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An Exclusion and an Agreement: Comparing the Chinese and Japanese Immigrant Experiences, 1870–1942

By Eric Lowe

Abstract: While the many immigrant stories associated with the American melting pot are set against the backdrop of the east coasts' Ellis Island and the Statue of Liberty, it is important to note that immigration to America's West Coast was arguably more influential in the development of U.S. immigration policy. In the late nineteenth and early twentieth centuries, the Chinese and Japanese fought for the right to become citizens while facing opposition from both the American public and the U.S. legal system. Examining these struggles against the common narrative contributes to a more comprehensive understanding of what it means to come to the U.S. and become an American.

Upon entering San Francisco Bay, any geographically un-inclined visitor could easily mistake Angel Island for part of the mainland interior of the bay. It is the second largest island in the bay, and from the angle of entry, an optical illusion seems to connect Angel Island with the Tiburon peninsula just to the north. For a nineteenth-century Chinese immigrant arriving on these shores for the first time, the fact that their vessel was not on course to San Francisco proper—which lies on the opposite side of the bay—may not have been evident. By 1880, many Chinese newcomers to San Francisco would already have friends or family in the city, with over one-hundred thousand Chinese immigrants having entered through the city by 1874.¹ After the months-long Pacific crossing, the new arrivals to America were certainly eager to set foot on the soil of opportunity and embark on a new journey for themselves. Unfortunately, this was not to be the immediate case. Incoming vessels first made land at an immigration holding station

¹ Gary Y. Okihiro, *American History Unbound: Asians and Pacific Islanders* (Oakland: University of California Press, 2015) 156. By 1874, Chinese immigrants constituted nine percent of the city's population.

on the northeastern corner of Angel Island, and for many Chinese immigrants, the journey to San Francisco would take much longer than they had expected.

Arrival represents the introductory chapter of the nineteenth-century Asian American immigrant story, a footnote in the greater narrative. Still, it is intriguing that this moment varied so greatly on a person-to-person basis. The year an individual landed, their personal wealth, the color of their skin, and—perhaps most importantly—their country of origin, determined what sort of encounters they would experience within American society. The Chinese were the first to endure such encounters, with massive waves of immigrants storming the shores of California in search of gold in the Sacramento Valley during the 1850s. The turn of the century saw the Asian migrant demographic shift away from the Chinese in favor of a greater Japanese immigrant population, a result of factors which this paper will later explain in greater detail. New shifts would occur in the post-World War II era as well, with an influx of Southeast Asians and Pacific island natives seeking American domicile. This paper will focus on earlier groups—the Chinese and Japanese—and it will seek to examine the experiences of the Chinese and Japanese immigrants by comparing and contrasting their treatment and acceptance within the American community. When examining Chinese and Japanese experiences, there are numerous sources that clearly illustrate the way in which the racial, cultural, and social features of each community were considered by American society. Said consideration had, and continues to have, an impact on the way in which the Asian American generations to follow would construct their identities—both as separate nationalities and as a collective group. The question is this: How was The Asian Immigrant (as an entity) created and viewed by American society, and what entities played a role in that creation? The answers to these questions offer insight into the way in which America accepts others into its ranks, and the significant impact that this process has on those groups.

What We Have Learned Thus Far

When looking at the study of Asian Americans and their experiences as both immigrants and American citizens, the story begins with the influx of Asian migrants to the United States in the mid-nineteenth-century. From 1850 to 1900, there were hardly

any academic studies devoted to the immigration of the Chinese. This is logical, seeing as an event is not considered to be worthy of study until some degree of time has elapsed. The information produced from this period, then, is largely of the non-academic variety. It is nonetheless, valuable to historians as a source of the sentiment of the period towards Asians coming to the United States. Sucheng Chan, a specialist on the historiography of Asian Americans, analyzes the periods of Asian American scholarship as a four-wave series. The first wave spanned the mid-nineteenth-century to the 1920s, a period that was dominated by “partisan” works that were representations of public opinion and reaction to (at that time) Chinese immigration to the West Coast. Such pieces include popular articles such as “The Chinese Again” in *Harper’s Weekly*, which discusses and propagates fear surrounding the Chinese, and the impact that they would have on American society and government.² Other partisan pieces from the late nineteenth or early twentieth centuries include local newspaper articles written as coverage of an occurrence (such as the collapse of a mine shaft or a railroad tunnel) but also featuring a discourse on the “history” of the Chinese in the mines or railways. These articles often discussed the effect that Chinese labor has had on a given industry, written from either a positive or negative angle — depending on the author’s personal bias. Again, these pieces were not written as scholarly contributions, but they serve to give modern historians an idea of the types of common views of the Asian population in America around the turn of the century.

Sucheng Chan’s historiography overlooks one critical set of primary sources that are integral to understanding the Chinese immigrant story in the late nineteenth-century: the law. Legal cases across the courts of California (and around the nation) offer historians insight into what types of rights immigrants were being denied, what rights they fought for the most, and how the legal system—as a representative of the United States as a whole—responded. *In re Ah Yup* is a hallmark case in the legal discourse surrounding American citizenship for the Chinese. It was one of the first high-level cases regarding citizenship for a Chinese immigrant, and as such it set a legal precedent that would support a long line of rulings against the Chinese. Another such case, with a

² “The Chinese Again,” *Harper’s Weekly*, October 1879, 822.
<http://immigrants.harperweek.com/ChineseAmericans/Items/Item046.htm>.

similarly unfortunate outcome for the plaintiff, was *In re Hong Yen Chang*. Chang was a member of the New York State Bar Association and moved to California, but his application to practice there was denied and the court upheld that decision. Cases like these are of vital importance when examining the socio-political climate of a period because the process of making laws and interpreting them is a human endeavor—they often represent the reactions and sentiments of the American people. Despite the lack of scholarly work discussing Asian immigration, legal literature of the period serves to bridge that gap.

Following the Chinese Exclusion Act of 1882, a federal legislation that barred almost all immigration of Chinese laborers to the U.S., anti-Chinese rhetoric in the media began to die down. As the immigrant demographic shifted towards the Japanese, scholarly discussion of the role of Asians in America began to emerge. Asian American research during this period is authored more heavily by social scientists in the fields of anthropology and sociology (as was the case in general during this period—Asian American studies was no exception), as well as political scientists weighing in on the matter. The incendiary publications of men like V. S. McClatchy—who epitomized the aforementioned anti-Asian rhetorical core of the late nineteenth and early twentieth centuries—served to provide questions for these emerging fields of research. Were the Chinese truly a “menace to society?” Would the Japanese population eventually overtake the white majority? Articles circulating in scholarly journals of the day featured pieces that aimed to address these questions, like Roy Malcolm’s “American Citizenship and the Japanese.” Malcolm’s article discusses the complexities of race in America by outlining the legal categories that determine access to citizenship rights for Asian immigrants.³ Thankfully, these emergent studies typically eschewed the blatantly racist undertones and biases of the previous decades and focused on a more objective analysis of Asian immigrants in American society.

As in prior decades, the way in which the law viewed Asian immigrants, and citizens (notably the Japanese) is an important source of information in the early twentieth-century. Despite the miscarriages of justice faced by the Chinese in their legal battles

³ Roy Malcolm, “American Citizenship and the Japanese,” *The Annals of the American Academy of Political and Social Science* 93, (1921): 77-81.

for citizenship, Japanese immigrants in the United States continued the fight for a place in America. With the rise in Japanese immigration in the early twentieth-century, the national debate centered around whether or not this new wave of Asian immigrants would be a good “fit” in American society. The hallmark *Ozawa v. United States* case looked at a Japanese man who resided in Hawaii and applied for citizenship. The Supreme Court was tasked with deciding whether Japanese immigrants were to be considered eligible for naturalization, seeing as the letter of the law—specifically within section 2169 of the Revised Statutes (Comp. St. § 4358)—only permitted citizenship for “whites” and “blacks.” The language of the decision (which was against Ozawa) is a strong indicator of the way in which the Japanese were viewed positively by Americans but were still discriminated against.⁴ The focus of the legal discourse and literature in these decades centered on the process of assimilation, sociology, and the Japanese internment.⁵

Asian American youth of this era were examined under the lens of their abilities as students, and the adult population, likewise, studied regarding their social structures and adherence to American culture. An example of this is a 1922 pamphlet written by P. B. Waterhouse and published by the American Missionary Association titled “Japanese American Citizenship,” in which the efforts of Japanese immigrants were praised as being aimed at assimilation.⁶ While Waterhouse was sympathetic to the Japanese and their struggle to find a place in American society, there were many who were not. This period, much the same as the previous few decades, was divided. Outside of the pro/con dichotomy, mid-century scholars such as Dennie Briggs looked at the attitudes, social interactions, and academic performance of young Asian Americans; she also examined different generations and the differences observed between them.⁷ Again, these decades saw a rising interest in the social experience of Asian Americans, with an

⁴ *Ozawa v. United States*, 260 U.S. 178 (1922).

⁵ Sucheng Chan, “Asian American Historiography,” *Pacific Historical Review* 65, no. 3 (1996): 366.

⁶ P.B. Waterhouse, *Japanese American Citizenship*, (New York: American Missionary Association, 1922).

⁷ Dennie L. Briggs, “Social Adaptation Among Japanese-American Youth: A Comparative Study” *Sociology and Social Research* 38, (1954): 293-300.

increase of literature on the Japanese in particular. Despite the disciplinary angle that the literature originated from, its tone was usually prone to viewing Asian immigration as a negative issue. This phenomenon would gradually decline, moving forward with the expansion of historical scholarship on the topic. Perhaps in the early twentieth-century, the topic of Asian immigration was still too recent for historians to take initiative.

Beginning in the 1960s, scholarship examining Asian American migration met the wave of revisionist intelligentsia that flooded many areas of academic literature at the time. Historians started to take on greater prominence within the field, as scholars like Monica Boyd began to publish articles covering the issue of the immigration for Chinese, Japanese, and later waves of Asian immigrants. The emergence of Boyd and likeminded scholars, marked an important historiographical shift in the state of Asian American studies, as the field began to view the population as an *American* entity, with a history of prejudice. This shift was a result of a broader trend within academia during the period, which witnessed the emergence of widespread distrust of canonical narratives.

For Asian Americans, this meant that the decades of anti-Asian literature would be subject to rigorous critique. The rejection of previously unquestioned narratives was the preeminent theme of the late sixties and early seventies, with arguments that attacked racism, capitalism, and oppression in defense of Asian American place in society. The counter-narrative style provided a positive light that praised the accomplishments of Asian Americans and scrutinized the forces that led to the years of discrimination and oppression (as some would argue) that they faced. Scholars like Harry Kitano, who was Asian American, took the lead in this movement. His work, *Generations and Identity: The Japanese American*, is an important contribution to the history of the Japanese American experience, in which he uses his own family history to provide a history of the evolution of identity among the Japanese American community.⁸ These scholars were the first to look to the past for the answers to the question of what place Asian Americans should have in society.

⁸ Harry H. L. Kitano, *Generations and Identity: The Japanese American* (Boston: Simon and Schuster, 1993).

In more recent studies, historians have looked at the cases of Chinese, Japanese, and (later) Filipino immigration on an individual basis. These studies outline the different ways in which each group was treated by the American populace and seek to identify the methods that each group employed in order to overcome discrimination and gain a foothold in American society. Having established the individual immigrant experience of each national group, historians have begun comparing these experiences. The revisionist period paved the way for the modern set of scholars in the field. With the amount of historical research having grown so much over the course of the last few decades, today's historians have the luxury of a solid foundation upon which any research question can be built. Having already conquered topics like the role Asian Americans played during pivotal events (the Japanese in World War II, the Chinese in the rebuilding of San Francisco, etc.) and having these studies to guide them in their research, historians today are able to craft compelling arguments that broaden our understanding of the Asian American experience. This paper is geared towards that end, as it examines one topic within the field (immigration/identity) through a specific lens (legal and popular opinion) in an effort to add more depth to the larger narrative.

The Chinese and the Japanese

The process of immigration is a varied one, with different experiences faced by different groups entering this country. In the case of African Americans, their experience was shaped around the practice of slavery and their process of attaining freedom. In a way, they were no longer immigrants, but rather a second-hand, almost sub-citizen race within the post-slavery nation. The process for Asian Americans is framed around a different set of circumstances, with waves of immigrants coming to American shores in search of work in the burgeoning mining and railroad industries of California. These waves began with the Chinese, and their experience was a particularly harsh one. Initially, they were seen as “as a curious but welcome addition to the population of

laborers and fortune seekers arriving on the West Coast.”⁹ However, when the labor that they supplied began to cut into the work desired by white men, curiosity turned to opposition. They faced discrimination on a racial, cultural, and xenophobic basis, facing the brunt of the West Coast nativist sentiment. Ironically, one of the largest proponents of this discrimination was the Irish, a people who had faced similar treatment at the hands of Anglo American citizens on the east coast around the same period.¹⁰ This is indicative of the creation of *the other*; groups who stood to benefit from the elimination or marginalization of the Chinese (in this case the Irish) aimed to portray them as a different beast, so to speak, than the rest of society. Still, the treatment at the personal level was—barring the more extreme acts of violence such as extrajudicial justice and lynching—a bearable experience for the immigrants. The Chinese developed various coping mechanisms to deal with persistent low-intensity persecution.

As was the case with other ethnic groups who came en masse to the United States, the Chinese sought out the most practical way to survive in a new land. One such method was the formation of Chinese enclaves, settlement patterns through which the Chinese would create their own neighborhoods in a nearly self-sufficient manner. These enclaves served to protect the Chinese by surrounding themselves with those of common language, occupation, and culture, which would allow them to adjust to new laws and customs more easily.¹¹ Since the great majority of the Chinese who came to America were single men in search of work, the communities remained small, with few family homes. The enclaves also served to keep others away; the Chinese were an easy target for criminal victimization, being unfamiliar with the law enforcement practices. Ethnic enclaves often serve as a self-policing community, keeping others out and maintaining order within.¹² One aspect of that order was the formation of community associations, which aided in the functions of day to day life in

⁹ John K. Matsuoka and Donald H. Ryujin, “Asian American Immigrants: A Comparison of the Chinese, Japanese, and Filipinos,” *Journal of Sociology and Welfare* 18, no. 3 (1991): 124.

¹⁰ Andrew Gyory, *Closing the Gate: Race, Politics, and the Chinese Exclusion Act* (Chapel Hill: University of North Carolina Press, 1998), 165.

¹¹ *Ibid.*, 127.

¹² *Ibid.*, 125.

Chinese areas. University of Hawai'i Professor John Matsuoka asserts that "such associations provided employment assistance, acted to mitigate disputes within the Chinese community, and served as representatives to the majority society."¹³ Legal disputes were dealt with "in-house," and banking was operated through a system of rotating credit unions. These machinations circumvented the discriminatory practices that they would have endured were they to attempt to use similar institutions outside of the enclaves. Indeed, the discrimination was harsh. The society which saw the Chinese as a threat to their economic prosperity waged a war to create in the Chinese a sense of *the other*, garnering hatred for their inclusion.

Sometimes the most valuable primary sources one can rely on when researching the popular sentiment of a given time period are published materials aimed at the everyday person. *Harper's Weekly* is an excellent example of this type of source, as its news briefings, articles, editorials and visual materials offer a clear view of the way in which people addressed the issues during the period. The anti-Chinese sentiment during the late nineteenth-century is one such issue, as evidenced in an October 1879 piece titled "The Chinese Again." The editorial addresses the statements of Congressman Horace Davis, who held a staunch anti-Chinese immigration position and posited that unrestricted immigration would be the downfall of the state of California, if not the nation as a whole. The author sympathizes, reaffirming that if the Chinese are allowed to continue immigration, "there will be a Mongolian State occupied and ruled by absolute aliens, and California will degenerate into a province of China."¹⁴ This sort of hyperbolic view of the apparent dangers of Chinese immigration, when promoted by government leadership, engendered a harsh public sentiment towards the Chinese.

Another piece from *Harper's Weekly* that encapsulates the situation surrounding Chinese immigration on the eve of the Chinese Exclusion act of 1882 is an 1871 political cartoon titled "The Chinese Question." This sketch depicts a woman, dressed in

¹³ Matsuoka and Ryujin, "Asian American Immigrants," 124.

¹⁴ "The Chinese Again," 822; See also David L. Anderson, "The Diplomacy of Discrimination: Chinese Exclusion, 1876-1882," *California History* 57, no. 1 (1978): 32-45.

white, standing in between a destitute Chinese immigrant and an angry mob of white Americans. The Chinese man is despairingly slumped against a posting board covered with hateful rhetoric defaming the Chinese immigrant population as “heathenish” and “barbaric.”¹⁵ The woman, Columbia, or America personified, looks sternly at the mob of white men while the Chinese man hangs his head in shame. The caricature of the Chinese man is unlike that of many illustrations of the period, as he is drawn in realistic fashion and without overly exaggerated or bestial features. Clearly, this picture is meant to highlight the injustice being carried out against the immigrant population in California. Publications like this one were typically the exception, and negative sentiments far outweighed the positive ones. However, the worst of the discrimination—the most unbearable treatment—would come not at the hands of the press but rather at the hands of legislators.

During the economic recessions of the late nineteenth-century, the Chinese were scapegoated and faced legal discrimination on a number of fronts. Various types of blatantly anti-Chinese legislation came about in the decades following the Gold Rush, one example being the unofficially-titled Queue Ordinance of 1873 affecting the San Francisco jails. This law required the cutting of a prisoner’s hair, justified as a sanitary measure to prevent lice/fleas. However, given that the Chinese were the only male prisoners who would suffer cultural repercussions if their hair were to be cut, many have argued that the ordinance was meant to discourage the addition of new Chinese prisoners—whom lawmakers believed were intentionally incarcerating themselves to receive food and shelter. A similar legislation would be the 1875 Page Act which was drafted to reduce the predominance of Chinese prostitution in San Francisco. As a result of the application of this law, Chinese women were all but prevented from entering the U.S.¹⁶ These legislations made it increasingly more difficult for the Chinese to settle into American society, and the last straw would be the Chinese Exclusion Act of 1882. This act banned the immigration of Chinese citizens to the United States, based solely on xenophobic, pseudo-protectionist

¹⁵ “The Chinese Question,” *Harper’s Weekly*, February 18, 1871, <http://www.harpweek.com/09Cartoon/BrowseByDateCartoon.asp?Month=February&Date=18>.

¹⁶ Kerry Abrams, “Polygamy, Prostitution, and the Federalization of Immigration Law,” *Columbia Law Review* 105, no. 3, (April 2005): 694.

rationales.¹⁷ The language of the legislation itself is clear in its openly racist justification for the elimination of immigration on the basis of race and nationality, a largely unprecedented legal move. It specifically mentions and discriminates against laborers by based on their trade—such as those in the mining industry—under the grounds that their immigration “endangers the good order of certain localities,” with no indication or evidence to support said claim.¹⁸ After the Act went into effect, the Chinese population would decline steeply, with no women or families to bolster the population.

In place of the Chinese, the Japanese would take the mantle as the dominant Asian immigrant community on the America’s West Coast. This began in the late nineteenth-century during the Meiji restoration in Japan, a period in which the Japanese government was attempting to modernize the nation. These changes resulted in social unrest within the agrarian population, and many farmers chose to immigrate to the U.S. as a result.¹⁹ Similarly to the Chinese, the Japanese were originally received warmly by American businesses who needed a ready supply of inexpensive labor during times of economic prosperity. They gained a sizeable foothold in the agricultural industry and those who did not plant found work in common labor industries of the day. Also, in conjunction with the Chinese experience, however, the situation changed as soon as the Japanese began to be perceived as a threat to white laborers.

As pressure mounted and public sentiment grew more aggressive, federal action was taken in the form of the Gentlemen’s Agreement of 1907, a treaty of sorts between the governments of the United States and Japan. The informal arrangement called upon the Japanese government to restrict the provision of passports for laborers and in return the United States would refrain from enacting any legislation excluding the Japanese. As will be discussed further in this article, the rationale behind the Gentleman’s Agreement is a noteworthy example of the peculiarities of United States immigration policy during the early

¹⁷ Gyory, *Closing the Gate*, 189-195.

¹⁸ “An Act to Execute Certain Treaty Stipulations Relating to Chinese,” (PL 47-126, 1882), *U.S. Statutes at Large* 58.

¹⁹ Matsuoka and Ryujin, “Asian American Immigrants: A Comparison of the Chinese, Japanese, and Filipinos,” 125.

twentieth-century. While it was not an official legislation, it did serve to limit Japanese immigration to the country.²⁰ Nativism and the eugenics movement would continue to impress the United States populace and in 1924 the passing of the Johnson-Reed Act would eliminate all immigration from Asia.²¹ With that, the period of Asian immigration would come to an end until the postwar era.

There is an important issue that emerges when studying the experiences of these two immigrant populations and their experiences in the United States. The Asian populations are treated as a special group, an “other,” by the American society. Irish immigrants chose to harass the Chinese, even though they were essentially in the same situation. During World War II, the Japanese are interned and treated as a special group whose rights are stripped away. Today, Asian Americans are not included in the typical minority catalogue—rather they are often seen as a “model minority.” The origins of *the other* in terms of Asians in America begins during the nineteenth-century; it is important to consider the ways in which the legal system, racism, xenophobia, and other factors have contributed to this phenomenon.

The Fight for Citizenship

America was heralded as a land of opportunity, and indeed for many it was. Upon entering the country, the Asian immigrant population was able to find work and carve out a living for themselves. The experiences shared by the Chinese and the Japanese when they came to the United States are typical of many immigrant groups—the language barrier, unfamiliarity with the locale, susceptibility to crime and poverty were common. This process was made more difficult by the hostile attitudes of American citizens towards non-anglicized immigrants. As a result, many Asian immigrants were compelled to seek legal recourse in

²⁰ Monica Boyd, “Oriental Immigration: The Experience of the Chinese, Japanese, and Filipino Populations in the United States,” *The International Migration Review* 5, no. 1 (1971), 50.

²¹ Johnson-Reed, otherwise known as the Immigration Act of 1924, instituted a national origins quota system limiting immigration to two percent of the number of immigrants from a given country living in the United States in 1890. Given the fact that there were very few Asians of non-Chinese descent living in America in 1890, the quota for Asian nations was zero.

order to make the dream a reality. Both the Chinese and (later) the Japanese would fight for their rights through the judicial system.

Yick Wo was a Chinese laundry owner who faced discrimination regarding safety laws. He went all the way to the Supreme Court of the United States to argue that the police were not enforcing the building codes equally, but rather were only enforcing them amongst the Chinese laundromats in the city.²² Ho Ah Kow sued for reparations after falling victim to the aforementioned Pigtail Ordinance, insisting that the removal of his hair constituted irreparable damage to his person.²³ Both Yick Wo and Ho Ah Kow won their day in court²⁴ but their victories were relatively inconsequential in comparison to the larger question of Chinese rights. Years before these cases, Chinese men were concerning themselves with more than just discrimination—they wanted citizenship. Naturalization meant attaining the rights to a seat at the American table. It meant enfranchisement, equality, and a new home. However, as a result of the simple and dreadfully vague language of United States law regarding citizenship, going to court was often a requisite step in the process. The Chinese men who made this land their home would be the first to seek legal recognition of their right to citizenship. The case of Ah Yup serves as a landmark in this particular legal discourse.

Ah Yup was a Chinese man who applied for citizenship in California in 1878. His case was hinged on the simple question of whether a Chinese man—who would be classified as a Mongolian—was eligible for citizenship. The question is not so simple; however, due to the word of the law being vague.²⁵ In the court's decision, the fourteenth amendment is called into question over its use of the word "white." Did the realm of whiteness include or exclude the Mongolian race? In Justice Sawyer's decision, he states that "It is clear from these proceedings that congress retained the word "white" in the naturalization laws for the sole purpose of excluding the Chinese from the right of

²² Yick Wo v. Hopkins. 118 U.S. 356 (1886).

²³ Ho Ah Kow v. Nunan, 12 Fed. Cas. 252 (1879).

²⁴ Steven C. Teel, "Lessons on Judicial Interpretation: How Immigrants Takao Ozawa and Yick Wo Searched the Courts for a Place in America," *OAH Magazine of History* 13, no. 1 (1998): 44.

²⁵ Ian F. Haney Lopez, *White By Law: The Legal Construction of Race*, (New York: New York University Press, 2006), 38.

naturalization.”²⁶ With this interpretation in mind, Justice Sawyer ruled against Yup, claiming that he could not be counted as white and therefore, could not be counted as eligible for citizenship. The deciding factor was, of course, one man’s *interpretation* of what the letter of the law was intended to mean. This is the way in which the United States legal system contributes to the creation of Asians as *the other*, a separate group that is simply not *us*. White is an abstraction, not a race/ethnicity, and the fact that the law used this term as such a crucial distinguishing factor allowed it to be shaped by the hands of individuals like Justice Sawyer.²⁷

This is a dangerous situation when the greater workings of the United States legal system are considered. Given the vague and interpretive nature of written law, legal precedent—the rulings that have been made by other judiciaries previously—play a critical role in how the law is understood. This is why the 1878 *In re Ah Yup* verdict is so crucial. Twelve years after the case, a Chinese lawyer from New York applied for the California State Bar Association. He was a member of the Bar in New York, and he had even been granted naturalization by the state there as well. However, due to the Chinese Exclusion Act (which bars the naturalization of any Chinese persons) which was passed in 1882, his application was denied, and his citizenship was revoked. His court case was unable to turn the decision around. In the decision of *In re Hong Yen Chang*, the court cites *In re Ah Yup* as one of the principle precedents behind the decision.²⁸ The Chinese Exclusion Act was similarly influenced by Justice Sawyer’s 1878 decision. When the decision was made to cast the Chinese people in a lot that was not “white,” they were placed into the category of *the other*, a status that would harm Asian immigrant prospects for decades.

The lasting impact of this categorization is not something any group would want on their record when attempting to integrate into American society. That being the case, the Japanese did not want to inherit the status of their mainland neighbors. As the demographic shift began, in earnest, there was a deep-seated desire within the Japanese community to avoid being lumped into the same category as the Chinese. This can be seen in the debacle over

²⁶ *In re Ah Yup*, Case No. 104, 5 Sawy. 155 (1878).

²⁷ Lopez, *White By Law: The Legal Construction of Race*, 38.

²⁸ *In re Hong Yen Chang*, 84 Cal. 163 (1890).

the San Francisco school segregation crisis of 1906. When San Francisco's school board attempted to relocate 93 Japanese pupils into a Chinese segregated school, the Japanese citizens protested, eventually being heard by the Government of Japan.²⁹ The ensuing political conversations resulted in what would become known as the "Gentlemen's Agreement" of 1907. This informal agreement served as a compromise between two sides of the argument. The Americans, not wanting the Japanese immigration to continue, got an agreement that reduced the number of Japanese laborers coming into the country. The Japanese, not wanting to be seen in the same negative light as the Chinese, ensured that they would not be subjected to exclusion and were allowed restricted immigration to America. President Roosevelt offered a long statement to accompany the agreement and enforce its purpose:

The overwhelming mass of our people cherish a lively regard and respect for the people of Japan, and in almost every quarter of the Union the stranger from Japan is treated as he deserves; that is, he is treated as the stranger from any part of civilized Europe is and deserves to be treated. But here and there a most unworthy feeling has manifested itself toward the Japanese—the feeling that has been shown in shutting them out from the common schools in San Francisco, and in mutterings against them in one or two other places, because of their efficiency as workers. To shut them out from the public schools is a wicked absurdity, when there are no first-class colleges in the land, including the universities and colleges of California, which do not gladly welcome Japanese students and on which Japanese students do not reflect credit. We have as much to learn from Japan as Japan has to learn from us; and no nation is fit to teach unless it is also willing to learn. Throughout Japan Americans are well treated, and any failure on the part of Americans at home to treat the Japanese

²⁹ Cherstin M. Lyon, "San Francisco school segregation," *Densho Encyclopedia*. Accessed May 17, 2017.
http://encyclopedia.densho.org/San_Francisco_school_segregation/.

with a like courtesy and consideration is by just so much a confession of inferiority in our civilization.³⁰

In this, we can see a tragic example of the Japanese using *the other* as a tool for their own benefit, trying to cast themselves apart from the Chinese. The Japanese saw themselves as superior to the Chinese, and thusly believed they should not be subject to the same unjust treatment under the law. Unfortunately for the Japanese, the courts of the United States did not acknowledge such a distinction.

Ozawa v. U.S. (1922) is the landmark naturalization case for the Japanese in America, in which a Japanese man who had permanently relocated to Hawaii applied for naturalization into the United States. This application was denied under a revised statute law that declared only those who were white or of African descent could become naturalized citizens—a law that retained the vague terminology that hindered the Chinese decades prior. The Supreme Court decision reads as a case of semantics, dissecting what the original authors of the statute, and the founding fathers before them, intended when they utilized the term “white.” The justices argued that to be white was to be of Caucasian origin, and that Ozawa was “clearly of a race which is not Caucasian and therefore belongs entirely outside the zone on the negative side.”³¹ The language used by Chief Justice Sutherland is reminiscent of Justice Sawyer’s words forty years prior; the case came down to one’s interpretation of the word “white.” By the 1920s, the rationale had moved to determine white to mean Caucasian, but it still falls short of determining what a Japanese man is. This ruling further set a backwards precedence for future immigrants looking to become citizens of this country by reaffirming a negative interpretation of the law’s often vague language. It would appear that, at least in the eyes of the law, the Japanese would still be considered *others*.

This debate surrounding the fate of the Japanese community in America was not decided by the judgement in *Ozawa v. U.S.*, but rather it sparked further debate among not only the Asian American community, but among the U.S. population as a whole. The aforementioned article “Japanese American

³⁰ Theodore Roosevelt, State of the Union Address, December 3, 1906, as cited in Cherstin Lyon, “San Francisco school segregation.”

³¹ *Ozawa v. United States*, 260 U.S. 178 (1922).

Citizenship” was written directly following the *Ozawa* decision. Author P. B. Waterhouse both asks and answers the question of whether a Japanese person can become a citizen and offers insight into the qualifications that the Japanese hold in terms of naturalization. His piece, while racially discriminatory in its own right,³² argues that race should not be the determinant factor in denying a person citizenship. Rather, the focus should be on that person’s dedication to America and the American way of life. This is yet again an example of a group being set apart, this time in a more positive light. Likely as a result of decisions like the Gentlemen’s Agreement, the Japanese people were seen as more suitable for American society than their Chinese predecessors ever were. They were *the other* Asian race.

Why Others Matter

In reviewing the experiences of the Chinese and Japanese immigrants coming into the United States between 1850 and 1924, it is clear that the fight was always going to revolve around being able to fit into American society. From the moment that an immigrant group can be seen as a threat to workers, leaders or anyone else, a target appears on their back. For the poor Asian immigrants, it was most often the laborers who saw impending doom in their ranks. For future generations, it would be fear of spies/enemy allegiances and communist beliefs that would make a stir. No matter what the case, the way in which a host country accepts its immigrant guests is imperative to the way those guests view their place in society.

For the Chinese in the nineteenth-century, America was never meant to be a land of new beginnings for most men. This was “because many of the Chinese immigrants viewed their stay in the United States as temporary, they did not actively attempt to change the social and political structure of America.”³³ They were laborers who hoped to survive in America because they could not make a living back home. The Japanese were similarly inclined,

³² P.B. Waterhouse, *Japanese American Citizenship*. In this pamphlet, Waterhouse claims that the Japanese are the only ethnic group to actively “Americanize,” thereby reinforcing the stereotype of the “good minority” that would continue into the present day.

³³ Matsuoka and Ryujin, “Asian American Immigrants: A Comparison of the Chinese, Japanese, and Filipinos,” 124.

but their goals for life in America were more long term-oriented. Perhaps this is why they saw the treatment of the Chinese as such a dangerous stigma to inherit. The way in which American society painted Asian immigrants as a plague, or at the very least as unfit for permission to citizenship, was a serious flaw in the implementation of the American dream. The Chinese would not be as negatively affected by this flaw in posterity, given they envisioned no future generations. The Japanese, however, seeking a future in America, had to create a different identity for themselves—*the other*—in order to ensure that they would be able to one-day fit into American society. Sadly, The Empire of Japan's actions during World War II would hinder that progress and lead to the forced internment of over one hundred thousand Japanese Americans, many of whom lost employment, property and social status as a result. Regardless, the sizeable Asian American population in the United States today is a testament to the patience, perseverance and bravery of the immigrants who came to this country from China and Japan. They survived, and they thrived as *the others*.

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Author Bio

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