American Labor* (New York: New Press: distributed by W.W. Norton, 1997); Alexander Saxton, *The Indispensable Enemy: Labor and the Anti-Chinese Movement in California* (Berkeley: University of California Press, 1995); Chris Friday, *Organizing Asian American Labor: The Pacific Coast Canned-Salmon Industry, 1870–1942* (Philadelphia: Temple University Press, 1994); Sucheng Chan, *This Bittersweet Soil: The Chinese in California Agriculture, 1860–1910* (Berkeley: University of California Press, 1986).

On local and urban history, see Benson Tong, *Unsubmissive Women: Chinese Prostitutes in Nineteenth-Century San Francisco* (Norman: University of Oklahoma Press, 1994); Natalia Molina, *Fit to be Citizens?: Public Health and Race in Los Angeles, 1879–1939* (Berkeley: University of California Press, 2006); Nayan Shah, *Contagious Divides: Epidemics and Race in San Francisco’s Chinatown* (Berkeley: University of California Press, 2001); Yong Chen, *Chinese San Francisco, 1850–1943: A Trans-Pacific Community* (Stanford: Stanford University Press, 2000). On immigration history, see Sucheng Chan, *Entry Denied: Exclusion and the Chinese Community in America, 1882–1943*

The “Chinese question” was not, however, solely a question about economic competition. It was also a discursive device through which Californians worked out their ideas about slavery, freedom, law, constitutionalism, and the state. As Moon-Ho Jung has shown, for example, the Chinese question helped Americans navigate the transition from a slave to a post-emancipation society. In California, the degraded Chinese “coolie” laborer became a symbol of slavery, and exclusion the means by which Californians could remain a “free” state. Even though Chinese laborers entered into contracts to work, the hallmark of free labor ideology, the contracts were often seen as a form of indentured servitude. “Chinese” and “coolie” were often used synonymously in political and constitutional discourse to emphasize the foreignness of the Chinese and their threat, as a race, to new American ideas about freedom and free labor.<sup>3</sup>

The Chinese were also seen as a threat to the welfare of local, state, and eventually to the national communities and governments. As a threat, they came under intense scrutiny and regulation by state and local governments. They were often blamed for the social and moral ills of the community. As Nayan Shah has explained, “The medical knowledge of Chinese deviance and danger emerged in the context of a fervent anti-Chinese political culture and escalating class confrontations generated by the social tumult of industrialization, rapid urbanization, and tremendous migration into San Francisco.”<sup>4</sup>

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(Philadelphia: Temple University Press, 1991); Grace Delgado, *Making the Chinese Mexican: Global Migration, Localism, and Exclusion in the U.S.–Mexico Borderlands* (Stanford, California: Stanford University Press, 2012); Erika Lee, *At America’s Gates: Chinese Immigration During the Exclusion Era, 1882–1943* (Chapel Hill: University of North Carolina Press, 2003); Erika Lee and Judy Yung, *Angel Island: Immigrant Gateway to America* (New York: Oxford University Press, 2010).

On race, class, and gender, see Najia Aarim-Heriot, *Chinese Immigrants, African Americans, and Racial Anxiety in the United States, 1848–82* (Urbana: University of Illinois Press, 2003); D. Michael Bottoms, *An Aristocracy of Color: Race and Reconstruction in California and the West, 1850–1890* (Norman: University of Oklahoma Press, 2013); John Hayakawa Torok, “Reconstruction and Racial Nativism: Chinese Immigrants and the Debates on the Thirteenth, Fourteenth, and Fifteenth Amendments and Civil Rights Laws,” *Asian Law Journal* 3 (1994): 55. See also Jean Pfaelzer, *Driven Out: The Forgotten War Against Chinese Americans* (Berkeley: University of California Press, 2008).

<sup>3</sup> Jung, *Coolies and Cane*; see also Bottoms, *An Aristocracy of Color*; Smith, *Freedom’s Frontier*.

<sup>4</sup> Shah, *Contagious Divides*, 4.