

INTRODUCTION

IT TAKES A MOMENT for the photograph to come into focus. When it does, black and white dots suddenly clarify into hundreds of faces, maybe thousands. They belong to infants and young children, most of them old enough to sit but not to run, some nude with their legs spread to display their sex, and others fully dressed in ornamental clothing. The children were individually photographed, then their images were cut out and pasted into a photo collage, which was photographed again. The result is not exactly artistic, but neither is it haphazard. At the center of the collage is an oversized photograph of a child sitting alert and unclothed, his head shaved in a classic style of the Qing dynasty.¹

The caption reads: “2700 Chinese Boy Babies of San Francisco China Town in 1889.” The words appear in the scrawling hand of Jesse Brown Cook. Cook worked at police stations in Houston and San Diego before coming to San Francisco as a sergeant in the 1880s. He led the Chinatown Squad in the 1890s and eventually became chief of police. Years later he spent his retirement compiling as many as fifty scrapbooks, which included more than 12,000 items in no apparent order, documenting his police work, the history of the force, and the city of San Francisco itself. On page 33 of scrapbook 21, he pasted this unsettling image of Chinese American children.²

Who made the collage is not known. Cook was no photographer, and there are no indications that the photographs, costly to produce, were taken by police.³ The tender age of the subjects, their nudity, and their calm demeanor suggest these may be family photos rather



Detail of “2700 Chinese Boy Babies of San Francisco China Town in 1889.” This haunting photo collage was preserved in a scrapbook belonging to Jesse Brown Cook, onetime leader of the Chinatown Squad. An unknown photographer collected Chinese baby portraits and assembled them into an anonymous horde. (Jesse Brown Cook Scrapbooks Documenting San Francisco History and Law Enforcement, BANC PIC 1996.003:Volume 21:033—fALB, The Bancroft Library, University of California, Berkeley)

than mug shots. After all, the Chinese community in San Francisco had taken a liking to American studio photography in the 1870s, and may have been particularly eager to purchase photographs of their newborn sons. American studio photographers, in turn, could increase their profits by reprinting Chinese portraits and selling them to white people as curiosities. A photographer likely crafted this collage in secret, without customers’ knowledge or consent, since few would have approved of the inauspicious practice of cutting family photographs. Likely, these families did not know that the faces of their cherished

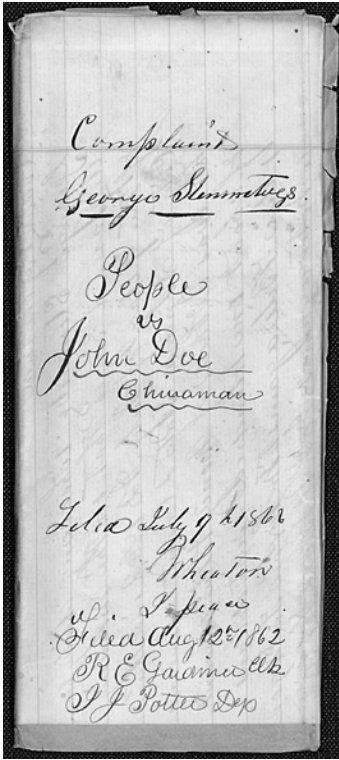
children had been compiled into an anonymous mass and then sold to strangers. Certainly they had no idea that their pictures would end up in a policeman's scrapbook, alongside images of criminals.⁴

For white Americans in the late nineteenth century, such as Cook, the collage's effect was ominous, and the nature of the threat would have been immediately clear. To them, these infants represented the contamination of the American citizenry. A few years earlier, in 1882, the United States had declared the Chinese an undesirable race and barred most immigrants from China from entering the nation. In subsequent decades the federal government passed a series of Chinese exclusion laws, which pledged (but frequently failed) to keep out new Chinese arrivals. Border control only addressed part of the problem, however. What about the Chinese who were already present? What about these infants, their parents, and the wider Chinese diaspora in the American West?

While many white westerners declared "the Chinese Must Go" and fought for Chinese exclusion, men like Cook were more concerned with regulating the Chinese population already living in the United States. For them, it was the long-term presence of the Chinese in the city, rather than their imagined threat at the border, that provoked racial anxiety. We can see his outsized fears in his chosen caption, because he got the numbers wrong. There are not 2,700 babies in the picture; there were fewer than 2,700 Chinese babies in all of San Francisco Chinatown in 1889.⁵ But Chinese children loomed large in Cook's mind because to him they represented the culmination of an invasion. The enemy already stood within the city gates. At this point, border control seemed too little and too late.

If the photo collage captures the magnitude of white fears, for viewers today it also reveals the danger of historical erasure. When we look at this photograph, we see what many white Americans saw: a multitude of unknown Chinese children. Unfortunately this anonymity is common in the nineteenth-century American archive. Until recently, western archives failed to collect and preserve Chinese records, so traces of their lives can primarily be found in the writings of white people. As a result, we are left with tales of "John Doe Chinaman" and other nameless Chinese.⁶

The presence of "John Doe Chinaman" in the archive, in the absence of personal names, presents historical and methodological problems. What can we really know about the "John Doe Chinaman"



Legal complaint from *People v. John Doe Chinaman* (1862). Nineteenth-century American legal records failed to record Chinese names with any accuracy or consistency. Some officials did not even attempt to record Chinese names, and instead relied on racial monikers like “John Doe Chinaman.” Past disregard for Chinese individuality continues to make historical recovery difficult. (County of Tuolumne Carlo di Ferrari Archive)

who stood accused of murder in Los Angeles? How can we tell the difference between the “John Doe Chinaman” who sat in a jail cell in Sacramento, and the “John Doe Chinaman (deceased)” who lay on the side of the road outside Sonora? Record keepers shortened the name of this enigmatic figure even further to “John Chinaman” or simply “Chinaman.” The 1852 California census counted 2,581 Chinese residents in San Francisco, but listed only two dozen by name. The rest were simply anonymous, interchangeable, inscrutable “Chinamen” or, occasionally, “Chinawomen.”⁷

At the time, few thought twice about the word “Chinaman.”* In the nineteenth century, Americans used the term in newspapers,

*In this book I have made a number of imperfect choices concerning racial terminology. I use “white” to represent all people of European descent in the American West, because starting in the nineteenth century white people (despite their many differences) claimed a common racial identity when contrasting themselves with the Chinese. For Native people, I name their nations when possible and otherwise use the terms “Native,” “Native American,” or (when quoting or drawing upon original sources) “Indian.” I use “Black,” “African American,” or

lawmaking, court trials, and everyday speech to denote a racial identity they believed to be innate.⁸ When communicating with white people in English, Chinese residents also used the term “Chinaman.” It was part of common parlance rather than an aggressive racial slur. (People who wanted to convey particular malice could deploy more insulting terms, like “John Doe Chink.”) As the word “Chinaman” became ubiquitous, it grew into a powerful agent of racialization, one that forcibly stripped the Chinese of their individuality.

In the hands of American record keepers, some Chinese migrants became literal John Does, but far more became figurative ones. The men and women who were recorded as “Charley Chinaman,” “Ah Sing,” or “China Mary” had fallen victim to racial prejudice, bureaucratic disregard, and failures of transliteration. Like other John Does, their true names will be forever unknown. When reading early government records of the Chinese in America, it is difficult to see beyond the perspective of white Americans, just as it is hard to view the collage of babies without seeing what Cook saw.

But what happens if we attempt, instead, to see through the eyes of these children looking out at the world? This is no simple task. Chinese in the American West lived full and complicated lives, but often the only remaining evidence of their experiences comes from people who feared and reviled them. Cook is in that group, and it is important to understand how individuals like him viewed Chinese residents, and how the white community and the American state sought to regulate them. It is equally critical to ask what it meant for Chinese to live within these constraints.

To understand their experiences is to understand a lived reality of white supremacy. This is not the late nineteenth-century white supremacy we are more familiar with—the violent breed of anti-Black terror that followed the dismantling of chattel slavery.⁹ The

(when quoting or drawing upon original sources) “Negro.” I refer to people from China as “Chinese,” although I recognize that these people belonged to multiple ethnic groups. I use “Chinese American” only when exclusively referring to US citizens of Chinese descent in order to highlight the legal bars to naturalization. I capitalize the terms “Black,” “Native,” and “Chinese,” because each term reflects a shared sense of identity based, in part, on a history of oppression in America. I have chosen not to capitalize “white,” because few in the modern era have claimed a shared sense of white identity except white supremacists. Finally, this book includes historical sources that use offensive racial terms. This language is uncomfortable, even painful, but it is essential for an accurate depiction of American history.

racial regime the Chinese encountered may have flowed from America's history of enslavement and settler colonialism that preceded their arrival and it may have helped to fuel the Jim Crow segregation and Native dispossession that followed. But while these strains of racism often crossed, they never merged into a single American color line. In other words, Chinese migrants encountered a form of white supremacy that was tailored just for them.¹⁰

The Chinese did not simply live in this racial regime, but acted within, against, and through it. When Cook led the Chinatown Squad in the 1890s, for example, a Chinese merchant named Lai Hock Yan filed a legal complaint against him. Lai alleged that Cook had "brutally assaulted, maimed and injured several Chinese" while enforcing city ordinances. "It is not so much that we want to make an example of Cook," Lai's lawyer explained to the press, but instead to "insist upon having Chinese treated like human beings."¹¹ The complaint held power: Cook faced a Police Commissioner's inquiry, criminal charges, a \$500 bail, and the loss of his command—at least temporarily. Such moments of resistance mattered, even when fleeting, because they represented a renegotiation of the racial order. Following the complaint, the Chinatown Squad would think twice before throwing Chinese residents down staircases.



In the history of the Chinese in America, the border has caught our attention and held it. Chinese migrants' attempts to cross the border, and America's attempts to stop them, is the story historians have told and retold.¹² But long before the Chinese faced the first exclusion laws, and long afterward as well, they endured a racial regime within America every day. This book is the history of that racial regime and the lives it touched.

Arriving on California's shores in the 1850s, Chinese migrants entered a young nation with an old tradition of white dominance. White Californians did not agree on what to do with these "exotic" newcomers, but they were certain that the Chinese did not belong. Set apart by their race, religion, and supposed slavish tendencies, the Chinese could not be enfolded into the nation as others would be. Their inferior stock could contaminate the citizenry, their heathen beliefs could introduce immorality, and their inherent servility could undercut white workers. Perhaps these "heathen coolies" could be put to good

work while they were here, but their stays must be temporary. They had no future in America, or at least that is what lawmakers hoped.

To make it so, western states, territories, and towns enacted anti-Chinese laws. Laws and legal customs regulated the ability of Chinese people to work, operate a business, own property, testify in court, seek education, and form families. For the Chinese, these laws were both more and less than they appeared on paper; more because of the unspoken level of violence that could lie behind them, less because many failed to withstand Chinese resistance.

The idea that Chinese faced discriminatory laws in nineteenth-century America is not new. This book owes much to scholars who have painstakingly documented western racial laws and prominent cases against them.¹³ But only recently have “big data” methods made it possible to conduct a more comprehensive survey. I teamed up with Hannah Postel, a demographer and public policy researcher, to build a database of anti-Chinese measures. With the help of student research assistants and a keyword discovery algorithm, we surveyed state constitutions and laws in California, Oregon, and Washington, as well as available full-text charters, ordinances, and statutes from 133 municipalities in these states. We searched broadly for laws with discriminatory intent as well as those with discriminatory effect. A computer-assisted machine learning classifier enabled us to identify more than 5,000 laws and legal provisions that regulated Chinese residents, directly or indirectly, during 1850–1920.¹⁴

This book starts with our new finding—the little-known fact that Chinese faced thousands of discriminatory local and state laws—but it does not end there. I propose a framework to comprehend these laws, and in doing so I offer a new legal history of Chinese in the American West.

Existing historical narratives do not recognize the extent of these laws and the racial structures they helped to erect. Efforts to fit these laws under the history of Chinese exclusion, for example, miss the mark. Most of these laws did not have exclusionary aims, nor did they have exclusionary effects. They cannot be understood as steps on the path to Chinese exclusion, because many came after the advent of federal immigration control.

Likewise, attempts to describe these laws as mere variations on Jim Crow are inadequate.¹⁵ Anti-Blackness was then, and still is today, a fundamental structuring force in American society, but its logic alone

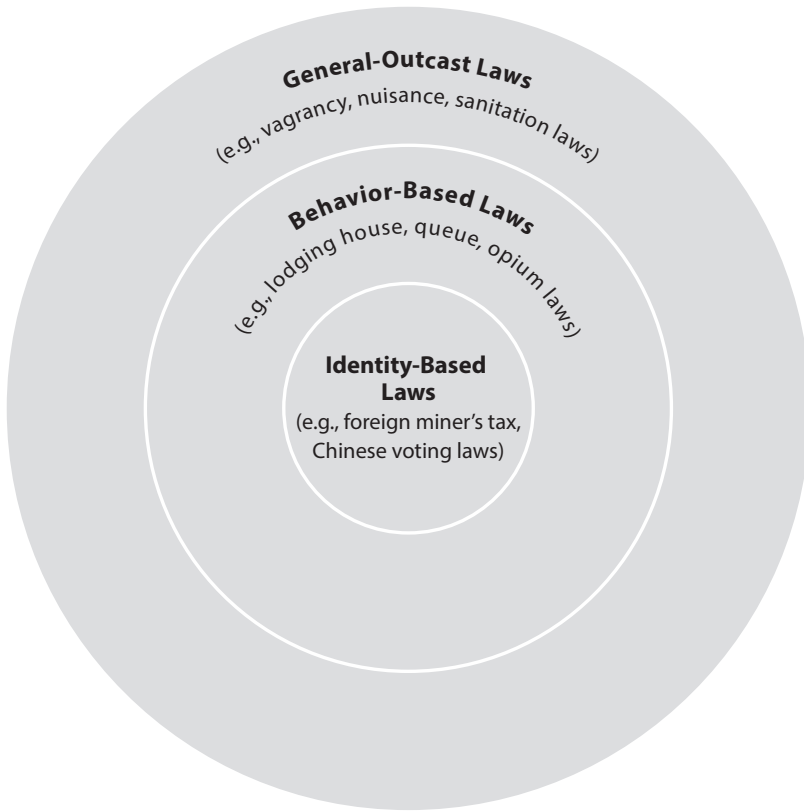
cannot explain the Chinese experience. If these western racial laws were milder versions of southern anti-Black statutes, then why were so many of them applied only to the Chinese? (In the 1880s, for example, California lawmakers chose to integrate Black students and segregate Chinese students.) And if Chinese regulations derived from Jim Crow laws, then why do some of them predate anti-Black equivalents? (For example, the earliest known examples of racial zoning laws and racial restrictive covenants targeted the Chinese.)

Local anti-Chinese laws were entwined in the structures of Chinese exclusion and Jim Crow, but were not subsumed by them. Racial regulation of Chinese inhabitants was a phenomenon unto itself, a phenomenon in need of a history.¹⁶

Although formal law was only one aspect of the anti-Chinese racial regime, comprehending and categorizing racial laws is a good place to start. Anti-Chinese laws came in three general forms: *identity-based laws*, *behavior-based laws*, and *general-outcast laws*.

Identity-based laws targeted Chinese based on their racial identity or alien status. Due to racial bars on naturalization, Chinese migrants' racial and alien status were both permanent fixtures in the eyes of American law. Some identity-based laws explicitly targeted only "Chinamen," "Chinese," "Mongolians," "Orientals," "Chinese quarters," or "Chinatown." Some named the Chinese alongside other races, including "Negros," "Mulattos," "Indians," and "Kanakas" or "South Sea Islanders." Others were more circumspect and (potentially) broad, outlining the legal disadvantages of "aliens," "foreigners," persons "ineligible to citizenship," or persons who had not declared their intent to naturalize.¹⁷ Even broader measures outlined the special privileges of US "citizens."

Behavior-based laws regulated labor and cultural practices strongly associated with the Chinese, including the use of opium, the game fan tan, the practice of hanging baskets over the shoulder using poles, the use of firecrackers on days other than July Fourth, and particular fishing, shrimping, and laundry techniques. These behavior-based laws used race-neutral language but landed on the Chinese with unique force. Sometimes this was lawmakers' intent; they chose to regulate the Chinese through indirect means. But other times the culprits were the police; they



Anti-Chinese laws arranged by form. Chinese were regulated by thousands of discriminatory laws. This figure categorizes those laws by how they targeted the Chinese. Identity-based laws targeted Chinese based on their racial identity or alien status; behavior-based laws regulated labor and cultural practices strongly associated with the Chinese; and general-outcast laws regulated a broad group of “undesirables,” of which the Chinese were a part. Chinese felt the cumulative effect of these laws. (See Appendix for additional racial laws.)

used their discretionary enforcement powers to transform racially neutral statutes into de facto anti-Chinese laws.

General-outcast laws regulated a broad group of “undesirables,” of which the Chinese were a part. Arising from a long lineage of “poor laws,” general-outcast laws regulated “nuisance,” “lewdness,” “prostitution,” “gambling,” “filth,” “disease,” “indecentcy,” “disorder,” and “vagrancy.” General-outcast policies constitute approximately half of our sample. Previous historians have found these statutes to be a central element of Jim Crow despite

their lack of explicit racial language.¹⁸ In and beyond the West, law-makers and police used these vague statutes to target racial outsiders, new immigrants, lower classes, migratory laborers, unmarried men, itinerants, sexual deviants, and strangers. Chinese migrants regularly fell within these categories and therefore felt the weight of these laws as well.

Racial laws can be categorized by their form—how they targeted the Chinese—but their form had limited relevance to daily life. Therefore, it is important to also understand them based on their impact—how they affected Chinese lives.¹⁹ Together with social norms and racial violence, these laws defined rules for Chinese behavior, rules designed to ensure the impermanence and subordination of Chinese residents. These racial rules set the preconditions for Chinese life in the American West, underpinning a process that I call *conditional inclusion*.

The term “conditional inclusion” has previously been used to describe a twentieth-century phenomenon. In that context, conditional inclusion is what happened after Chinese exclusion ended. Scholars have argued that US policies—in domains as far-ranging as citizenship, immigration law, public education, real estate, and employment—shifted from logics of racial exclusion to policies of conditional inclusion. This scholarship maintains that, thanks to a newfound belief in racial liberalism, Chinese and other people of color were at least provisionally included in civil society by the late twentieth century. In its afterlife, racial exclusion became conditional inclusion.²⁰

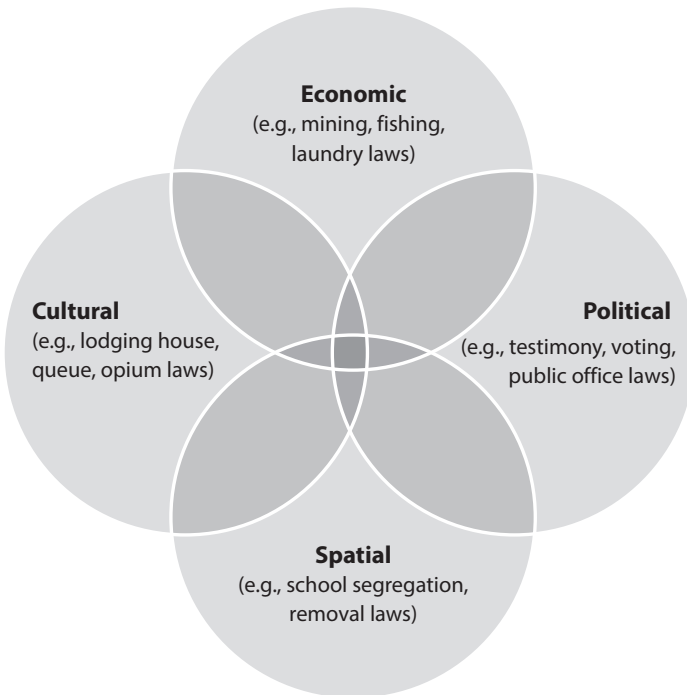
In contrast, I use “conditional inclusion” to describe an earlier time and I do so with a different purpose. My intent is to show how Chinese migrants were conditionally included in the United States as soon as they arrived in the 1850s, and continued to be included, conditionally, even during the period of federal exclusion laws.²¹ Exclusion and inclusion coexisted, as federal systems of exclusion grew up alongside local systems of social control. American federalism allowed for, and at times encouraged, these seemingly contradictory projects, which operated at different scales.

When using the term “inclusion,” I do not intend to suggest the Chinese were granted equality or belonging. Conditional inclusion simply meant that Chinese migrants were granted access to a highly stratified society in carefully controlled ways.²² As local laws and legal customs proscribed many behaviors for the Chinese, they also quietly defined what was possible, detailing permissible occupations,

neighborhoods, and even wives. If they followed the racial etiquette, Chinese could live in the American West, maybe even flourish. After all, western capitalists knew that some degree of inclusion would be necessary in order to profit from Chinese labor, and western lawmakers knew Chinese inclusion could generate tax revenue. Conditional inclusion was exploitative, even predatory.²³

The terms of conditional inclusion, which governed all domains of Chinese life, can be understood as economic, political, cultural, and spatial in nature.

The terms of economic inclusion held that the Chinese would have unequal access to resources, including employment, property,



Anti-Chinese laws arranged by effect. Racial laws reinforced the racial etiquette of daily life by making explicit some of the prevailing rules for Chinese behavior. These racial norms—which I call the terms of conditional inclusion—regulated different domains of life: economic, cultural, political, and spatial. It is important to note that a single racial law could affect multiple domains of life. For example, school segregation laws directly affected the terms of spatial inclusion by separating Chinese from white students, but they also had profound implications for economic mobility, cultural maintenance, and political rights. (See Appendix for additional racial laws.)

and housing. Western states wished to limit Chinese earning power, but also to profit from it. Therefore, Chinese were allowed to work in the United States, but local laws and labor practices meant they could only work in certain sectors, at lower wages, with worse conditions, fewer prospects, and higher taxes. Generally, Chinese were allowed to own and rent property, especially within designated areas, but these rights were curtailed over time. In response to these constraints, Chinese workers and entrepreneurs turned inward to niche industries, ethnic businesses, and, at times, criminal activities.

The terms of political inclusion held that the Chinese would have unequal access to civic membership and governance. To deny the Chinese a direct role within American democracy, lawmakers barred their naturalization and their capacity to vote, hold public office, access public records, and serve on juries. Western states did what they could to silence the Chinese within the judicial system, which in turn limited their ability to challenge American governance. Nevertheless, Chinese migrants insisted on participating in American politics through petitions, negotiations, diplomacy, civil disobedience, and, at times, the ballot. They also went to court, despite racial restrictions on their testimony, and on occasion they prevailed.

The terms of cultural inclusion forced Chinese to endure debasement of their customs and endangerment of their lives. Under the banner of policing vice, lawmakers regulated Chinese leisure activities (including gambling, prostitution, opium, fireworks, and theaters), their living arrangements (in particular, single-sex boardinghouses and second wives), and burial practices (specifically, disinterment and repatriation of bones to China). These attempts to enforce American norms threatened Chinese social lives and put Chinese familial, cultural, and religious practices at risk. Chinese communities responded with flexibility and adaptation, finding creative ways to maintain cultural traditions, but they could not shield themselves entirely. Regulations not only criminalized Chinese ways of life but also endangered Chinese life itself. Some local officials tacitly endorsed racial violence of policemen, tax collectors, and vigilantes, and in doing so they threatened Chinese lives.

The terms of spatial inclusion held that the Chinese should be separated from white communities whenever possible. Although white and Chinese both inhabited the multiracial US West, the state and

public worked to prevent incorporation of the Chinese into civil society. Residential segregation schemes explicitly drew the boundaries of Chinatowns, and in some areas segregated schools and public accommodations further confined Chinese residents. This racial segregation diminished Chinese access to healthy places to live and to education, and limited their upward socioeconomic mobility. Anti-miscegenation laws further worked to forestall social intimacy by distancing white women from Chinese men. But social distance could never be fully maintained. Proximity, familiarity, partnership, and cohabitation persisted despite these racial rules.

Enforced through law, custom, and violence, these terms of inclusion outlined how the Chinese were to behave. As white and Chinese people enacted and reenacted racial rules in daily life, those rules became an enduring part of the racial terrain. Like all codes of conduct, this racial etiquette changed based on one's class and circumstances, differed in rural and urban settings, and shifted over time.²⁴ Never did these terms of inclusion take on the uniformity of federal exclusion laws. Some protocols came in written form and others remained unspecified, and therefore Chinese migrants found it hard to understand the rules without testing them. But the consequences of even an unintentional violation could be harsh. When discovered, breaches could result in social ostracism, criminal accusations, or racial violence. As the racial rules became entrenched and punishments loomed large, overt enforcement became unnecessary. The Chinese learned to mind their racial manners and discipline themselves. At times the Chinese directly contested these racial rules, but more often they skirted, manipulated, or avoided them.

Having been granted only conditional inclusion, the Chinese fought for more. A few Chinese sought inclusion because they believed in racial equality and envisioned their future in America, but this was a rare and radical stance. Most Chinese migrants had more modest goals. They hoped to secure a foothold within America's racial regime, one that was above that of Black and Native people. They wished to lessen the conditional nature of their inclusion and to make the racial etiquette constraining their lives more permissive. They sought access to the privileges and rights that inclusion could provide, but few demanded full belonging. Most Chinese migrants in the nineteenth century understood their journey to America to be a temporary sojourn.²⁵ They came to work on behalf of their families

back in China, and while they labored, they wanted dignity and security. They wanted protection from discrimination and violence, and some power over the course of their lives. They wanted to earn enough to go home and they wanted the opportunity to return to America one day. For those leading transpacific lives, inclusion was a means, not an end.



Like all racial regimes, the one that governed the Chinese changed over time. While the conditional nature of Chinese inclusion remained constant, what that meant in practice shifted during the course of the nineteenth century. Change came from many directions: from across the Pacific, the Eastern Seaboard, the state capitol, the court's bench, and the streets. These forces pushed and pulled in different directions, but together they formed patterns and phases. This history can be understood in three periods: the emergence of an anti-Chinese regime (1850–1868); racial reconstruction and contestation (1868–1885); and racial retrenchment and Chinese exclusion (1885–1943).

Our story begins with the arrival of Chinese gold miners in California in the 1850s and the first attempts to regulate their earning power. In many ways, Chinese miners were no different from the prospectors from the eastern states, Europe, and South America who also poured into California in hope of striking it rich. But racial stereotypes set the Chinese apart and racial laws soon did as well. State and local governments began by enacting racialized taxes, criminalizing Chinese cultural practices, and banning the Chinese from participating in elections. During the emergence of the anti-Chinese regime, lawmakers blatantly targeted the Chinese based on their race, with little fear of judicial review. These identity-based laws helped to forge a wider racial etiquette that deeply constrained Chinese economic, cultural, political, and spatial behavior.

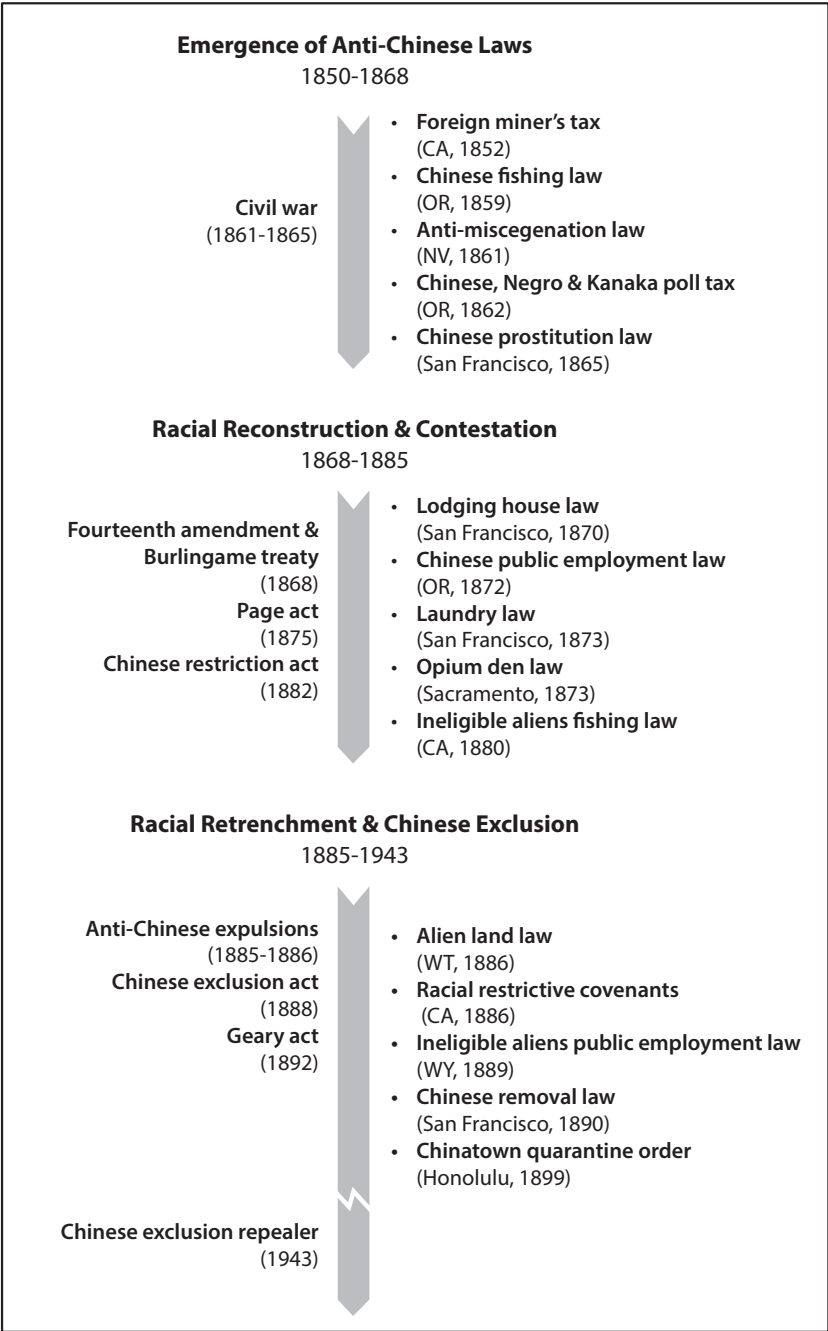
But then events of the 1860s tested this early anti-Chinese regime. Following a decades-long Black freedom struggle and a bloody Civil War, Americans sought to remake the nation without chattel slavery. In its efforts to rebuild the South and integrate formerly enslaved people into society, the federal government embarked on a project of reconstruction that would transform America and its legal landscape. Rejecting the tentative actions of the executive branch, Radical Re-

publicans in Congress pushed forward constitutional amendments and civil rights laws to protect formerly enslaved people.²⁶ These events set in motion a postbellum restructuring of race in American law and society, which I refer to as “racial reconstruction.”²⁷ Eventually the profound effects could be felt even on the Pacific Coast by the Chinese. Together, the Fourteenth Amendment (1868), the Burlingame Treaty with China (1868), and a series of civil rights laws pledged federal protection from state discrimination for all of America’s inhabitants, including the Chinese.

At first this turn of events seemed to be a clear win for Chinese residents. Between 1868 and 1885, racial reconstruction challenged the anti-Chinese regime. Chinese litigants, with the help of their American lawyers, learned what rights they were due under the new Reconstruction Amendments. For them, equal protection became a newfound legal foothold from which to contest racial regulations. In court, Chinese litigants questioned the constitutionality of laws that curtailed their employment, cultural practices, and witness testimony. These legal challenges achieved remarkable success and, for a time, seemed to threaten the very existence of racial laws at the local and state level.

As racial reconstruction proceeded, however, Chinese losses began to pile up, as their vigorous battle against the racial laws inspired a devastating backlash. In their attempt to brace against Chinese litigation, American lawmakers began to construct a newly menacing racial regime. Policymakers found clever ways to bypass constitutional guarantees of equal protection and redouble their efforts to dictate the terms of Chinese inclusion.

At the local level, governments began enacting seemingly race-neutral ordinances designed to withstand Chinese legal challenges. Drawing on the “police powers” granted to them by the US Constitution, local and state governments passed behavior-based and general-outcast measures that ostensibly regulated health, safety, morality, and public order but in fact were applied to the Chinese with the utmost rigor. Local lawmakers also continued to target the Chinese based on alienage through carefully tailored identity-based laws. At the national level, Congress turned to immigration laws as a way to sidestep equal protection. First, the Page Act (1875) targeted “Oriental” women, and then the Chinese Restriction Act (1882) temporarily barred new Chinese laborers.



Racial reconstruction gave way to racial retrenchment in the mid-1880s. As a white counter-revolution swept the South and ushered in a new period of Jim Crow, white westerners also intensified their efforts to establish white supremacy. Amid cyclical national recessions and a growing white workforce, economic and racial anxieties reached new peaks. In 1885 and 1886, anti-Chinese racism erupted into an expulsion campaign that roiled the West, touching more than 168 communities, killing scores of Chinese migrants, and dislocating tens of thousands. In response, Congress first passed the Chinese Exclusion Act (1888), which unilaterally barred all Chinese laborers from entering the United States, and then the Geary Act (1892), which required that all Chinese aliens residing in the country register with the government. Constitutional guarantees of due process and equal protection, which had partially shielded the Chinese from local racial laws, could do little to restrain draconian federal immigration laws.

But it is important to recognize that even after the advent of Chinese exclusion, the Pacific states continued to grant conditional inclusion to Chinese residents. That is, western communities continued to use law, custom, and violence to incorporate the Chinese in limited ways. State and local governments deployed scattershot legal strategies to enforce the terms of inclusion. Some policies targeted the Chinese based on alienage rather than race, some continued to target race but deployed the legal doctrine of “separate but equal,” and some relied on collaboration between public and private actors. When strategies worked, they quickly spread to other localities.

Conditional inclusion continued during the era of Chinese exclusion. In fact, the exclusion laws became yet another form of social control that constrained the lives of Chinese residents. As federal agents fought to close the gates on Chinese immigrants, they began in roundabout ways to police long-term residents as well. Federal immigration agents began to coordinate with local police, blurring

Left: Anti-Chinese laws arranged by first-known enactment. This timeline divides the history of anti-Chinese laws into three periods: the emergence of anti-Chinese laws (1850–1868); racial reconstruction and contestation (1868–1885); and racial retrenchment and Chinese exclusion (1885–1943). On the left are relevant national and regional events; on the right are examples of local and state anti-Chinese laws. Each law is listed by the place and date of the first-known instance, but all were subsequently copied elsewhere. (See Appendix for additional racial laws.)

the line between policing and border control. As the threat of deportation from the interior grew, Chinese residents had one more reason to adhere to racial rules.

Most of the events in this book took place in the Pacific West, specifically in California, Oregon, and Washington. Previous historians have shown that Chinese migration played an essential role in building these regions. Today we celebrate Chinese contributions to western development with tales of felling trees, blasting tunnels, and harvesting fruit. But with these triumphant stories of Chinese labor and ingenuity comes a truth worth mourning. Anti-Chinese laws also built the West. By denying the Chinese equal access to wages, advancement, and property, western racial laws and legal customs made possible a political economy based on the exploitation of Chinese labor. The anti-Chinese regime erected economic, legal, and cultural structures that were foundational to the American West.

When the United States claimed these western lands in 1848, the Native people who lived there numbered in the hundreds of thousands. Within a decade the Native population plummeted due to violence, dispossession, and disease. By the late 1860s, if not before, white settlers greatly outnumbered Native people on the West Coast, and the Chinese outnumbered all other people of color. Demographic

Table 1 Chinese population in California, Oregon, Washington, and United States, 1860–1920.

	1860	1870	1880	1890	1900	1910	1920
California	34,933	49,255	75,132	72,472	45,753	36,248	28,812
Oregon	425	3,330	9,510	9,540	10,397	7,363	3,090
Washington	1	234	3,186	3,260	3,629	2,709	2,363
Pacific West Total	35,359	52,819	87,828	85,272	59,779	46,320	34,265
National Total ¹	34,933 ³	63,199 ⁴	105,465	107,488	89,863	71,531	61,639
(percentage female) ²	(5.1%)	(7.2%)	(4.5%)	(3.6%)	(5.0%)	(6.5%)	(12.6%)

Sources: Based on US Census Bureau, “Population of the United States in 1860, 1870, 1880, 1890, 1900, 1910, 1920,” and US Census Bureau, “Chinese and Japanese in the United States,” 1910.

- 1. National totals do not include the insular territories, including Hawaii and the Philippines.
- 2. Percentage female is based on US Census Bureau, “Population of the United States in 1920,” table 36.
- 3. The 1860 national total excludes Oregon and Washington. It appears that Oregon and Washington Territory reported Chinese as part of the total white population. In 1860 the census designated only three possible racial categories (white, Black, and Mulatto), which led to inconsistencies. In California, census takers often wrote in “Mon[golian].”
- 4. Previous historians have sometimes included Japanese when reporting on Chinese in the 1870 census, but here totals do not include enumerated Japanese.

data from this period show that the Chinese population grew rapidly, the state of California was home to the most Chinese by far, and the vast majority of Chinese residents were men. Given these realities, it is not surprising that lawmakers in the Pacific West initially targeted Chinese men, that they developed a more extensive system to regulate Chinese than anywhere else in the nation, and that California pioneered many of these structures of social control.

In the nineteenth century, Black and Japanese populations were small compared to the Chinese population, but that had begun to change by 1900. At the turn of the century, there were 59,779 Chinese, 18,269 Japanese, and 14,664 Black people residing on the Pacific Coast.²⁸ Although my central concern is to map the parameters of the anti-Chinese regime, when this history intersects with the regulation of African Americans, Native Americans, or Japanese migrants I point toward these connections. It is beyond the scope of this book, however, to trace the distinct encounters of non-Chinese people with western racial laws.

Rather than attempt the impossible task of capturing this racial regime in its entirety, I have chosen to probe particular moments when Chinese residents encountered social control. I ask: What were the Chinese permitted to do in American society? To what extent were these racial rules determined by law and governance? How did Chinese residents endure, negotiate, and resist these rules?

To some extent these questions can be answered in the aggregate. In this introduction, I have categorized racial laws in terms of their form; I have grouped the constraints on Chinese lives into economic,

Table 2 Chinese, Black, Japanese, and white population in the Pacific West, 1860–1920.

	1860	1870	1880	1890	1900	1910	1920
Chinese	35,359	52,819	87,828	85,272	59,779	46,320	34,265
Black	4,421	4,648	6,830	14,110	14,664	29,195	47,790
Japanese	0	33	89	1,532	18,269	57,703	93,490
White	432,301	608,548	997,455	1,753,943	2,045,538	4,023,873	5,353,634

Sources: US Census Bureau, “Population of the United States in 1860, 1870, 1880, 1890, 1900, 1910, 1920,” and US Census Bureau, “Chinese and Japanese in the United States,” 1910. These figures are based on the US decennial federal censuses conducted in California, Oregon, and Washington. Native people have been omitted from this table, because the federal census did not reliably record their numbers. But in 1890, US census takers conducted an unusually comprehensive count of “Indians” (living within and outside white society) and reported 32,776 in the Pacific West.

political, cultural, and spatial terms; and I have sketched out three periods to describe how the regime changed over time. But in truth, this level of abstraction only gets us so far. Many of the answers to my questions can only be found in individual stories of everyday life: That time when a tax collector visited the Chinese barber and threatened to cut his queue. That time when Gan Que ran away, and then ran away again, and again, and again. That time when Ruby Tsang went to the theater and attempted to sit down. Then, as now, everyday life was made up of messy moments and chance encounters that defy simple categorization.

To uncover the heretofore obscure stories contained in this book, I journeyed to thirty-three archives in California, Oregon, and Washington in search of local legal records. I visited the urban centers of Seattle, Portland, Sacramento, Oakland, San Francisco, and Los Angeles; the California gold rush towns of Downieville, Sonora, Placerville, Auburn, and Nevada City; California's agricultural regions in Santa Clara, Ventura, and Colusa Counties; logging areas near Bellingham, Washington; and fishing hubs near Monterey, California. I found legal records in historical societies (often with the help of kind volunteers) and in operating courthouses (where clerks took a pause from the daily demands of court to locate dusty volumes). For counties where local records have been lost, I relied on the cases that made their way to the appellate courts and are now held by state or federal archives.

What I found in these archives was a remarkable and practically untapped collection of Chinese legal records, including criminal prosecutions, civil complaints, jail registers, prison records, and mugshots. Of particular note is the existence of Chinese legal testimony, some of which dates from the nineteenth century when such Chinese migrant "voices" are particularly rare. In the many periods and places where scholars have yet to find Chinese-language accounts, Chinese legal testimony offers an unparalleled view of daily life in the American West. This is especially the case for Chinese women and girls, who left behind virtually no written records.

The view offered by legal testimony, however, is still partially obscured. Most Chinese interactions with the law left no mark, and when they did, their impression was usually faint. Court transcripts that include detailed Chinese testimony are rare, in part because discriminatory testimony laws kept Chinese silent in most court

proceedings for decades. And what Chinese testimony survives was mediated by outsiders, because the Chinese usually testified with the help of English-language translators and the legal guidance of their white attorneys. To make matters worse, the Chinese, like all witnesses, came to court to tell stories, not all of which were true.²⁹

There is also the problem of Chinese names. Some legal records omit Chinese names entirely, but more often they include carelessly transliterated names. Admittedly, Chinese names were difficult for English-speaking officials. At the time there was no standard way to romanize Chinese characters, and differences of dialect led to wide variation in the pronunciation. For example, American officials recorded the surname 廖 in various ways, including “Leo,” “Liao,” “Liaw,” “Liu,” “Lu,” “Luo,” “Lau,” “Law,” and (in the case of my family) “Lew.” To make matters worse, officials used the same romanization for multiple surnames. For example, “Lew” could refer to four possible surnames: 廖, 劉, 柳, or 呂. Moreover, many nineteenth-century American records of Chinese names do not include surnames at all; instead officials recorded only “Ah” (阿, a diminutive term that denotes familiarity) followed by the person’s given name. For married Chinese women, officials frequently failed to record a given name; instead they recorded “Shi,” “Shee,” “Sea,” “See,” or “She” (氏, a term that means clan) followed by her maiden surname.³⁰ Whether due to confusion, disregard, or malice on the part of American officials, or obfuscation on the part of the Chinese, Chinese names were recorded haphazardly in US records. As a result, it is difficult to know more about the lives of Chinese plaintiffs, defendants, and witnesses beyond the few words they uttered in court.

Still, much can be learned from legal transcripts. Chinese migrants began going to court as soon as they arrived in the 1850s, negotiating the terms of their inclusion as complainants, plaintiffs, witnesses, and defendants. They carried with them knowledge of the Chinese legal system and soon adapted to the American system. Chinese resistance in the courts, and outside them, guaranteed that racial laws would not dictate reality. Scholars have shown that law and society are mutually constituted, that legal rights spill into social relations and flow from them.³¹ The terms of conditional inclusion, then, were not simply determined by the rights due to the Chinese under the law; they were dependent on the rights the Chinese managed to exert in daily practice. This cut two ways. Sometimes the

Chinese managed to claim powers not granted to them by formal law, but at other times they were denied privileges they were guaranteed by formal law. Legal custom could be gentler than the law, or it could be harsher. Within the gaps between formal law and legal custom lie stories of both arbitrary state force and successful Chinese resistance.³² More often than not, published court opinions and legal statutes smooth over this messy legal landscape, but trial transcripts can reveal more of the bumps and crevices.

I analyzed these transcripts in multiple ways. The existence of a court case reflects a belief that a rule has been violated and that its violation constitutes a private or public injury. Therefore, I use court cases to see the formal and informal rules of society, as well as the consequences of breaking them. Witness testimony also presents people's perspectives on events. When read carefully, I believe, testimony can expose what cultural assumptions historical actors held, what rights they claimed, and how they assigned meaning to their experiences. Finally, court opinions are decisions that carry consequences. But I also read them as value-laden narratives that granted recognition or refused it, all in the interest of instructing the population and the legal institution itself. I find that court transcripts, in all their complexity, can be best understood when situated in their local context and read alongside other historical sources.³³ Legal archives speak to the meaning of law, but so do other archives, if we are prepared to listen.

Many, many stories emerge from these sources. Some of these stories are myths, fearful tales about wily "Chinamen" and the threats they posed. These narratives provided powerful motivation and justification for racial policing, and I have chosen to organize my chapters around these stereotypes. There was the Chinese "coolie," who out-competed white labor and sent his profits to China; the Chinese "criminal," who deceived his victims and the police; the Chinese "alien," who did not belong but demanded civil rights; the "Chinawoman," who represented the return of slavery; the Chinese "invader," who contaminated white neighborhoods; the Chinese "predator," who preyed on white girls; and the Chinese "immigrant," who threatened to overrun America. Across seven chapters I consider the regulations that emerged from these racial myths and helped to reinforce them.

Each chapter describes racial myths and regulations, but each chapter also includes the stories of real people: Chinese migrants who encountered, accommodated, and refused the preconditions for their

inclusion. A few of these narratives may be familiar, because they resulted in landmark court cases. But most Chinese who went to court left little mark on American law, history, or memory. Instead, all that remains is a glimpse of their experiences.

As I sifted through extensive legal archives, I found that the volume of fragmentary stories tested my attention, my empathy, and my willingness to hold contradictions in my mind. You may be tested as well. I have tried to hear each voice above the din, but the cacophony can become overwhelming. I think that is okay. Even when distinct voices blur into noise, the sound can still move us.



Let us start with Pany Lowe. Perhaps we can see through his eyes. Lowe was not one of the “2700 boy babies of San Francisco Chinatown,” but in many ways his experience resembled theirs. Born in Portland, Oregon, in 1873, Lowe journeyed to China for his education, and then returned to America, moving between major western cities, first San Francisco, then Denver, on to Portland and Seattle. By the time Lowe sat down with a researcher for an interview in 1924, he had acquired a lifetime of knowledge about the racial regime in the American West.³⁴

He had learned, for example, that he could go to some restaurants and not others. *Once I go into restaurant, they refused to serve me. I no want to cause trouble so I just walk out. Whole lots of things like this happen but I forget. Now when I want to eat I go to chop house. No trouble th[ere].* He knew some restaurants did not want him, knew chop suey joints were safe, and made the choice to avoid possible humiliation.

He also learned he could go to some barbers and not others. *Lots of time people insult me. Once I remember I go barber shop. I sit one hour no ask me what I want. Pretty soon barber say what you want. I tell him I want hair cut, how much? He say \$3.00. That make me mad but I make him cut my hair just the same. . . . I never go to white bastard again.* He knew that price gouging was a form of discrimination, but also that money could sometimes buy access.

Over time he learned that legal action could also open seemingly closed doors. *My second wife take my little girl born in this country to have her hair cut at Frederick & Nelson. They say they very sorry, no cut Chinese hair. Oh, my wife get mad. She go see my lawyer tell*



A Chinese family in Monterey, California (circa 1883). What did the American West look like in the eyes of these Chinese American children? (Chinese in California, FN-26239, California Historical Society)

him about it, Mr. Sullivan. He write letter to Frederick & Nelson. They write letter back and apologize. Lowe knew the pain of being refused service, he knew illegal discrimination when he saw it, but he also learned that avoidance was easier than confrontation. All the time I tell my wife keep away from those swell places, only make trouble. He knew how to mind racial rules and move on.

He learned he could live in some neighborhoods and not others. When I in Portland I want to live in residential district but they make lots of trouble [if] you try to live outside China town. He learned about the trouble from his friends. One friend, he born in this country, he buy \$6,000 house in rose city district. White people make hell lot trouble for him. They take it to court. He fight it. Just the same they kick him out. He can own house but no live here.

Lowe knew the Chinese were supposed to be equally protected by American law. But he knew that, in practice, the law protected white neighborhoods from Chinese encroachment. I think that very

unjust. Those people very uncivilized, have no regard for humanity. So when my friend had so much trouble I decided to stay in China town. Nobody care there. He knew some spaces were reserved for white people and chose not to test the line.

After the exclusion laws passed, Lowe also learned the consequences of border control. *My people be in this country long time. My grandfather come to this country. When I in China he tell me about work on railroad and work in laundry. Before when he go back they have the check system. Make Chinese carry paper tell who they are. Some inspector today make Chinaman show card. All same dog license. I say who the hell are you. He show me United States Secret man. I tell him I born in this country . . . He say all right, but he take some other men, lo[c]k them up for a day or two.* Lowe knew that exclusion made all Chinese residents vulnerable and a missing paper could mean deportation.

Finally, Lowe learned that American law held uncommon sway over his marriage prospects. He could marry some women and not others. *Not allowed marry white girl. Not enough American born Chinese to go around. China only place to get wife. Not allowed to bring them back. For Chinaman, very unjust. Not human. Very uncivilized.* He knew that anti-miscegenation and exclusion laws would forever mark his family. He knew that enduring such indignities was a condition of living in the American West.

Given all this, Pany Lowe knew that he would never belong. *When I was young fellow I felt that I American. I no Chinaman. Now I get more sense. I know I never be American, always Chinaman. I no care now anymore.* He lived at the margins of America society and didn't know if he should hope for more. *Very hard to tell whether people treat better now than before. Some time, I think so, some time I don't think so.* He did not know if there had been progress.

Still, he held out hope that white Americans could learn. *I hope this survey do lot of good for Chinese people. Make American people realize that Chinese people are humans . . .*

I think very few American people really know anything about Chinese.