

Chinese Exclusion Laws the and U.S.-China Relationship

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The *Chinese Exclusion Act of 1882*, followed by a series of Chinese exclusion laws, barred the Chinese from coming to this country for half a century. While existing scholarship on this topic has focused on American racial politics, this article documents how the U.S.-China relationship impacted the making of Chinese exclusion laws. The thesis is that racist immigration laws reflected not only the domestic situation in America but also China's international standing and ups and downs in the U.S.-China relationship. The unfair treatment of the Chinese in America had a great deal to do with a divided and weakened China. This linkage between Chinese America and China is a key issue for understanding Chinese American experience.

Introduction

The *Chinese Exclusion Act in 1882* is one of the most racist pieces of immigration legislation in American history. Scholars have written extensively on why this law was passed, and concluded that the racial environment in California, white union activities, and racist political campaigns by opportunistic politicians were mainly responsible for the passage of this law. From an international perspective, this article explores roles played by the U.S.-China relationship in the making of Chinese exclusion laws. The thesis presented is that racial politics is often a simultaneously domestic and international issue. If so, American trade interest in Asia, China's international standing, and the ups and downs in the U.S.-China relationship could all contribute to the shaping of racial and immigration policy in America.

The year 2002 is the 120th anniversary of the 1882 Chinese Exclusion Law. History repeats itself. In the late 1990s and early 2000s, the Chinese American community was shocked by the arrest of Dr. Wen Ho Lee who was accused of spying and passing nuclear secrets to China. Though all 59 charges against Lee were eventually dropped except for the much lesser offense of "mishandling classified data," the image of Asians as enemy aliens appeared in many of our medium coverage. The drama ended with a public apology to Lee by the judge. But contemporary Chinese American community has tasted a domestic racial paranoia embedded in international politics.

Imperialism, Free Immigration, and the Burlingame Treaty

The U.S.-China relationship began with anxious efforts by American merchants to open China's market. The first American commerce ship *Empress of China* reached Canton in August 1784. The ship carried cotton, fur, and Ginseng, and returned with tea, silk, porcelains, dry fruits, and luxury furniture. The net profit was about 25 percent (Li Chunhui, 1990 at p. 110). After that, hundreds of American ships traveled the Pacific for China trade. Merchants like John P. Cushing and John M. Forbes made huge profits out of China trade with the help of Wu Bingjian, a Chinese millionaire better known as Howqua at that time (Yen-ping Hao, 1986 at p. 214-215). In the first half of the 19th century, Americans were keenly interested in Chinese merchandise and culture, and held China and Chinese people in great respect.

After the Opium War in 1839-42, China began to lose its national independence. Western powers were competing each other to establish spheres of influence in China through unequal treaties, opening treaty ports, obtaining trade privileges, and missionary activities. The United States quickly saw its own opportunity in the Western scramble for colonial concessions in China.

In 1844, President John Tyler sent Caleb Cushing with four military ships to obtain a treaty with China. In a small village in Macao, China and the United States signed the Wangxia Treaty. It was the first unequal U.S.-China treaty that granted Americans many of the privileges accorded to the British citizens in the Nanjing Treaty of 1842, especially the extraterritorial provision. Protected by such privilege, American merchants were able to be involved in the profitable but immoral opium trade. During 1856-1860, Britain and France launched the second Opium War that forced China to open more treaty ports, further lower tariffs for Western imports, spread the Christian religion, and lift the immigration ban in Guangdong Province. The United States again shared the fruits of the war by forcing China to accept another unequal treaty - the Tianjin Treaty. The American representative also proposed to establish an embassy in each other's country. Viewing a foreign embassy in Beijing as a further inroad on the Emperor's power, China declined the proposal. By now, the U.S.-China relationship was no longer an equal one but one between a rising imperialist power and a declining feudal empire.

In 1861, China agreed to the establishment of foreign legations in Beijing. The second year, Anson Burlingame arrived as the first American minister plenipotentiary. Burlingame maintained a good relationship with Chinese government. When the 1858 Treaty expired, Burlingame offered to represent China to negotiate better treaties with the United States and other Western powers. His mission led to a new treaty — the 1868 Burlingame Treaty that recognized free immigration between the two nations, provided expanded opportunities and protection to American merchants and missionaries, and guaranteed the most-favored-nation treatment to each other's immigrants and permanent residency right in each other's country. By then, over 100,000 Chinese immigrants had arrived in the American West. Though the intention of the treaty was to allow America to freely recruit Chinese laborers, it also provided China with a diplomatic channel to protect Chinese immigrants. The treaty later became a major bargaining card for Chinese diplomats negotiating with American government on immigration issues.

Racial Violence, the Angell Treaty, and a New Crisis in China

Shortly after the Burlingame Treaty, California experienced economic recession. Unemployment, low wages, and poor working conditions placed the Chinese as the scapegoat in the battles between organized labor and capitalist class. White labor lashed out their frustration and anger against the Chinese, the Union leaders launched numerous anti-Chinese mass meetings. California journals and newspapers began to carry inflammatory articles about the threat of the Chinese to American life. "Chinese must go!" became a common slogan in political campaigns. Hostility often grew into violent riots. In October 1871, after a white man was accidentally killed in a feud between two Chinese clans in Los Angeles, several hundreds of white people surrounded the Chinatown, blocked every exit, and began to burn, loot, and kill. As a result, 15 Chinese were hanged and many were badly injured. In 1877, during another outbreak against the Chinese in Chico, a small city in Sacramento Valley, 4 Chinese were tied up, set on fire, and burned to death (Chan, Sucheng, 1991 at p. 49). Chinese merchants in San Francisco repeatedly urged the Chinese government to send diplomats to the United States.

In 1878, China established an embassy in Washington D.C. and a consulate office in San Francisco. When Chen Lanpin, the first Chinese minister plenipotentiary, arrived, there had been over two hundred unsettled legal cases involving the Chinese and over three hundred Chinese being detained in jail (Henry Tsai, 1983 at p. 41). One of Chen's major tasks was also to stop a Chinese exclusion bill being debated in Congress at that time. Chen and his associate Yung Wing, a Yale graduate, visited Secretary of State William Evarts and pointed out that such a law would violate the Burlingame Treaty. Many American merchants and missionaries

joined Chen to oppose such a law. Though President Rutherford Hayes vetoed the bill, he sent James Angell, president of the University of Michigan, to negotiate a new treaty with China in June 1880.

Angell proposed to modify the Burlingame Treaty and restrict Chinese labor immigrants with the argument that Chinese laborers did not assimilate into American culture. Li Hongzao, Chinese representative, defended the Chinese laborers by pointing out the significant contributions they made to American society, and that restriction would violate the Burlingame Treaty (Liu Pei Chi, 1976 at p. 565-566). During the negotiation, another riot broke out in Denver, Colorado in October 1880. About 400 whites attacked the Chinese without any provocative reason. The mob killed one Chinese and brutally beat many. Minister Chen immediately sent an investigation team and demanded compensation as the Burlingame Treaty held American government liable for such incidents. But American officials refused to honor the Treaty by defining the incident as a local issue.

While negotiating with Angell, China had been preoccupied with a number of troubling domestic and international issues. In 1874, the French government established a protectorate over Vietnam, a tributary country to China for a long time. In the Northwest, the Chinese government had just suppressed a Muslim rebellion and driven away Russia's un-announced occupation of Yili City in Xinjiang Province. More seriously, China had a territorial dispute over Okinawa with Japan. When ex-President Grant visited China during the summer of 1879, Viceroy Li Hongzhang, who was in charge of foreign affairs, indicated to Grant that if America could help China pressure the Japanese out of the Okinawa Islands, he would make a concession on the Chinese immigration issue (Tsai, 1986 at p.63). Under such circumstances, the 1880 Angell Treaty was signed at the sacrifice of Chinese immigrants' interest. The treaty allowed the U.S. government to regulate, limit, and suspend Chinese labor immigrants though it could not absolutely prohibit it, the Treaty still guarantee the most-favor-nation treatment to Chinese immigrants including protecting them from harassment and physical assault. At the same time, Angell managed to sign a separate commerce treaty to guarantee American trade interest in China.

The Angell Treaty was a turning point in the U.S.-China relationship on the immigration issue. First, it ended free Chinese immigration and de-linked American trade interest from the immigration issue. Second, it opened the door for anti-Chinese lobbyists to push for an exclusion law as American politicians realized that immigrants were not a priority consideration in the Chinese government's diplomacy. Third, protection of Chinese immigrants was only on paper as Americans perceived China as a weak nation that had no military strength to back up its demands. Fourth, it paved the way for a future Chinese exclusion law. A New York Times editorial on February 26th, 1880 frankly wrote: "Can China compel us to keep a treaty, and if not, can we be expected to keep it? We can violate it, since China cannot possibly invade our Coast with a powerful fleet and batter down our towns." The editorial concluded that America could ignore its treaty obligation (Foner, 1993 at p.107).

The Chinese Exclusion Act of 1882

Two years after the treaty was signed, Republican Senator John F. Miller from California proposed an immigration bill to suspend Chinese immigration for 20 year, establish a certification and registration system with deportation and imprisonment penalty, and to forbid state and Federal court from naturalizing Chinese. When the bill was passed in both the Senate and the House, Zheng Zaoru, a successor of Chen Lanbin and a native of Guangdong, immediately protested to Secretary of State Frederick T. Frelinghuysen (Henry Tsai, 1983 at p. 65-72). Though Zheng was a capable and tough diplomat, the Chinese government did not have much bargaining power as it was again beset with a number of international disputes.

In early 1882, the French army drove away the Black Flag army led by a self-appointed Chinese general Liu Youngfu in Vietnam and occupied Hanoi. In the same year, Viceroy Li Hongzhang was also busy brokering a treaty between the United States and Korea in order to check Russian and Japanese encroachment there. President Arthur vetoed the bill only because a 20 year termination seemed too harsh. Congress quickly adjusted the term into 10 years and passed it again. On May 6th, the President signed it into a law.

The 1882 Law imposed severe and enduring damage on Chinese family life. Between 1882 and 1891, more than seven thousand habeas corpus cases were filed in the district court for northern California as the federal Customs Collector of San Francisco's port detained numerous Chinese passengers, including women (Christian G. Fritz, 1990 at p.28). Two cases best illustrate how exclusion laws stopped Chinese women. In the *Chew Heong v. United States* (1884), the Supreme Court decided that the Chinese laborers who lived in America before 1880 could enter but denied their right to bring in any spouse who had not been legally lived in the US before 1880 (Hing, 1993 at p. 24). In another case in the same year, Judge Sawyer of the Circuit Court for the District of California allowed the entry of a Chinese laborer who possessed a return certificate but denied the entry of his wife Ah Quang who did not have a certificate. The decision was based on the theory that the wife of a laborer, regardless of what occupation she herself had, acquired her husband's status upon marriage. Without a return certificate, she could not enter (Sucheng Chan, 1991 at p.110).

The 1882 Law further inflamed anti-Chinese hysteria, violence, and mass expulsion that reached its peak in 1885. In November, an anti-Chinese mob rioted and threatened to drive away every Chinese in Seattle by force until the state government sent troops to quiet the agitation. In Tacoma, Washington, the Chinese were packed into boxcars and sent to Portland. The worst riot against the Chinese occurred in September 1885. When Chinese workers refused to join a strike in Rock Springs, Wyoming, a violent mob of several hundred whites attacked Chinese labor quarters, killed 28, wounded 15 and destroyed property worthy of \$140,000 (Li, 1990 at p. 210). Minister Zheng sent an investigation team, made two formal protests but received no positive response from the U.S. government until the news reached Guangdong where people became furious and ready to use the same treatment to Americans in China (Tsai, 1986 at p. 70).

In the same year, Zhang Zhidong, Viceroy of Guangdong and Guangxi, was preparing a war with France over Vietnam during which Chinese Americans sent over a half million dollars to support China (Joanna Waley-Chohen, 1999 at p. 179). While calming down the popular anger in Guangdong, Zhang urged Zheng to seek more compensation to prevent possible riots against Americans in China and pointed out that the Chinese government indemnified Americans more than \$730,000 for just a dozen of their houses destroyed by the Chinese in Canton in 1858 (Liu, 1976 at p. 513-514). After prolonged and repeated negotiation for three years, the American government finally paid \$140,000 compensation for property damage but not the lost lives out of sympathy rather than "the obligation of treaty or principle of international law." (Tsai, 1986 at p. 70 and Li, 1990 at p. 229).

Failed Chinese Diplomacy and Perpetual Chinese Exclusion

Realizing that anti-Chinese riots could be an irritating domestic issue and protection of Chinese immigrants was difficult, the Chinese government wanted a new treaty that could solve the issue once for all. In 1887, Zhang Yinhuan, successor of Minister Zheng and another native of Guangdong began to negotiate with Secretary of State Thomas Bayard. Zhang offered to limit and suspend labor immigrants voluntarily in exchange for better protection of Chinese already in America. Treating China as an underdog, Bayard arrogantly pressed for 30 years of Chinese immigration suspension which Zhang managed to reduce to 20 years.

But neither government ratified the treaty. While angry Cantonese mobbed Zhang's home, U.S. Congress passed the Scott Act in September 1888.

The Scott Act had a devastating effect on Chinese community as it forbade the entry of these Chinese with valid return certificates. At that time there were over 20,000 Chinese who temporarily visited their families in China. Chinese Six Companies raised \$100,000 and challenged the law. Both the US Circuit Court in California and the US Supreme Court held that Scott Act was constitutional in 1889. The Act also authorized the Immigration Bureau to establish a two-story shed at the Pacific Steamship Company wharf where all Chinese immigrants were detained until their papers were cleared. Worse than facilities in prison, and often detaining over 500 people, the detention station was the precedent of the notorious Angle Island Immigration Detainment Center in San Francisco Bay.

In 1892, Congress passed the Geary Act of 1892 that extended the 1882 Act for another ten years and required all Chinese living in the US to apply for a certificate of residence within a year and carry it wherever they went. Chinese Six Companies again hired prominent Americans lawyers to challenge the constitutionality of the law, and called all Chinese to boycott the registration. When the Chinese lost the case in the Supreme Court decision in 1893, about 80 percent of unregistered Chinese faced the danger of being deported. To make a small compromise, Congress passed the McCreary Amendments in 1893 to provide additional 6 months for registration but exclude fishing, mining, laundry, and huckstering from the categories of merchants.

Though the Chinese government never recognized the Scott Act and was unhappy about the Geary Act, it needed support from America in its new Sino-Japanese conflict in Korea. In 1894, Yang Ru, the new minister in Washington D.C. negotiated and signed a new treaty with Secretary of State Walter Gresham. In the new treaty, the Chinese government accepted the Geary Act and McCreary Amendments while American government reaffirmed the most-favored-nation treatment for the Chinese already residing in America. However, Chinese compromise did not gain any support from America. Shamefully defeated in the 1894-95 Sino-Japanese War, China signed another unequal treaty with Japan and ceded Taiwan and a number of other places. Unwilling to let Japan alone control Northeast China, Russia and Germans were ready to start a war with Japan over southern Manchuria. China was now threatened with the real danger of disintegration. To protect its own interest in China, the United States began to advocate an Open Door policy that gave each imperialist power right to establish its own sphere of influence but still guaranteed China's territorial integrity. When most imperialist powers accepted the Open Door policy in 1899, the Chinese government diplomacy lost any weight in immigration negotiations.

In 1902, Congress passed another law without debate that made Chinese exclusion policy applied to all U.S. territories and all possessions under its jurisdiction, including the Philippines where the Chinese immigrated and lived since 17th century. Between August 1904 and January 1905, Liang Cheng, the new minister, submitted two different drafts to replace the 1894 Treaty. But the American government rejected the proposal in contempt and passed the 1904 Immigration Law to make Chinese exclusion indefinite. So humiliated and angry, Chinese people began a vigorous boycott movement against American goods in May 1905. The popular protest did not only occur in Guangdong but spread in all major cities in China. Though the boycott did not get China a better treaty, it forever linked the treatment of Chinese in America to Chinese nationalist sentiment across the nation.

While the U.S. Congress passed these series of laws to curb Chinese immigration, the Chinese population in America declined from over 140,000 in mid-19th century to 75,000 in 1940 (Hing, 1993 at p. 47). Most Chinese immigrants confronted a stark reality in terms of their

family life. While husbands worked in the United States, wives and children remained in China. Family life for most Chinese immigrants was in the form of split households. Under the exclusion laws, Chinatown was known as a "bachelor society." Most Chinese Americans realized that their unfair treatment in America had a great deal to do with a divided and weakened China. The Chinese Exclusion Act of 1882 was not only the first immigration law on the basis of race in American history but also a result of imperialist wars, unequal treaties, and the Qing government's helpless and hopeless bargaining power in U.S.-China diplomacy. Thus nationalism in China and ethnic consciousness in the Chinese American community was a parallel development during that period of time. Linkage between Chinese America and China is a key issue for understanding Chinese American experience.

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