

## Paper Trail: Chasing the Chinese in the Cape (1904–1933)

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*The Chinese Exclusion Act passed by the Cape parliament in 1904 was one of the first pieces of legislation promulgated in the southern region of Africa where a particular 'racial group' was singled out, documented and discriminated against. Although it had trans-oceanic antecedents and tapped into this global anti-Chinese sentiment, unlike the Chinese exclusion legislation elsewhere, the Cape exclusion legislation targeted the entire Chinese 'race'. This article proposes to trace the application of this unwieldy registration system and show how the small Chinese community was registered, identified, monitored and hounded both on paper and on the ground until well after the repeal of the Act three decades later. Through an analysis of these paper records, the article intends to elucidate the nature of this imposition and consider what they tell us of the Chinese it was imposed upon and how they responded. It also proposes that, while the Act was formulated for exclusion, ironically for just under 1,500 of the Chinese resident at the colonial Cape it eventually warranted a double inclusion, one in the form of a certificate of exemption and hence domicile – albeit with perpetual surveillance and scrutiny – and the other as part of the archived historic record.*

The year 1904 marked the introduction of the Chinese Exclusion Act by the Cape parliament, a significant but relatively unknown and under-researched development in Cape colonial history. Through this piece of legislation the figurative doors of the Cape Colony were being closed on the immigration of a culturally identifiable group, while at the same time registering, controlling and monitoring those who were already part of colonial society. The Act is virtually ignored in South African history mainly because it does not accord with the black–white dichotomy of traditional historical analysis.<sup>1</sup> Moreover, it deals with a cultural group that was generally disregarded due to its minority status and relatively non-participatory or apolitical profile. However, the Chinese Exclusion Act is of significance on five counts: it is an important milestone in the history of the overseas Chinese in this country as it is in others such as Australia (1855), New Zealand (1881), the United States of America (1882) and Canada (1885);<sup>2</sup> it provides a unique window into a group of people who were very much on the periphery of society; it is a precursor of much of the prejudice against

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- 1 C. Bundy, 'New Nation, New History? Constructing the Past in Post-Apartheid South Africa' in H. E. Stolten (ed.), *History Making and Present Day Politics: The Meaning of Collective Memory in South Africa* (Uppsala: Nordic Africa Institute, 2007), 79.
  - 2 P. C. Campbell, *Chinese Coolie Emigration to Countries Within the British Empire* (London: P. S. King, 1923), 50, 58, 80–1; P. Richardson, *Chinese Mine Labour in the Transvaal* (London: Macmillan, 1982), 35; R. Takaki, *Strangers from a Different Shore* (Boston: Little Brown, 1989), 14; H. Samuel, 'The Chinese Labour Question', *The Contemporary Review*, 85, April 1904, 458.

the Chinese that emerged and was perpetuated across the cultural spectrum into the twenty-first century; the Act was to change the profile and place of the Chinese community in South Africa, both in legislation and popular consciousness which followed in and after the apartheid era where the Chinese continued to be ostracised and excluded; and finally, it can be flagged as one of the first procedures of individual race-based registration which was to contribute to South Africa eventually becoming the colonial society with the 'most systematic and enduring forms' of such schemes.<sup>3</sup>

This article first considers some of the recent literature on documents of identity, in particular the debates relevant to this discussion of the Chinese Exclusion Act. The next two sections give a brief account of the circumstances that led to the Act's promulgation, first within the Transvaal and then in the Cape itself. This sketches both the public and political background to the introduction of the exclusionist legislation. The penultimate section considers how the paper trail and paper chase introduced by the Act was implemented, and the last section looks at what this paper trail preserved for the historian.

### Contested: Paper Systems and the Chinese

In the recent spate of literature in the field of documenting individuals there has been a distinct broadening, if not an inversion, of the traditional focus and understanding at a range of levels. To begin with, the Eurocentric idea of a Western genesis of registration systems aligned with the emergence of the modern state in the nineteenth century has given way to an Eastern origin dating back some two millennia to dynastic China.<sup>4</sup> Similarly, the origins of mobility control through individual documentation have been moved from being a structural necessity of the sovereign state within the international system to distinct and concerted attempts to keep people out. Here, in his seminal work *Melancholy Order*, Adam McKeown has argued that in particular the efforts to control Asian migrations led to a division of the world into two 'cultural macro-categories' of East and West, paralleling what was perceived as the free or 'civilised' as opposed to the stagnant and 'uncivilised'. This, he argues, led to the assumption that essentially demanded some form of 'exclusion, selection and surveillance'.<sup>5</sup> In essence China and Chinese migration – along with the resistance thereto – has in this context been centre-staged.

At another level, the literature's prime concern with the administrators and the nature of the administrative infrastructures has shifted to focus on those being administered. This is very much in line with the developments in the field of overseas Chinese studies, where Roger Daniels explains that the tendency to concentrate 'on

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3 K. Breckenridge and S. Szreter (eds), *Registration and Recognition: Documenting the Person in World History* (Oxford: Oxford University Press, 2012), 15

4 R. von Glahn, 'Household Registration, Property Rights, and Social Obligations in Imperial China: Principles and Practices' in Breckenridge and Szreter (eds), *Registration and Recognition*, 43, 61.

5 A. McKeown, *Melancholy Order: Asian Migration and the Globalization of Borders* (New York: Columbia University Press, 2008), 3–4, 8; see also M. Lake and H. Reynolds, *Drawing the Global Colour Line: White Men's Countries and the International Challenge of Racial Equality* (Cambridge: Cambridge University Press, 2008), as well as studies such as A. Zolberg, 'Global Movements, Global Walls: Responses to Migration, 1885–1925' in G. Wang, *Global History and Migrations* (Boulder, Colo: Westview, 1997), 297–307, both of which also focus on the Chinese dimension.

the excluders rather than the excluded [was] not a mere eccentricity' but was partly attributable to 'the great paucity of immigrant materials'. This he believed resulted in work that treated the immigrants as 'nameless groups, mere economic pawns in the hands of others'.<sup>6</sup> Registration records have now been examined for the biographical information they include, and have even been heralded as 'site[s] of heritage recovery'.<sup>7</sup> The latter focus also aligns with recent scholarship on the archival process which, besides emphasising a need for contextualisation in the broadest sense, also calls for documents to be read not only for what they contain but also for what they omit.<sup>8</sup> Commenting on James Scott's reference to 'state simplifications' that only represent 'that slice ... that interested the official observer', Uma Dhupelia-Mesthrie compellingly contends in the context of the archival turn that these 'snatches' recorded in the official paperwork 'yield unrestrained and unexpected voices and uncalled for autobiographical narratives'<sup>9</sup> providing information on what would have remained an unrecorded sector of a marginalised group.

There has been a focus not only on how the registered individuals complied with or adapted to the imposition of these regulatory paper systems, but also on how they challenged and circumvented them.<sup>10</sup> As regards the Chinese, the 'paper sons' is a well-known illegal scheme whereby emigrants would adopt the names of other men's children – real or fictitious – to enter a country under what became known in the Americas as the 'slot system'.<sup>11</sup> But taking this even further, scholarship has also turned to the 'subversive networks' prevalent among the administrators themselves, unearthing an intricate web of complicity and collusion.<sup>12</sup>

The prime concern on 'exclusion', which has dominated much of the scholarship on immigration as well as the overseas Chinese historiography, has also been inverted to reflect on the desire for 'inclusion' and the concomitant benefits or privileges that the successful paperwork may or may not have entailed.<sup>13</sup> This in turn relates to the registration process becoming what Keith Breckenridge and Simon Szreter have termed a 'performative and negotiated process' involving a dynamic where the registering individual might present a particular 'identity', truthful or not, in order to achieve certain objectives or 'acknowledged rights'.<sup>14</sup>

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6 R. Daniels, 'Westerners from the East: Oriental Immigrants Reappraised', *Pacific Historical Review*, 35, November 1966, 375.

7 U. Dhupelia-Mesthrie, 'The Form, the Permit and the Photograph: An Archive of Mobility Between South Africa and India', *Journal of Asian and African Studies*, 46, 6, 2011, 650–62; K. L. Harris, 'Exclusion Reveals Inclusion: Chinese in the Late Nineteenth-Century Colonial Cape', paper presented at the International Society for the Study of Chinese Overseas conference, 'Rising Dragon, Soaring Bananas', University of Auckland, 17–19 July 2009.

8 C. Hamilton, V. Harris, J. Taylor, M. Pickover, C. Reid and R. Saleh (eds), *Refiguring the Archive* (Cape Town: David Philip, 2002), 9–11; P. Maylam, 'Dead Horses, the Baby and the Bathwater: "Post-Theory" and the Historian's Practice', *South African Historical Journal*, 42, May 2000, 122.

9 Dhupelia-Mesthrie, 'The Form, the Permit and the Photograph', 658–9.

10 South African examples include U. Dhupelia-Mesthrie, 'Cat and Mouse Games: The State, Indians in the Cape and the Permit System, 1900s–1920s' in I. About, J. Brown and G. Lonergan (eds), *Identification and Registration Practices in Transnational Perspective: People, Papers and Practices* (New York: Palgrave Macmillan, 2013); A. MacDonald, 'Colonial Trespasses in the Making of South Africa's Borders, c. 1900–1950' (Unpublished PhD thesis, University of Cambridge, 2012).

11 L. Pan, *Sons of the Yellow Emperor: The Story of the Overseas Chinese* (London: Mandarin, 1990), 108; M. Yap and D. Man, *Colour, Confusion and Concessions* (Hong Kong: Hong Kong University Press, 1996), 182; see also U. Ho, *Paper Sons and Paper Daughters* (Johannesburg: Picador Africa, 2011).

12 A. MacDonald, 'The Identity Thieves of the Indian Ocean: Forgery, Fraud, and the Origins of South African Immigration Control, 1890s–1920s' in Breckenridge and Szreter (eds), *Registration and Recognition*, 253–76; S. Cole, *Suspect Identities: A History of Fingerprinting and Criminal Identification* (Cambridge, Mass: Harvard University Press, 2001).

13 Breckenridge and Szreter (eds), *Registration and Recognition*, 16, 19–20.

14 *Ibid.*, 20, 30; see also A. MacDonald, 'Identity Thieves of the Indian Ocean', 255 esp on the notion of 'documentary citizenship'.

Some of the recent literature on paper documenting systems has also moved away from the more parochial studies of separate regions where stories remained 'parallel' to considering the more globalised trends which are 'dynamically inter-connected and thus mutually formative'.<sup>15</sup> This has also often taken the form of edited compilations that include studies across both time periods and geographic regions, with editorials that point to more synergy than disjuncture.<sup>16</sup> Yet studies of particular areas within these broader contexts remain pertinent to an appreciation of the respective and often divergent forms of identification and control that evolved, while keeping or contributing to a comparative dimension. Lastly, studies of the history and rationale for introducing identification regulations and systems have also widened to include specific scientific analysis of the registering procedure and apparatus.<sup>17</sup>

It is within these broader debates and fresh approaches that this article will consider the Cape Chinese Exclusion Act of 1904. Of particular relevance is the positioning of China and the Chinese in terms of their long legacy of documenting; the pivotal place of the Chinese in exclusion practices across the Pacific and Indian Oceans; the divergent responses of the registered; and the notion of the paperwork having elements of inclusion as well as exclusion.

### Catalyst: Transvaal Indenture

The decision to import Chinese labour to the Witwatersrand gold mines to solve the post-South African War (1899–1902) 'labour shortage' was as hotly debated by contemporaries as it has been by subsequent historians.<sup>18</sup> Those in favour and those against the labour scheme came from both ends of the political, economic and social spectrums, and did not always hold similar viewpoints.<sup>19</sup> The gold mines had faced a labour supply problem ever since their inception, and thus even before the war there had been talk of obtaining labour from beyond the African continent.<sup>20</sup> With the British Empire's legacy of indentured labour from both India and China dating back almost a century,<sup>21</sup> this was a feasible and attainable alternative which for the mining industry had the added advantage of a more controllable and hence exploitable

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15 Lake and Reynolds, *Drawing the Global Colour Line*, 5; McKeown, *Melancholy Order*.

16 See for example J. Caplan and J. Torpey (eds), *Documenting Individual Identity: The Development of State Practices in the Modern World* (Princeton: Princeton University Press, 2001); Breckenridge and Szreter (eds), *Registration and Recognition*; I. About, Brown and Lonergan (eds), *Identification and Registration Practices in Transnational Perspective*.

17 D. Lyon, 'Under My Skin: From Identification Papers to Body Surveillance' in Caplan and Torpey (eds), *Documenting Individual Identity*, 291–310; M. Kaluszynski, 'Republican Identity: Bertillonage as Government Technique' in Caplan and Torpey (eds), *Documenting Individual Identity*, 123–38; K. Breckenridge, 'Gandhi's Progressive Disillusionment: Thumbs, Fingers, and the Rejection of Scientific Modernism in Hind Swaraj', *Public Culture*, 23, 2, 2011, 335–6.

18 Historians such as Sheila van der Horst, Robert Davies and Donald Denoon argue that the situation had been artificially contrived by mining magnates with ulterior motives, while Alan Jeeves, Peter Richardson and others blamed a fundamental accumulation crisis in the low-grade ore mining industry.

19 For discussion of this see K. L. Harris, 'A History of the Chinese in South Africa to 1912' (Unpublished DPhil thesis, University of South Africa, 1998), 107–33.

20 The matter had, for example, been raised from 1896 to 1898. N. Levy, *The Foundation of the South African Cheap Labour System* (London: Routledge & Kegan Paul, 1982), 196–7; Richardson, *Chinese Mine Labour in the Transvaal*, 32.

21 D. Northrup, *Indentured Labor* (Cambridge: Cambridge University Press, 1995), 17, 29; C. M. Malherbe, 'Indentured Labour: Towards an Understanding of Its Place in the Spectrum of Unfree Labour Systems Practised in South Africa', paper presented at the 'Cape Slavery and After' conference, Cape Town, 1989), 3, 9–12.

workforce.<sup>22</sup> The final decision to import labour from China rather than India was related to Britain's current relations with these two 'supply' countries, as well as the local experience of using indentured Indians on the sugar plantations in the Colony of Natal since 1860.<sup>23</sup>

In 1903 at an inter-colonial Customs Union conference a decision was taken to import 'unskilled labourers under a system of government control only, by which provision [would be] made for indenture and repatriation at the termination thereof'.<sup>24</sup> It had also been agreed that the 'permanent settlement in South Africa of Asiatic races would be injurious and should not be permitted'.<sup>25</sup> Added to this was the widespread white public insistence that these labourers should 'not enter the mines on the same terms as the Indians had entered Natal'<sup>26</sup> and a shared antagonism against the Chinese as not only a potential economic rival but also a moral threat. The white citizenry raised objections about 'the contamination and other injury ... to civilised communities [which resulted] from the presence among them of peoples so different in their habits and requirements'.<sup>27</sup> This resonated with the anti-Chinese sentiments across the Atlantic and Pacific in the Americas and Australasia<sup>28</sup> and was evident in the anti-lobbyists pointing out how in 'every temperate country, without exception, to which the Chinese had made their way – in the United States, in Canada, in Australia, in New Zealand – [antagonism] has led, after bitter experience and long agitation, to their complete or almost complete exclusion'.<sup>29</sup> However, they claimed that it was 'in vain that protests from all over the Cape, from New Zealand, and from Australia, poured in at the Colonial Office' as the colonial government was intent on importing this labour regardless.<sup>30</sup>

This was indeed the case as on 11 February 1904 the Transvaal Labour Importation Ordinance 17 was passed. It was far more stringent than the legislation for importing Indians into Natal (1859)<sup>31</sup> but was heralded as the 'most unpopular of all the unpopular measures' as it satisfied neither the pro- nor anti-lobbyists. The workers judged it insufficient to safeguard them against Chinese encroachment, while other opposition decried it as a 'Charter of Slavery'.<sup>32</sup> According to the Ordinance, a Foreign Labour Department with a superintendent of labour was established to administer the scheme and inspectors were appointed to monitor the implementation of

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22 F. A. Johnstone, *Class, Race and Gold: A Study of Class Relations and Racial Discrimination in South Africa* (Lanham, Md: University Press of America; London: Routledge & Kegan Paul, 1976), 33.

23 S. Bhana, *Indentured Indian Emigrants to Natal, 1860–1902: A Study Based on Ships' Lists* (New Delhi: Promilla; Johannesburg: Witwatersrand University Press, 1991), 7–11; U. Dhupelia-Mesthrie, *From Cane Fields to Freedom* (Johannesburg: Kwela, 2000), 10.

24 Parliamentary Papers, 1903, xlv, Cd 1640, 'Minutes of Proceedings of the South African Customs Union Conference, held at Bloemfontein, March 1903'.

25 *Ibid.*

26 L. V. Praagh (ed.), *The Transvaal and Its Mines* (Johannesburg: n.p., 1906), 533; Campbell, *Chinese Coolie Emigration*, 171–2.

27 Aborigines Protection Society, 'The Transvaal and Chinese labour', *The Aborigines' Friend*, February 1904, 11.

28 Lake and Reynolds, *Drawing the Global Colour Line*, 4, 18, 20, 28; McKeown, *Melancholy Order*, 123.

29 H. Samuel, 'The Chinese Labour Question', *The Contemporary Review*, lxxxv, April 1904, 458.

30 F. Hales, 'Transvaal Labour Difficulties', *Fortnightly Review*, July 1904, 111; An Eyewitness, *John Chinaman on the Rand* (London: n.p., 1905), 32.

31 K. L. Harris, 'Gandhi, the Chinese and Passive Resistance' in J. Brown and H. Prozesky (eds), *Gandhi and South Africa: Principles and Politics* (Pietermaritzburg: University of Natal Press, 1996), 69–94.

32 H. T. Bell and C. A. Lane, *A Guide to the Transvaal* (Johannesburg: Bartholomew & Lawlor, 1905), 222; E. B. Rose, *Uncle Tom's Cabin Up-to-Date, or Chinese Labour in South Africa* (London: n.p., 1904), 2; D. M. Goodfellow, *Modern Economic History of South Africa* (London: Routledge, 1931), 216–7.

regulations and treatment.<sup>33</sup> Seventeen of the 35 sections of the Ordinance were purely restrictive, confining the miners exclusively to unskilled work on the Witwatersrand goldfields<sup>34</sup> with offenders being liable to repatriation, imprisonment and fines.<sup>35</sup>

Peter Richardson states that the 'magnitude of the cost' of the Chinese indenture system required 'a series of institutional checks upon the quality and volume' of the labourers in order to make the system viable.<sup>36</sup> The authorities were also bound by law to introduce a stringent system of regulating the labourers from indenture through to repatriation.<sup>37</sup> Thus, once the labourer was recruited it was imperative that he should remain in the system, and so began a protracted scheme of bureaucratic verifying and recording. The paperwork included medical examinations on recruitment and at embarkation en route as well as disembarkation and arrival in Johannesburg. It was, as Richardson points out, 'very much in the industry's interest to preserve the health of its labourers', hence the continual medical monitoring.<sup>38</sup> Thus the proverbial paper trail began in the hinterland of China and was maintained from the contractors' receiving depot through to embarkation on a journey of some 13,000 kilometres over sea, up to disembarkation in Durban and a further railway transfer of 600 kilometres from Jacobs, the receiving depot there, to the final destination of the goldmining compounds on the Rand.<sup>39</sup>

It was vital for the mining industry to optimise its control of the labour force, hence the need for this meticulous paperwork.<sup>40</sup> Before labourers were accepted at the embarkation depot in China, 'their names and addresses as well as those of their relatives' were recorded and a contract sheet was completed. This was followed by a more detailed registration and an explanation and acceptance of the contract.<sup>41</sup> On arrival in Durban they were registered by the Foreign Labour Department, physically identified, fingerprinted, photographed and issued with a Transvaal government identification passport.<sup>42</sup> According to the Ordinance this had to 'contain a complete record by which the holder thereof may be identified and traced and shall in any Court of Law be *prima facie* evidence of the facts therein recorded'.<sup>43</sup> In addition, a numbered register had to be kept by each employer and the labourers had to reside on the premises where they were employed, being allowed to leave only with a permit which would be granted for a period of less than 48 hours.<sup>44</sup> Both the passport and

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33 National Archives of South Africa, Pretoria (NASA), Cd 2026, vol 51, Further Correspondence Relating to the Labour Importation Ordinance, May 1904; NASA, Cd 2183, vol 54, Further Correspondence re Labour in the Transvaal Mines, August 1904.

34 Lord Stanmore, 'The Chinese Labour Ordinance' in B. Hirson (ed.), *South Africa: The War of 1899–1902 and the Chinese Labour Question*, Microfilm (East Ardsley, Wakefield, Yorkshire: Microform, c. 1983), 3–7; Denoon, 'The Transvaal Labour Crisis', 489.

35 Ordinances of the Transvaal, Labour Importation Ordinance 17 of 1904, section 1, 75; section 9a, 79; section 15, 81; section 18, 82; section 19, 82–3; sections 25, 86; section 26, 86; section 31, 5, 89; schedule 1, 93. Also see L. V. Praagh (ed.), *The Transvaal and Its Mines: The Encyclopedic History of the Transvaal* (London and Johannesburg: Praagh and Lloyd, 1906), 534.

36 Richardson, *Chinese Mine Labour*, 140.

37 NASA, Cd 1640, Parliamentary Papers, 1903, xlv, Minutes of Proceedings of the South African Customs Union Conference, held at Bloemfontein, March 1903.

38 Richardson, *Chinese Mine Labour*, 137.

39 *Ibid.*, 135–42.

40 Labour Importation Ordinance 17 of 1904, section 8, 78; Richardson, *Chinese Mine Labour*, 142.

41 *Ibid.*, 140.

42 *Ibid.*, 164.

43 Labour Importation Ordinance 17 of 1904, section 15, 81–2.

44 *Ibid.*, section 20, 83.

permit had to be produced at any time, failing which the labourer would be liable to a fine not exceeding ten pounds or imprisonment not exceeding one month.<sup>45</sup> Finally, the labourer had to enter into a contract of service ‘not exceeding three years’, renewable for a similar period, after which he had to return to his country of origin. The Ordinance also required that every three months the superintendent should submit various statistics regarding the labourers to the lieutenant-governor, to be published in the *Government Gazette*.<sup>46</sup> This overt paper monitoring of the Chinese indentured labour system was intended to allay the concerns over both labour exploitation and labour intrusion.<sup>47</sup>

At the time it was argued that ‘few acts of Colonial legislation have created more sensation’ than the Labour Importation Ordinance of 1904.<sup>48</sup> This was particularly so, given the increasingly hostile international environment regarding Chinese in other destinations. Countries such as the United States, Canada, and Australia had all by then implemented their Chinese exclusion Acts.<sup>49</sup> From the outset, in the United Kingdom the Labour Importation Ordinance engaged the steady opposition of the Liberal Party and provoked an adjournment of the House of Commons to discuss the principles of the new law, which initially caused its temporary suspension.<sup>50</sup> In South Africa, opposition in the Transvaal colony was equally vociferous in both political and public forums, as it was in the Cape,<sup>51</sup> to which the next section turns. The net result, however, was the introduction of 63,659 Chinese indentured unskilled labourers for the gold mines as well as a heightened prejudice against and awareness of the Chinese throughout the country, not only in political circles and the media but also in popular consciousness. One might argue that it created a negative perception of a people – a singled-out race – who had to be so intensely monitored.

### Concoction: Cape Politics

Cape society of the nineteenth century was ethnically and culturally diverse, in both the indigenous and foreign communities. In keeping with the so-called ‘liberal tradition’<sup>52</sup> of British colonial administration, the Cape Colony’s representative government, established in 1853, had not introduced any immigration regulations or limitations on foreigners for over half a century.<sup>53</sup> This ‘constitutional non-racialism’<sup>54</sup> was in stark contrast to the three other southern African states, where there was restrictive legislation which dealt directly or indirectly with ‘Asiatics’ or

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45 *Ibid*, section 20.

46 *Ibid*, section 21, 84.

47 T. Naylor, *Yellow Labour: The Truth about the Chinese in South Africa* (n.p., 1904), 6; F. D. Chaplin, ‘The Labour Question in the Transvaal’, *The National Review*, February 1905, 999–1000; Hales, ‘Transvaal Labour Difficulties’, 119.

48 Praagh, *Transvaal and Its Mines*, 534.

49 Lake and Reynolds, *Drawing the Global Colour Line*; A. Gyory, *Closing the Gate: Race, Politics and the Chinese Exclusion Act* (Chapel Hill and London: University of North Carolina Press, 1998), 3–16; Richardson, *Chinese Mine Labour*, 35.

50 Praagh, *Transvaal and Its Mines*, 534.

51 J. A. Reeves, ‘Chinese Labour in South Africa, 1903–1910’ (Unpublished MA thesis, University of the Witwatersrand, 1954), 156.

52 See P. Lewsen, ‘The Cape Liberal Tradition: Myth or Reality?’, *Race*, 13, 1971, 65–80.

53 S. Trapido, ‘The Origins of the Cape Franchise Qualifications of 1853’, *Journal of African History*, vol 1, 1964, 37; J. L. McCracken, *The Cape Parliament, 1854–1910* (Oxford: Clarendon, 1967), 62–70, 138.

54 T. Keegan, *Colonial South Africa and the Origins of the Racial Order* (Cape Town: David Philip, 1996), 245.

'Aziatische Kleurlingen'.<sup>55</sup> There are numerous reasons for the Cape Colony's apparent milder and more liberal treatment of foreigners – including persons of Asian descent – in the nineteenth century. Besides factors that obtained in each of the other states, and the more generalised perception of the Cape as more liberal and therefore socially tolerant,<sup>56</sup> other aspects did partly account for this contrast such as the fledgling nature of its responsible government, the predominantly material concerns of its parliament, the absence of sophisticated party politics, the relatively uncontested elections,<sup>57</sup> and the larger number of developed urban centres and ports that influenced Cape demographics and economics positively.

The changes that the early twentieth century brought to some of these aspects go a long way to explain the racist turnaround in the Cape Colony, both in terms of public opinion and legislation, when the introduction of Chinese labour was considered in the Transvaal. The Cape Colony followed its neighbours in introducing immigration legislation as, in the aftermath of the South African War, it could obviously not remain the only southern African state with unrestricted access. The Cape's Immigration Act of 1902 included various restrictions on entry to the Colony, as well as measures to remove 'prohibited immigrants'.<sup>58</sup> The Act was defined on similar lines to the notorious European language test or 'Natal formula' (1897), which had also become a model for other British regions such as the United States and Australia<sup>59</sup> and therefore had the sanction of precedent. Unlike these other colonised areas, the immigration of one specific group – Chinese in the case of the United States and Australia and Indian in the case of the Natal – was not the sole concern of the legislation. Rather, the enormous escalation of immigrants<sup>60</sup> en route to the Transvaal goldfields, and later, of refugees during and after the South African War, led to a gradual rise of 'anti-alienism' in the Cape. This was compounded by intensified economic competition and post-war recession. However, Dhupelia-Mesthrie and others have argued that this legislation reflected the emergence of a distinctly 'anti-Asian sentiment'<sup>61</sup> as the European language proficiency test effectively succeeded in keeping 'Asiatics' out.<sup>62</sup> Milton Shain contends that the alien or 'undesirable immigrant' was increasingly becoming the scapegoat for the emerging ills of Cape society.<sup>63</sup>

Of more immediate relevance for the eventual introduction of the Chinese Exclusion Act was that, while the post-war Transvaal government and mining magnates were seeking sanction for Chinese indentured labour from the Colonial Office,

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55 Legislation prohibiting or restricting the immigration of 'races from Asia' or 'Aziatische Kleurlingen' (Asiatic Coloureds) was introduced in the Transvaal and Orange Free State in 1885 and Natal in 1897.

56 M. Shain, 'The Jewish Population and Politics in the Cape Colony, 1898–1910' (Unpublished MA thesis, University of South Africa, 1978), 8; R. A. Huttenback, *Racism and Empire: White Settlers and Coloured Immigrants in the British Self-governing Colonies, 1830–1910* (Ithaca: Cornell University Press, 1976), 148.

57 McCracken, *Cape Parliament*, 105.

58 Statutes of the Colony of the Cape of Good Hope, Immigration Act 47 of 1902.

59 E. Bradlow, 'Immigration into the Union, 1910–1948' (Unpublished PhD thesis, University of Cape Town, 1978), 1; *Transvaal Leader*, 12 February 1903; R. A. Huttenback, *Gandhi in South Africa* (Ithaca and London: Cornell University Press, 1971), 210.

60 *Transvaal Leader*, 12 February 1903.

61 Dhupelia-Mesthrie, 'Cat and Mouse Games', 185.

62 Yap and Man, *Colour, Confusion and Concessions*, 62.

63 M. Shain, 'Diamonds, Pogroms and Undesirables: Anti-Alienism and Legislation in the Cape Colony, 1890–1906', *South African Historical Journal*, 12, November 1980, 17–18; Shain, 'Jewish Population and Politics', 29, 32, 108–9, 150.



Cape politicians were preparing for a general election.<sup>64</sup> The two main contenders were the Progressive Party, which tended to represent British urban interests, and the South African Party (SAP) embodying Afrikaner rural and agricultural interests.<sup>65</sup> Both had to address the poor economic situation as well as reconciliation between the two white ethnic groups. Within this relatively fractured atmosphere the Transvaal Chinese indentured labour question was seized upon as an innovative, but also distracting, electoral weapon<sup>66</sup> and was regarded in political rhetoric to be the 'very greatest question they had got before them at the present time.'<sup>67</sup> This was not an unprecedented tactic. Politicians in countries such as Australia, New Zealand, Canada and the United States had effectively used the 'Chinese' as a plank in their political platforms.<sup>68</sup> Once the elections were over in these areas, political parties were then obliged to transform their anti-Chinese assurances into legislation. This was evident in the legislation promulgated in many overseas colonies, as well as the Transvaal and Cape Colony.

The SAP pledged to resist its introduction at all costs, not only in the Transvaal but South Africa as a whole.<sup>69</sup> They argued that there were no guarantees which would ensure that the indentured Chinese would be confined to the Witwatersrand gold mines and alluded to the 'object lesson' of their 'sister-colony' Natal, with another group of 'Asiatics', the Indians.<sup>70</sup> The SAP also accused the Progressive Party of being pro-Chinese, claiming the leaders had vested interests in the mines and therefore supported High Commissioner Alfred Milner's scheme.<sup>71</sup> They were not entirely wrong about the Progressive Party's stance on the Chinese labour question as its ambivalence was apparent in the cumbersome way it contended with the matter from the outset.<sup>72</sup> Point 12 of its Progressive manifesto stated: 'Opposition to the introduction of Asiatics in South Africa, and the adoption of practical measures to exclude them from the Colony.'<sup>73</sup> Commenting on this, the historian Mauritz Grundlingh points out that if the opposition to Asiatic labour had been genuine it would not have been necessary to adopt 'practical measures.'<sup>74</sup>

The Cape press took up the Chinese question with enthusiasm, which did much to raise public awareness of the Chinese labour issue<sup>75</sup> but at the same time made the small free Chinese community within Cape colonial society much more conspicuous.

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64 McCracken, *Cape Parliament*, 34; M. A. S. Grundlingh, *The Parliament of the Cape of Good Hope, with Special Reference to Party Politics, 1872–1910* in *Archives Year Book of South Africa*, (Pretoria: Government Printer, 1969), 293.

65 T. R. H. Davenport, *The Afrikaner Bond: The History of a South African Political Party, 1880–1911* (Oxford: Oxford University Press, 1966), 244–5.

66 M. A. S. Grundlingh, *Parliament of the Cape*, 294; Shain, 'The Jewish Population and Politics', 118–20.

67 *South African News*, 13 January 1904.

68 C. Price, "'White' Restrictions on Coloured Immigration', *Race*, 7, 3, 1966, 223; C. Y. Choi, *Chinese Migration and Settlement in Australia* (Sydney: Sydney University Press, 1975), 24–5; A. Markus, *Fear and Hatred: Purifying Australia and California, 1850–1901* (Sydney: Hale & Iremonger, 1971), 2; E. C. Sandmeyer, *The Anti-Chinese Movement in California* (Chicago: University of Illinois Press, 1973); H. Chen, 'Chinese Immigration into the United States: An Analysis of Changes in Immigration Policy' (Unpublished PhD thesis, Florence Heller Graduate School, 1980), 47.

69 *South African News*, 21 and 28 December 1903; *Cape Times*, 14 September 1903.

70 *South African News*, 8 and 21 December 1903; *Transvaal Leader*, 15 September 1903.

71 *Ibid.*, 15 September 1903, 8 January 1904; *South African News*, 8 December 1903, 4 February 1904.

72 Grundlingh, *Parliament of the Cape*, 295.

73 *Cape Times*, 14 September 1903; *Transvaal Leader*, 15 September 1903.

74 Grundlingh, *Parliament of the Cape*, 295.

75 See for example *South African News*, 21 January 1904.

As happened in other overseas colonies, an 'Anti-Asiatic League' was established in Cape Town and petitions to the government and letters to the press revealed extreme 'orientalism'.<sup>76</sup> There was even a degree of hysteria among the politically active public, as the following claim shows: 'Not content with permitting every undesirable non-Britisher to compete on equal terms, in the business arena, with Britons, these mal-vised Governments ... desire to scourge, debauch, and pollute our apparently accursed land with the pestiferous, yellow-skinned, almond-eyed sons of the Celestial Beelzebub'.<sup>77</sup>

Phyllis Lewsen correctly assessed the Chinese experiment as having 'obsessed both its champions and its opponents'.<sup>78</sup> The reaction it elicited in the Cape Colony was likened only to the anti-convict agitation of 1848 – representative, impassioned and determined.<sup>79</sup> The high political profile of the Chinese question during the election campaign, the marginal victory of the Progressive Party and the sanctioning of Chinese labour for the Transvaal mines in May 1904 meant that the small free Chinese community became a central issue in the Cape Colony in the immediate post-election period. The SAP accused the Progressives of 'insincerity' for using the Chinese question for electioneering purposes and challenged them to carry out the election pledge embodied in their manifesto. They pointed out that during the campaign the Progressives had stressed the fact that they had already drawn up a draft Bill to exclude Chinese from the Cape, and they now needed to implement it.<sup>80</sup> This Cape Chinese legislation became the focus of much heated debate until it was finally accepted in September 1904.<sup>81</sup>

### Conniving: The Chinese Exclusion Act

Thus the widespread political outcry against the Transvaal Chinese indentured mine labour experiment ricocheted throughout Britain down to its colony in the Cape. The small and virtually invisible free Chinese community living in the more urbanised areas of the Colony had been propelled into the foreground of Cape 'liberal' politics. It was ultimately agreed among the members on both sides of the House that the Chinese needed to be 'dealt with' in order to prevent the entry of Chinese deserters from the Transvaal mines and to exclude an influx of newcomers from China.<sup>82</sup> Throughout the readings of the draft Chinese Exclusion Bill there was a general consensus among all members of the House of Assembly with the proposers claiming that it 'had been drafted in as drastic a manner as one could imagine possible'.<sup>83</sup> The Bill had followed the example of the United States of America and Australia by 'dealing

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76 *Transvaal Leader*, 30 December 1903; *South African News*, 21 December 1903. For a discussion of orientalism and documenting the Chinese see Harris, 'History of the Chinese in South Africa to 1912', chapter 1; and C. Mackerras, *Western Images of China* (Nathan: School of Modern Asian Studies, Griffith University, 1987), 44–5.

77 *South African News*, 16 January 1904.

78 P. Lewsen, *John X. Merriman: Paradoxical South African Statesman* (Cape Town: Ad Donker, 1982), 263.

79 *South African News*, 21 December 1903.

80 Cape of Good Hope. *Debates in the House of Assembly, March–May 1904*, 15–22, 427–34; *South African News*, 8, 11 and 12 January 1904.

81 Statutes of the Colony of the Cape of Good Hope, 1902–1906, Chinese Exclusion Act 37 of 1904.

82 *Debates in the House of Assembly*, 4 March 1904, 7.

83 *Ibid*, 2 May 1904, 391.

with Chinese immigration by itself' rather than 'mixing it up' with other 'alien' immigration law, as these countries had found that 'the Chinese as a race could be more easily dealt with than any other race that came under the Alien Immigration Laws'.<sup>84</sup> Unlike the American, Canadian and Australasian legislation which excluded mainly Chinese labourers,<sup>85</sup> the Cape Bill dealt with 'all classes' of Chinese and was therefore made applicable to the 'whole of the Chinese race'.<sup>86</sup> The only exceptions were those persons who could be admitted by permit.

Thus, riding on the advantage of precedent, 'extreme caution' was taken in formulating the requirements for a permit. Although the compilers of the Act could have acted more stringently, they did not want to offend the imperial government, which could then simply have overruled Cape regulations, as it had in Australia.<sup>87</sup> For diplomatic reasons it was agreed that permits should be granted to Chinese who were British subjects (those born in British colonies) or important government officials. It was decided also to issue permits to the Chinese population already in the Cape Colony at the time the Act was passed in 1904, but to exclude all newcomers.<sup>88</sup> According to the parliamentarians, the number of Chinese present in the Colony was not sizeable: since January 1904, only 400 trading licences had been issued to Chinese traders, and it was estimated that the total population was less than 1,000.<sup>89</sup> Despite this, the permit system was introduced and so began the paper trail to identify, register and monitor the free Chinese resident in the Cape Colony – a trail that would continue unabated for close on three decades.

The Chinese Exclusion Act made it illegal for any Chinese person to enter or reside in the Cape Colony unless he (women were not included as independent persons)<sup>90</sup> had a valid certificate of exemption.<sup>91</sup> Within one month of the publication of the Act in the *Government Gazette*, every Chinese (male) over the age of 18 years who was resident or present in the Colony at that time had to apply for the certificate. In practice this meant that each Chinese adult male had to be registered with the magistrate of the district where he resided, and his certificate had to be renewed once a year. If he moved to another district, he had to notify the magistrates of both districts, and re-register in the new one.<sup>92</sup> Contravention of the Act could lead to a fine, imprisonment or deportation to China or other country of origin. Moreover, any Chinese who was twice convicted of 'assault, gambling or keeping a brothel' would be deported at the end of his sentence. The Act also disenfranchised those Chinese who were not British subjects.<sup>93</sup>

To encumber the Chinese further, the 1904 legislation declared that all Chinese who were not British subjects and who left the country would not be permitted to

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84 *Ibid.*

85 McKeown, *Melancholy Order*, 122, 127.

86 *Debates in the House of Assembly*, 2 May 1904, 392.

87 *Ibid.*

88 *Ibid.*

89 *Ibid.*, 395.

90 A similar point is made about women in a global and historical context of state registers being 'relatively uninterested in female identities', see Brekenridge and Szreter (eds), *Registration and Recognition*, 16.

91 Chinese Exclusion Act 37 of 1904, section 3.

92 *Ibid.*, sections 6, 12 and 15.

93 *Ibid.*, sections 18, 19, 34 and 35.

re-enter, and their certificates of exemption would lapse from their date of departure.<sup>94</sup> In view of the tendency of most overseas Chinese to return to China to fulfil filial duties, visit their ancestral villages, acquire wives, conceive children and take sons to be educated according to Chinese tradition, this proved to be an extremely stringent and discriminatory regulation.<sup>95</sup> The authorities eventually conceded this, and in 1906 the Chinese Exclusion Act was amended to allow certificate holders to visit China and return to the Cape Colony within a prescribed period. However, if they did not adhere to the time period granted, they were then denied re-entry and repatriated.<sup>96</sup>

Unlike the Indian authorities, the Chinese government still took relatively little interest in its overseas compatriots and the Chinese could not make claims as British subjects like the Indians.<sup>97</sup> A Chinese consul-general for the British colonies in South Africa was appointed only in late 1905 and his prime concern was the indentured Chinese miners.<sup>98</sup> Given this invidious position and blatantly discriminatory regulations together with their geographical dispersal in the Cape Colony (see Table 1), the community appeared reticent to take overt action lest it should lead to further restrictions.

Table 1: Demographic figures of the Chinese in the Cape Colony, 1908

Port Elizabeth	Kimberley	Cape Town District	East London	Other
351	204	192	59	109

Source: Western Cape Archives and Record Services, Cape of Good Hope. Colonial Secretary's Ministerial Division, Report of the Chief Immigration Officer for the Year Ending 31 December 1908, 6.

Besides a few traces of low-key reaction from the Chinese in some regions of the Cape Colony against specific requirements and conditions of the Chinese Exclusion Act,<sup>99</sup> the most significant consequence was that many of the regional Chinese associations that emerged in the Cape Colony after 1900 appear to have been founded as a direct result of the Act.<sup>100</sup> By 1906, the small localised associations founded in Cape Town, Port Elizabeth, Kimberley and East London had affiliated to form the Cape Colony Chinese Association. Although there appear to be almost no available records about the early history of these associations, Melanie Yap and Diane Man

94 *Ibid*, section 33.

95 Western Cape Archives and Record Services (WCA), The Regional Representative, Department of Home Affairs, Asian Series (IRC), 1/2/1-76, 1c-1415c.

96 WCA, Government House (GH) 23/95, 228, part 1, General Despatches. Bill to amend the Chinese Exclusion Act 1904; Statutes of the Cape of Good Hope, 1902-1906, Act 15 of 1906, Chinese Exclusion Amendment Act.

97 For a comparative discussion of the Chinese and Indians in the Transvaal see Harris, 'Gandhi, the Chinese and Passive Resistance', 69-94.

98 WCA, GH 23/89, 298, General Despatches. Appointment of Mr Liu Yu Ling to act as Chinese Consul-General for the British Colonies in South Africa, 19 October 1905.

99 WCA, GH 35/63, 5, Native Labour Question and Chinese Exclusion Act, 1903-1906; WCA, GH 23/84, 2, General Despatches.

100 Yap and Man, *Colour, Confusion and Concessions*, 65, 452, 42 n 74.

discovered a photograph taken in 1906 of the association's representatives which bears an inscription declaring the organisation's commitment to 'fight for the rights of the Chinese'. This was corroborated by oral evidence in their research.<sup>101</sup>

In the hearings of the 1908 Select Committee on Asiatic Grievances appointed to investigate the Chinese, Indian and European complaints about the General Dealers' Act, the president of the Cape Colony Chinese Association, Hing Woo, drew attention to the various hardships the Chinese suffered as a result of the Chinese Exclusion Act. He also complained that it 'singled the Chinese out among all other aliens'. The committee merely ignored these objections.<sup>102</sup> With the arrival of Consul-General Liu Yu Ling, in late 1905, and his successor Liu Ngai in 1908, some of the Chinese community's 'hardships and disabilities' caused by the Act were channelled to the authorities concerned, with limited success.<sup>103</sup> These points of relief included a permit to visit China, the renewal of licences of Chinese traders who were temporarily absent from the Colony, and intervention on behalf of Chinese wives and children, as well as some deportees.<sup>104</sup>

Towards the end of the decade, Liu also petitioned the Cape government about the extremism of the Exclusion legislation, particularly in view of the decreasing numbers of Chinese labourers on the Transvaal mines and of free Chinese in the Cape Colony. He requested that the legislation be amended to allow the admission of 'educated Chinese subjects'.<sup>105</sup> The government replied that it was unable to hold out any hope of an alteration to the law and declared that, in view of the forthcoming unification of the country, it was not in a position to make changes to the position of the Chinese.<sup>106</sup> Moreover, in the parliamentary debates of 1904 on the Chinese Exclusion Act it had been predicted that 'when federated each state would continue to legislate for its own internal affairs, and the same laws which would apply to Cape Colony need not ... apply to the Transvaal. This colony would, when federated, have still a perfect right to keep out Chinese.'<sup>107</sup>

This was indeed to be the case. The first immigration legislation in the South African Union, passed in 1913, incorporated all the salient features of the provincial measures with the promotion of white immigration and the exclusion of Asians as the main intentions.<sup>108</sup> In fact, the Chinese Exclusion Act remained on the statute books for more than two decades after the Chinese indentured system had been terminated and all the labourers repatriated, and was removed only in 1933.<sup>109</sup> In addition, statistics clearly indicate the 'restrictive efficiency of the law': of the 1,393 Chinese

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101 *Ibid.*, 68.

102 SC 16-1908. Cape of Good Hope. *Votes and Proceedings of Parliament*, Appendix, vol II, 'Report of the Select Committee on Asiatic Grievances', September 1908.

103 NASA, BEP 575, G18/54, Raadpleging en Koördinasie met Ander Instansies: Sjinese Organisasies: Vertroulik, 7 Desember 1963.

104 WCA, Prime Minister's Office (PMO) 222, 1231/06, Chinese Traders - Renewal of General Dealers Licences, 15 August 1907; WCA, IRC 1/2/1-76, 1c-1415c include letters written by the Chinese consul-general.

105 WCA, PMO 238, 342/08, part 2, Discrimination against Chinese in South Africa, 1 July and 20 July 1908, 13 June 1909.

106 *Ibid.*; WCA, GH 23/117, 186, General Despatches, Correspondence re Disabilities under Which Chinese Subjects Labour in Cape Colony, 1908.

107 *Debates in the House of Assembly*, 20 April 1904, 320.

108 Statutes of the Union of South Africa, Immigrants Regulation Act 22 of 1913.

109 Statutes of the Union of South Africa, Immigration Amendment Act 19 of 1933.

registrations in 1904, 915 remained in 1908,<sup>110</sup> and in 1917 their numbers dropped to 711.<sup>111</sup> While the experiences of other colonies obviously played an important role in the framing of the Chinese Exclusion Act, in many ways it proved more restrictive. Together with other discriminatory legislation introduced after Union, it had a far longer and more detrimental effect on the South African Chinese community, putting an end to their immigration for close on three-quarters of a century.<sup>112</sup>

### Chasing Chinese: Implementing the Act

Thus the passing of the Chinese Exclusion Act in September 1904 in the Cape Colony marked the first time in the history of this country 'that race had been used to exclude an entire group of people'.<sup>113</sup> Moreover, besides the extremely discriminatory and vindictive nature of the legislation, which had been promulgated not as a result of any wrongdoing by the Chinese who were now being targeted but to meet capitalist requirements in another colony, the registration process was additionally undignified. Coming almost five decades after the first such Act was introduced in New Zealand (1855) and two decades after the last in Canada (1885), it tapped into what could be seen as a trans-oceanic colonial mind, given the mobility of the miners and the inter-connectivity of the Anglo-Saxon colonial Empire.<sup>114</sup> The paperwork implemented at the Cape was an inconvenient intrusion into the lives of the entire Chinese population and was compounded by the numerous inhumane and degrading elements entailed. This was the start not only of a paper trail but a paper chase as the Cape colonial bureaucracy attempted to trace as well as monitor the local and the international movement of every Chinese inhabitant, with the blatant aim of excluding them from the country.

After the date of enactment, the Act disallowed any Chinese 'to enter into or reside within the Cape colony' unless he had a valid certificate of exemption.<sup>115</sup> As we have seen, 'every Chinaman resident or present' in the Colony had to 'report himself to and have himself registered' by an officer in the various magisterial districts within one month of the Act coming into force otherwise he would 'become liable to the penalties of the Act', which meant a fine or imprisonment or both.<sup>116</sup> The urgency and stringency of the matter was indicative of the extremeness of the Act and the political and social climate it reflected.

On applying for the certificate of exemption, a document labelled 'Chinese Exclusion Form No. 1' had to be completed by a colonial officer, which required personal details such as full name, date of birth, place and country of birth, occupation, residential and business address, marital status and dependants as well as details of

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110 WCA, Cape of Good Hope. Colonial Secretary's Ministerial Division, Report of the Chief Immigration Officer for the year ending 31 December 1908, 6.

111 *Union of South Africa Year Book, 1910-17*, 192.

112 Statutes of the Republic of South Africa, Matters Concerning Admission to and Residence in the Republic Amendment Act 53 of 1986.

113 E. Foner, *Give Me Liberty!: An American History* (New York: Knopf, 2005), 657.

114 McKeown, 'Introduction', *Melancholy Order*.

115 Chinese Exclusion Act 37 of 1904, section 3.

116 *Ibid*, sections 7, 8, 18.

‘personal history as regards previous places of residence with dates’.<sup>117</sup> In addition, the form also required ‘Names and addresses of persons of repute given as references, with the facts concerning the applicant which each can attest’.<sup>118</sup> These were usually letters from business associates who had known the applicant – and they were for the most part usually white colonists.<sup>119</sup> If all of these details were supplied to the satisfaction of the resident magistrate or a designated colonial official, the applicant would be granted an exemption certificate, as well as a registration number.

The second round of magisterial paper documentation included an ‘Identification Sheet’ (‘Chinese Exclusion Form No. 2’), which went beyond the personal details and affidavits of the exemption certificate to include elements of both Bertillon’s anthropometric measurements and Galton’s fingerprinting.<sup>120</sup> This was in essence a double identity check and reflected on the transitional period of identity techniques. The physical identification was of an invasive nature as the magisterial official would record not only height in inches but also identification marks, which ranged from scars to moles and other ‘unique’ identifying features. That this process required the individual to strip naked is evident from descriptions such as: ‘small scar in left groin’, ‘several warts on abdomen’, ‘mole in centre of back between shoulder blades’, and ‘back covered with small scars and pimples’.<sup>121</sup> As Dhupelia-Mesthrie notes, these descriptions could be ‘rude, judgemental and cruel’.<sup>122</sup> The other undignified prerequisite was the inclusion of a set of ten individual digit fingerprints of both hands as well as ‘of the four fingers taken simultaneously’.<sup>123</sup> The last degrading feature of this identification document was the need for a signature from the applicant in both Chinese characters and European – but with the rider in parenthesis on the form: ‘if able to write’.<sup>124</sup> This further underlined the orientalist approach and humiliating nature of the Exclusion Act’s paper trail.

The third phase for an ‘approved and registered applicant’ would then be a ‘Chinese Exclusion Form No. 4’, which was the ‘Minister’s Certificate of Exemption’. It was a rudimentary A4-type sheet of paper folded in half to form four pages. The front page was the title page and had the holder’s number written on it by hand. The second page on the inside left certified that, according to sections 6 and 10 of the Act, the holder – whose name, address, age and occupation were specified – had permission to be exempted from exclusion. It also stated that the certificate became ‘null and void if not renewed by the Resident Magistrate on or before the 12th of January of each year, or if the holder thereof leave the country’.<sup>125</sup> It also reiterated section 9 of the Act that any ‘male Chinaman’ who turned 18 years old had to procure the certificate, or

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117 WCA, IRC, 1/2/45, 902c, Leong Lo, Chinese Exclusion Form No. 1.

118 *Ibid*, Leong Lo, Section 13.

119 WCA, IRC 1/2/1–76, 1c–1415c.

120 A. Joseph, ‘Anthropometry, the Police Expert, and the Deptford Murders: The Contested Introduction of Fingerprinting for the Identification of Criminals in Late Victorian and Edwardian Britain’ in Caplan and Torpey (eds), *Documenting Individual Identity*, 164–6.

121 WCA, IRC 1/2/64, 1202c, Huntley Ah Yee, Chinese Exclusion Form No. 2; WCA, IRC 1/2/50, 966c, Lo Chong, Chinese Exclusion Form No. 2; WCA, IRC 1/2/45, 902c, Leong Lo, Chinese Exclusion Form No. 2.

122 Dhupelia-Mesthrie, ‘The Form, the Permit and the Photograph’, 657.

123 WCA, IRC 1/2/902c, Leong Lo, Chinese Exclusion Form No. 2.

124 WCA, IRC 1/2/1–76, 1c–1415c.

125 *Ibid*.

be liable to be 'deported from the Colony' in addition to other penalties.<sup>126</sup> This page of the document was dated and signed by the resident magistrate. The third page was reserved for 'Particulars of [the] Holder.' Here the register number of the minister's certificate was displayed as well as the district in which the holder was registered. This page again included the holder's height in inches plus a list of a maximum of six 'Identification marks'. As with the other documentation, there was a space for signatures in Chinese and European characters, once more with the added impertinent rider 'if able to write'. Finally on this page there was a place for the thumbprint of both hands, and for the resident magistrate as witness.<sup>127</sup>

The fourth page – and any other open space in the document – was used for stamping and was signed annually in order for the holder to remain exempted. In addition, should the holder relocate to another district within the Cape Colony, on both departing the one district and arriving in the next it was incumbent upon him to inform the respective magistrates and re-register. The same applied if he lost the document.<sup>128</sup> According to the legislation, this proverbial paper trail could be monitored by a very wide range of officials including 'the Justice of the Peace, police officer, constable, or person appointed for the purpose by the Minister in charge, or the Mayor of the Town or Chairman of a Municipality, or Village Management Board'.<sup>129</sup>

The four-page certificate had to be presented periodically or on demand to the magistrate in question. This was the start of the paper chase to monitor the holder's whereabouts closely. As indicated, he was then obliged to register annually. If he failed to produce the certificate he would be brought before the resident magistrate of his district. If unable to present an acceptable reason for not having the certificate the 'Chinaman [was to be] arrested and tried' and was liable to punishment as set out in the Act: a fine and/or imprisonment or possible deportation.<sup>130</sup> The legislation also monitored the movement of a holder on any temporary visits to another district. Again, he had to produce the certificate at any time and only once the relevant official was satisfied of his identity could he stay in the area for the 'time required by him for the purposes of his visit'.<sup>131</sup>

Besides the magisterial records of the Chinese in each district of the Cape Colony, the relevant minister was tasked to compile a register of 'every Chinese' living or present in the Colony when the Act was passed.<sup>132</sup> This register was to be updated annually with the date of re-registration of each Chinese male. Moreover, after 1906 with the amendment of the Act which allowed the Chinese to 'visit China or other eastern country from which he may originally have come and re-enter the Colony', there was more monitoring through paperwork for permission both to depart and return. This paper chase persisted even after the repeal of the Exclusion Act in 1933,<sup>133</sup> which was

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126 Chinese Exclusion Act 37 of 1904, section 9.

127 WCA, IRC 1/2/1-76, 1c-1415c.

128 Chinese Exclusion Act 37 of 1904, sections 12, 15 and 16.

129 *Ibid.*, section 11.

130 *Ibid.*

131 *Ibid.*, section 16.

132 *Ibid.*, section 6.

133 Immigration Amendment Act 19 of 1933.



merely an insignificant procedure given that under the 1913 immigration legislation of the Union of South Africa the exclusion of Asians had been entrenched, effectively categorising the Chinese as 'prohibited immigrants'.<sup>134</sup>

It is interesting to note that, unlike their compatriots in other parts of the world,<sup>135</sup> the Cape Chinese made hardly any tangible opposition to the indignities of the anthropometric process. It appears from the available records that only one 'public' reaction emerged. In 1904 members of the Chinese community in East London petitioned the British and Chinese authorities in London, objecting to the requirement that they be stripped of their clothing in order to discover 'marks of identification', a routine they regarded as 'offensive'.<sup>136</sup> After certain administrative enquiries it was agreed that this regulation be discontinued and, some four years later, this humiliating requirement to strip for identification marks was terminated.<sup>137</sup> As for fingerprinting, this procedure was seen as an extreme insult in China. For some it was even against their religious beliefs, and fit only for criminals. Yet the Cape Chinese acceded to the request with often both wives and children of the holder of a certificate of exemption providing fingerprints for the document. There is even evidence that children as young as two years were expected to supply fingerprints.<sup>138</sup> This acceptance was in sharp contrast to the reaction of the free Chinese in the Transvaal to similar restrictions later in the same decade.<sup>139</sup>

It could be argued that this apparent overwhelming compliance by the Chinese community in the Cape was probably out of desperation. Positioned on the fringes of society as they were<sup>140</sup> and in order to secure their livelihoods and right to remain in the Colony, they decided to submit to the requirements. So, this can be seen as a case of what Breckenridge and Szreter have termed the process of desiring 'inclusion'<sup>141</sup> and the Cape registration scheme having 'worked' in that it provided those 'people being targeted' with 'obvious benefits'.<sup>142</sup> Not only did the exemption certificate indemnify the holder from exclusion, but according to the Act it also was a prerequisite for the granting of licences to trade, as well as contracts for employment or any form of labour.<sup>143</sup> While this was yet another mechanism of the paper system to control and ensure that all the Chinese within the Cape Colony were indeed registered, it also implied certain advantages. This aligns with what Szreter refers to in a different context as the means that would obtain benefit, direct or indirect.<sup>144</sup>

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134 Statutes of the Union of South Africa, Immigration Regulation Act 22 of 1913.

135 See for example Lake and Reynolds, *Drawing the Global Colour Line*, 15–48.

136 WCA, GH 35/63, 5, Native labour question and Chinese Exclusion Act, 1903–1906; WCA, GH 23/84, 2, General despatches. Protest by Chinese residents of East London against certain regulations contained in Chinese Exclusion Act of 1904.

137 WCA, GH 35/63, 5, Native Labour Question and Chinese Exclusion Act, 1903–1906; WCA, GH 23/84, 2, General Despatches. Protest by Chinese Residents of East London Against Certain Regulations Contained in Chinese Exclusion Act of 1904.

138 WCA, IRC 1/2/46, 912c, Thin Watt Ching Foot: Chinese Exclusion.

139 For a discussion of the Chinese reaction to the Asiatic legislation in the Transvaal see Harris, 'Gandhi, the Chinese and Passive Resistance', 80–1.

140 K. L. Harris, 'The Chinese in South Africa: An Interstitial Community' in L. Wang and G. Wang (eds), *The Chinese Diaspora: Selected Essays* (Singapore: Times Academic, 1998).

141 Breckenridge and Szreter (eds), *Registration and Recognition*, 17.

142 *Ibid.*, 16.

143 Chinese Exclusion Act 37 of 1904, section 17.

144 S. Szreter, 'The Right of Registration: Development, Identity, Registration, and Social Security: A Historical Perspective', *World Development*, 35, 1, 67–86 as quoted in Breckenridge and Szreter (eds), *Registration and Recognition*, 16.

## Contribution: Paper Outcomes

This last section briefly considers the content of the paper trail generated by the Chinese Exclusion Act and what this divulges about this small marginalised community. Although limited in size by the small number of the Chinese at the Cape at the time, this paper archive provides what could be seen as relatively comprehensive evidence about all Chinese at the Cape for a period extending even beyond the Act's three decades of legitimacy. Unlike the similar research by Dhupelia-Mesthrie, where she indicates glimpses into the lives of only the Indian migrants who 'made ... movement outside of the Cape', the Cape Exclusion Act was all-embracing, determined to include all Chinese at the Cape wherever they went. Ironically, therefore, it becomes an archive of 'inclusion' even though it was spawned by one set up for 'exclusion'.

By their very nature, official documents had their limitations, such as the bias or indifference of colonial bureaucrats, orientalism, the language barrier, the cultural disparity, regional inconsistencies, and a power relation of duress. Yet these Exclusion records still provide insights into lives that would otherwise have remained unrecorded. The Chinese Exclusion Act procedure eventually processed 1,415 individual men, with wives and dependants included in some of the their files. From this, a range of biographical details can be gleaned.

As with the first sprinkling of Chinese who arrived at the Cape in the second half of the seventeenth century,<sup>145</sup> the Chinese who were documented just after the turn of the twentieth century were predominantly individual men who came from the southern provinces of China including Kuangtung, Fukhien and Hanan Island. They landed at Port Elizabeth, the harbour closest to China, as well as Cape Town and still fewer at Durban.<sup>146</sup> Some were recorded as having come from further afield having first travelled to places such as Canada and England,<sup>147</sup> while a good number came after a brief stopover in Mauritius.<sup>148</sup>

Although it is generally assumed that the Chinese came to southern Africa because of the two mineral discoveries of diamonds and gold, many settled in the developing coastal towns of the Cape Colony, focusing their small businesses on the local populations. Port Elizabeth, Cape Town, East London and Kimberley were the main places of residence at the Cape, while a few were found in Uitenhage and Cradock.<sup>149</sup> That these individual Chinese were fairly mobile is evident from the paper trail in numerous files. A case in point is Lo Chang, who was born in Canton in 1865 and travelled to the Cape Colony in 1890 settling in Kimberley, where he was employed as a bookkeeper for a firm Ah Fin Bros. He moved to Johannesburg three years later and in 1897 went back to China for a year returning to Kimberley in 1898. He remained

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145 See K. L. Harris, 'The Chinese in the Early Cape Colony: A Significant Cultural Minority', *South African Journal of Cultural History*, 23, 2, November 2009, 1–19.

146 WCA, IRC 1/2/1–76, 1c–1415c.

147 WCA, IRC 1/2/50, 953c, Law Yew Woon, Chinese Exclusion Form No. 1.

148 H. L. Pineo, *Chinese Diaspora in Western Indian Ocean* (Mauritius, Mauritian Stationery Manufacturers, 1985), 257; CAD, IRC 1/2/50, 953c, Piangsen, Chinese Exclusion Form No. 2.

149 WCA, IRC 1/2/1–76, 1c–1415c.

30/11/06 D.S. Macdonald Street

CAPE OF GOOD HOPE.

**CERTIFICATE OF EXEMPTION**  
Under Section 6 (or 10) of "The Chinese Exclusion Act, 1904."

THIS IS TO CERTIFY that Lo Chong, residing at  
55 Harbor, Kimberley, aged 38 years,  
Gold Dealer to the Town  
is exempted from the provisions of the above Act.

Dated at Cape Town this 22<sup>nd</sup>  
day of December 1906.

(Signed) [Signature]  
Colonial Secretary.

Produced as required and  
exchanged to  
[Signature]  
Date: 8/2/08  
District: KIMBERLEY

Produced as required and  
exchanged to  
[Signature]  
Date: 9/1/06  
District: Kimberley

This Certificate becomes null and void if not renewed by the Resident Magistrate on or before the 10th January of each year, or if the holder thereof leave the Colony.  
On any male Chinaman attaining the age of 15 years, he must obtain a Certificate similar to this if he fail to do so he will, in addition to other penalties, be liable to be deported from the Colony.

**PARTICULARS OF HOLDER.**

Register No. of Minister's Certificate 966  
District in which registered Kimberley  
Height 65 1/2 inches.  
Identification marks:-  
I. Coal scar on right cheek  
II. Wart on central of lower lip  
III. Reddish brown mark on forehead to right  
IV. Several warts on abdomen  
V. Back covered with small excoriations  
VI. Scar on right eye  
Several scars on right leg

Signature (If able to write) In Chinese Characters 洛冲  
In European Characters Lo Chong

Witness to Signer and Thumb  
Prints: [Signature] Print of Left Thumb [Thumbprint] Print of Right Thumb [Thumbprint]

Date: 19 DEC 1904  
Place: KIMBERLEY

Figure 1: Certificate of Exemption for Lo Chong. Western Cape Archives and Record Services, Asian Series 1/2, 50, ref 966c, Lo Chong, Chinese Exclusion Form No. 4

there until the implementation of the Exclusion Act in 1904, when he registered and qualified for a certificate of exemption (see Figure 1).

In 1907 his file indicates his intention to again go to Johannesburg, where he was apparently going to take care of a business belonging to his brother, J. L. Wangsee. After he received a permit to proceed to the Transvaal his paper trail comes to an abrupt end. His certificate has a final signed entry: 'Left Kimberley for the Transvaal 10/3/07'.<sup>150</sup> An explanation for this is provided in other documents in his file by the Cape chief immigration officer, who writes that, according to the Chinese Exclusion Amendment Act of 1906,<sup>151</sup> he is 'precluded from granting [Lo Chong] a Permit to reenter from any country but an Eastern country'.<sup>152</sup> On one level this episode reflects the extent to which the colonial authorities would go to keep the Chinese out, and on another it unwittingly exposes the illogicality of this race-based legislation suggestive of the type of incongruity that would ensue as the century of segregation and apartheid unfolded.

The most common occupation of the Cape Chinese was general dealer. On arrival in the country, many Chinese indicated that they worked as assistants or clerks in general dealer stores before beginning their own businesses.<sup>153</sup> This pattern suggests a chain migration typical of overseas Chinese communities around the world. New arrivals, presumably relatives or kinspeople from the same village, would be given assistance by established compatriots before moving on to establish their own livelihood. Other popular occupations included small service businesses, such as

150 WCA, IRC 1/2/50, 966c, Lo Chong, Chinese Exclusion Form No. 4.

151 Chinese Exclusion Amendment Act 15 of 1906.

152 WCA, IRC 1/2/50, 966c, Lo Chong, Chinese Exclusion Form No. 4.

153 WCA, IRC 1/2/1-76, 1c-1415c, Chinese Exclusion Act, 1904: Application for Certificate of Exemption, point 6, 'Occupation'.

laundries and market gardens, while there were individuals who were cooks, carpenters, basket weavers, fish sellers and wagon drivers.<sup>154</sup>

The number of Chinese women at the Cape during this early stage of immigration appears to have been negligible. The Cape census of 1891 recorded no Chinese women,<sup>155</sup> while an analysis of the first data collected for the 1904 Exclusion Act corroborates the general belief that the majority of overseas Chinese men were bachelors<sup>156</sup> – the axiomatic ‘oriental sojourner’. This is however not entirely accurate. In the first place, the female gender component of the overseas Chinese at the Cape is obscured by the chauvinist nature of the Exclusion Act, which was, as indicated, only concerned with Chinese males over the age of 18.<sup>157</sup> Secondly, although the Chinese applicants were required to record their marital status for the exclusion permit,<sup>158</sup> there were numerous misunderstandings regarding wives. On later applying for permission for their wives and children in China to join them in the Cape Colony, it became apparent that many Chinese thought the question on the Exclusion Act documents referred only to wives presently at the Cape.<sup>159</sup> Some Chinese did indeed have spouses in China, but there were others who returned to China – with a permit – to get married or conceive children and then later requested their introduction to the Cape. Thus, although the wives of the registered Chinese were subsumed into the paperwork pertaining to their husbands, both in terms of the physical file and registration numbers, many were still captured and provided a gendered presence.

Only a small percentage of Chinese women came to South Africa as the majority remained in ancestral villages in China where they reared children, cared for aged parents and were occupied as dressmakers, silk spinners and farm workers.<sup>160</sup> Those who did come to the Cape arrived with their husbands or accompanied their children who had been conceived during one of the numerous visits of the fathers to China, or in some cases conceived in Mauritius en route to or from the Cape Colony. Most of them were involved in domestic chores and assisted their husbands in their businesses. Of particular interest in this regard are the local women, of both indigenous and European descent, who married Chinese men, bore them children and often even visited China.<sup>161</sup> The figures are by no means accurate, but an analysis of the Chinese exemption records reveals that at least 61 ‘Coloured’ women, 36 European women, 2 Malay women and one African woman married Chinese men at the Cape.<sup>162</sup> Besides those local marriages which were not recorded, there were, of course, also many examples of cohabitation.

As in any paper system there were also numerous cases of subversion and fraud.<sup>163</sup> Besides the introduction of offspring using fraudulent means such as the paper sons

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154 *Ibid.*

155 Department of Home Affairs, *Statisticana, Cape of Good Hope Census of 1865*, ii–iii.

156 WCA, IRC 1/2/1–76, 1c–1415c. The Chinese Exclusion Act, 1904: Application for Certificate of Exemption, point 10, ‘Married or single?’

157 Chinese Exclusion Act 37 of 1904.

158 WCA, IRC 1/2/1–76, 1c–1415c. Chinese Exclusion Act 1904: Application for Certificate of Exemption, point 10, ‘Married or single?’

159 For example see WCA, IRC 1/2, 43, 830c, Ah Pooi; WCA, IRC 1/2, 45, 899c, Hue Naam.

160 WCA, IRC 1/2/1–76, 1c–1415c.

161 For a detailed discussion of such cases see Harris, ‘Exclusion Reveals Inclusion.’

162 WCA, IRC 1/2/1–76, 1c–1415c.

163 See Breckenridge, ‘Gandhi’s Progressive Disillusionment’; Dhupelia-Mesthrie, ‘Cat and Mouse Games’; Cole, *Suspect Identities*; and MacDonald, ‘Colonial Trespasses in the Making of South Africa’s Borders’ and ‘Identity Thieves of the Indian Ocean’.

mentioned above, there were also cases of individuals actually working the system to bring in Chinese illegally. Take for instance the disclosed case of Harry James Yankee, who used the exemption and birth certificates of a deceased Chinese man Huntley Ah Yee and his children, who had returned to China, to introduce other Chinese, as well as his own concubine, to the Cape Colony.<sup>164</sup> Other cases were exposed too, while more must have remained undetected. Aligned to these fraudulent efforts to gain entry to the Cape Colony is the apparently persistent desire among the Chinese to want to remain in the Cape. The fact that so many of the exempted Chinese continued to return after visits to China suggests that, although unfair and inconvenient, the Act was not a sufficient hindrance to deter many of those who had – and had not – been granted admission rights.<sup>165</sup>

Given the various snippets of detail about the Chinese in the Cape Colony, it could be argued that while the Chinese Exclusion Act had been introduced to keep the Chinese out, in retrospect it has, in a sense, let the researcher in.

In conclusion, it is interesting to note that the anthropometric measurements and the fingerprint requirements of the paperwork for the Cape Exclusion Act were in some ways very similar to those of the Transvaal Labour Importation Ordinance of 1904. They were also like those required by the Transvaal's later Asiatic Registration Act of 1907 (amended later that year).<sup>166</sup> These invasive processes were not unique to the paper monitoring systems of the Chinese and Indians in southern Africa, but probably dovetailed with most exclusion and other paper registration set on keeping people in and out of certain jurisdictions the world over.<sup>167</sup> But, in the eyes of the colonial authorities – and one could argue, broader sectors of society – there must have been recognition of the sinister similarity in the way in which the indentured and free Chinese labourers in the Transvaal and the free Chinese in the Cape were treated: this was a culturally identifiable racial group that had to be documented and monitored regardless of their status and position. It was for this very reason that Consul-General Liu petitioned the Cape government in 1910 to amend the legislation, to remove the 'regrettable impression that Chinese subjects of any class are undesirable under any circumstances', an impression which he argued had been created by the existing drastic clauses.<sup>168</sup> It was this notion that was to linger beyond the termination of the Chinese indenture scheme and the repeal of the Chinese exclusion legislation, a notion that was still prevalent in popular consciousness among certain sectors of South African society at the turn of the twenty-first century.<sup>169</sup> In the final analysis, the paper trail of the Chinese Exclusion Act had ramifications that went way beyond the purpose for which this paper chase was initially promulgated.

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164 See for example the case of Harry James Yankee, WCA, IRC 1/2/64, 1202c, Huntley Ah Yee.

165 WCA, IRC 1/2/1-76, 1c-1415c.

166 Statutes of the Transvaal, The Asiatic Law Amendment Act 2 of 1907.

167 McKeown, *Melancholy Order*, 126-33.

168 WCA, PMO 238, 342/08, part 2, Discrimination Against Chinese in South Africa, 1, 20 July 1908, 13 June 1909.

169 For a brief discussion of this see K. L. Harris, 'The Chinese in South Africa: Five Centuries, Five Trajectories' in C. B. Tan (ed.), *The Chinese in Diaspora* (London: Routledge, 2012). I experienced this prejudice myself when addressing a range of public forums on the history of the Chinese in South Africa.