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The Legal Oxymoron of Whiteness in “The Laws” Chapter of *China Men* by Maxine Hong Kingston

Introduction

The legal and socio-historical construction of whiteness captured by Maxine Hong Kingston in “The Laws” chapter of *China Men* (1980) exemplifies the oxymoron of whiteness, which consists in its simultaneous gesturing towards universality and particularity. On the one hand, whiteness dresses itself in the robes of the self-proclaimed standard-bearer, the self-declared legal norm. On the other hand, this self-proclaimed norm rests on the principle of exclusivity and exclusion. Wielding a weapon of exclusion, whiteness has constructed a legally manufactured white identity that bars non-whites, in this case Chinese and other Asian immigrants from citizenship, economic resources, space, the “mainstream” American society and mainstream American culture. Kingston not only exposes anti-Chinese and anti-Asian legislation, but also shows Chinese immigrants’ responses to this legislation, their failed and successful attempts at countervailing various forms of exclusion and “exclusive” treatment they received.

Kingston calls *China Men* a “history book,” claiming that she placed “The Laws” chapter in the middle of the book in order to “educate a reader” (Skenazy: 108). The central location of “The Laws” as well as the chapter

itself has invited a lot of critical attention. Donald Goellnicht argues that the “centric authority of American law is subverted and contested by the ‘eccentric’ or marginal, but richly imaginative stories of *China Men* that surround it” (Goellnicht cited in Nishime: 70). In line with Goellnicht’s sentiments, David Leiwei Li notes that the “section on laws excluding Chinese [...] estranges or rather excludes the reader from the customary view of American history” (Li: 491). Kingston herself speaks of being able to “see more particularly because she know[s] more of [Chinese American] history” (Kingston cited in Madsen: 241–242). By including “The Laws” chapter, Kingston grants an average reader of her day a more particularist point of view. According to Li, Kingston “transform[s]” anti-Chinese laws into a “counter-language,” helping to ensure that “history is not conceived as a glorious expansionist epic but as a systemic exploitation of the ethnic minority whose contribution has been appropriated but legal status rejected” (Li: 492). Linda Ching Sledge notes that “Kingston has thus included a lengthy central digression in *China Men* containing purely factual testimony of Chinese American legal history (“The Laws”) because some detractors have persisted in faulting her works for not being revisionist histories” (Sledge: 2). Sledge goes on to say that “the inclusion of this section balances the remaining chapters on “‘invented’ or idealized history with substantial documentary material” (Sledge: 2). Observing that facts “acquire a particular meaning in the context of the author’s research and writing” (Kalogeras: 227), Jiorgos Kalogeras claims that on account of the central position, “The Laws” chapter highlights “various facts that are scattered throughout” (Kalogeras: 236). Brook Thomas reflects on the limitations of the law exposed by Kingston in the chapter. These limitations pertain both to the very construction of the laws and the generic limitations in front of the author trying to shed light on the legal situation of subjects affected by these laws. According to Thomas, “works of the imagination, like Kingston’s” “can, more effectively than the law, provide a vision of what constitutes active citizenship” (Thomas: 691). Kingston admits that the writing of “The Laws” section was a challenge to her as an author, going as far as to claim that her editor rewrote that section to “make it sound legal” (Perry: 179). She also notes that “‘There’s poetic language and there’s legal language.’ I was contrasting the language of feeling, where you could make friends with the characters and feel for them, with this formal,

distanced language" (Perry: 179). Explaining why she placed "The Laws" in the middle of *China Men*, Kingston claims that was a way of ensuring that the readers would not skip this section, also drawing parallels between "The Laws" section and the psalms placed in the mid-section of the Bible. Kingston argues that like psalms or commandments, the laws were "implacable" (Perry: 179).

Anti-Chinese laws were a tool of legitimizing white power, constituting what Foucault identifies as "instrumental modes" of white power (Foucault, 2000: 225). Most of the laws cited by Kingston in "The Laws" chapter come from the nineteenth and the beginning of the twentieth century, a time which Valerie Babb identifies as best "illuminat[ing] the development of an ideology of whiteness" (Babb: 45). Apart from directly targeting the Chinese and other Asians, the laws discussed by Kingston reflected the penal regime of the nineteenth century, which displayed concern not so much for "what individuals did" – whether it was lawful or not, but for "what they might do, what they were capable of doing" (Foucault, 2000: 57). Anti-Asian laws show that for the white apparatus of power the Chinese presented a very high level of what Foucault calls "dangerousness," or "potential for crime" (Foucault, 2000: 57). However, the main causes of Chinese and Asian exclusion by the white apparatus of power lie in the national ideology of originally white centered America and economic motives.

The 'Nordic' Fiber of the Laws

In the very first laws cited by Kingston whiteness constitutes itself as the cornerstone of the American nation, its very essence, reserving the right to define the racial and ethnic make-up of the nation as well as exclude non-whites. In theory, the Naturalization Act of 1870 invoked by Kingston gave the right to citizenship not only to 'free whites' but also to 'African aliens' (Kingston: 150). Yet in practice, America was to be predominantly white. Kingston cites the Nationality Act Congress debate during which Congressmen proclaimed that "America would be a nation of 'Nordic fiber'" (Kingston: 150). Kingston's reflection on the equation of whiteness and Americanness begins only in connection with the passing of the above-cited 1870 Nationality Act. While whiteness came to be used synonymously with Americanness, it had not always been the case.

Citing the *Oxford English Dictionary* definition of whiteness, Gary Taylor dates the first written explication of the term “American” as “an American Indian” or as “an American of European descent” at 1765 (Taylor: 342, 409). Taylor cites European accounts of South American and Latin American Indians whose pale skin startled some of the darker-skinned Europeans: “Some Amerindians may have been shockingly pale” (Taylor: 63). Many of these Amerindians were perceived as white by the afore-mentioned travellers. Taylor argues that since 1700 the whiteness of “Anglos” came to be taken for granted (Taylor: 7). Native Americans began to be seen as “red” only after the British started to see themselves as white. The same process applied to Asians who were not necessarily at once perceived as “yellow:” “Having redefined themselves as ‘white’ (rather than ruddy or red), Brits on both sides of the Atlantic could, in the eighteenth century, redefine Amerindians as ‘redskins’ or ‘the red man.’ The originally ‘white’ peoples of Asia were recategorized as ‘yellow’” (Taylor: 344).

Still, the definition of whiteness and Americanness was not yet entirely crystallized. Envisioning the United States as a nation of white people, Benjamin Franklin went on to say that only Anglo-Saxons were truly white in their complexion (Babb: 33). In 1782 John Hector St. John de Crèvecoeur did not invoke whiteness explicitly, but he defined the American as “either an European, or the descendant of an European,” no longer limiting Americans exclusively to Anglo-Saxons (Crèvecoeur cited in Babb: 37). Tracing the emergence of xenophobia and nativism, Ali Bedhad cites chief nativist’s, Thomas Whitney’s, distinction between “native”/“old” immigrants and “alien”/“new” immigrants (Bedhad: 138). Bedhad also cites Alexander Hamilton’s statement, comparing immigrants to a ‘Grecian horse’ (Hamilton cited in Bedhad: 116). Valerie Babb notes that “From the 1700s on, whiteness is key to the maintenance of American nation-state identity” (Babb: 37). In a similar vein, Bedhad reflects on the “role of xenophobia in the construction of national identity” (Bedhad: 116). Anti-alien parties gained in strength in the late 1830s, but xenophobia started to bear the hallmarks of an organized political movement only in the mid-nineteenth century (Bedhad: 117). Bedhad attributes the solidifying of nativism to the rise in the number of unskilled immigrants between 1845 and 1854. Three million people entered the United States in that period. Most of the newcomers were Irish and German laborers (Bedhad: 118). Even with

the intensification of nativist views in the mid-nineteenth century, immigrants of the period were still viewed as political dissidents posing a danger to the ideological underpinnings of the republic. In the late nineteenth century they came to be viewed as polluters threatening the health of the country because of bringing in “dangerous germs and genes” (Bedhad: 131). Physicians like Alfred C. Reed and Terence Powderly denied any anti-alien sentiments, but proclaimed their concern for the health of the nation (Bedhad: 135–136). Both wrote their treatises at the beginning of the twentieth century. Bedhad traces a distinction between “native”/“old” immigrants and “alien”/“new” immigrants both in the writings of the mid-nineteenth century nativists like for example Thomas Whitney and the turn of the century physicians ostensibly standing guard over the health of the nation (Bedhad: 137–138). The medical discourse was incorporated into the public rhetoric of the state. Bedhad notes that doctors of the United States Public Health Service were not only “healers,” but also authorities on social and moral issues (Bedhad: 132). According to Bedhad, their scientific writings were instrumental in the introduction of quotas of 1921 and 1924. In Bedhad’s view, they also contributed to the stemming of immigration from eastern and southern Europe. In 1891 Congress passed an immigration law excluding immigrants “suffering a loathsome or a dangerous contagious disease,” the “feeble-minded,” “idiots,” and the “insane” (Bedhad: 132). The term “loathsome” may potentially exclude any disease. Each poor immigrant was marked with a particular letter denoting their state of health (Bedhad: 133). The procedure approximated medical triage, the sorting or screening of patients in order to determine which service is initially required. Bedhad claims that a “disciplinary approach to immigration” “where every underclass immigrant” was assumed to be potentially diseased and thus “subjected to examination and discipline” helped to generate “a permanent ‘state of emergency’ that perpetuates an exclusive and differential form of national identity” (Bedhad: 138–139).

The figures of immigrants emerging from the anti-Asian legislation portrayed above resemble Julia Kristeva’s definition of the abject – the other side of the socially sanctified: “For abjection, when all is said and done, is the other side of religious, moral, and ideological codes on which rest the sleep of individuals and “the breathing spells of societies” (Kristeva: 209). Kelly Oliver,

the editor of *The Portable Kristeva* defines the abject as that which “calls into question borders and threatens identity. The abject is on the borderline, and as such it is both fascinating and terrifying” (Oliver: 225). This particular definition of abjection matches future stereotyping of Asian American immigrants as on the one hand, model minority subjects, while on the other, “yellow peril.” The border metaphor in the definition of abjection also resonates with the above-cited Bedhad’s *A Forgetful Nation: On Immigration and Cultural Identity in the United States* (2005) and Karen Shimakawa’s *National Abjection. Asian American Body Onstage. National Abjection* (2002). According to Bedhad, the border “posits a binary and exclusionary relation between a self that obeys the law and an alien who transgresses it” (Bedhad: 165). Shimakawa notes that ostracism against Asian Americans facilitated American subject formation, “mark[ing] the ‘frontier’ of Americanness” (Shimakawa: 6). The term “frontier” is very applicable in the discussion of Chinese American exclusion, the construction of whiteness and Americanness. Through their very presence on the American land and the legislation aimed at excluding and circumscribing them, Chinese Americans helped to demarcate the “frontier” of whiteness and Americanness. Through their labor in the American west, they helped to settle and demarcate the physical and geographical “frontier” of the American land.

The third law cited by Kingston in “The Laws” chapter sheds light on the positioning of Chinese immigrants in the frontier land of California. The Californian Constitutional Convention of 1878 barred Chinese immigrants from entering California. Ironically, while introducing the Chinese exclusion from California, Kingston reaches for the term “to settle ‘the Chinese problem’” (Kingston: 151). The phrase “to settle” is ironic because they were effectively unsettled by the anti-Chinese legislation, being prevented from settling or setting roots. Kingston is emphatic about the fact that thirty-five out of one hundred and fifty-five delegates voting during the Convention were Europeans, not American citizens, which once again exposes whiteness as not only a passport to Americanness, but also a key to setting benchmarks for other people’s Americanness even when those casting votes were not American citizens themselves. The afore-mentioned legislation gave Californian counties and cities the right to “confine” “within specified areas” or “throw out” Chinese immigrants altogether (Kingston: 151). By physically excluding Chinese immigrants and

circumscribing their presence, the American frontier land effectively created a number of micro and macro frontiers.

The question of Chinese immigrants' exclusion and spatial confinement relates directly to the problem of their assimilation. On the one hand, the measures against Chinese immigrants impeded assimilation and were supposed to isolate Chinese immigrants from the rest of American society. On the other hand, whites charged Chinese immigrants with an inability to assimilate, citing their lack of assimilation as a reason for their exclusion from American society. In order to explain discrimination against Chinese immigrants, whites engaged in a tautological reasoning. Chinese immigrants were dubbed as "a race 'that will not assimilate'" (Kingston: 153). In the 1893 ruling of *Yue Ting v. the United States*, the Supreme Court gave Congress the right to drive out Chinese immigrants, identifying them as a race "who continue to be aliens, having taken no steps toward becoming citizens" (Kingston: 153). In the 1889 ruling of *Chae Chan Ping v. the United States*, the Supreme Court indirectly defined Chinese immigrants as "vast hordes" "crowding in upon" the United States (Kingston: 153). Immigration from China was compared to a military invasion posing a threat to "peace and security" (Kingston: 153). The wording of the Supreme Court's ruling resembles the text of the 1906 petition drafted by the Japanese and Korean Exclusion League. The authors of the petition alarmed American citizens to the danger that "hordes" of Mongolians posed to the white race (in Ichigashi: 274). They appealed for the extension of the Chinese Exclusion Act to the Japanese and Koreans. The petition ended with a call: "Stop the Mongolian invasion" (in Ichigashi: 274).

Kingston is emphatic about the fact that even after the rescinding of the 1882 Exclusion Act in 1943, the number of the Chinese allowed into the country remained set at one hundred and five a year, a staggeringly low number in light of the fact that China and the United States had already signed a treaty of alliance and the Chinese were decimated at a very high rate by Japanese soldiers. The data cited by Kingston indicates that ten million Chinese died. According to Kingston, the Immigration and Nationalization Service still maintained that it was unable to find one hundred and five Chinese who "qualified" to immigrate into the United States (Kingston: 155). Kingston does not specify what is hidden under the term "qualified," but goes on to say

that a ‘Chinese’ was a person “with more than fifty percent Chinese blood” (Kingston: 155). Whites reserved the right to adjudicate on other people’s racial and ethnic descent. If in the case of the Chinese, they had to have over fifty percent ancestry to be considered Chinese, in the case of African Americans, the theory of hypodescent established that even very remote black ancestry, identified also as “one drop” or “traceable amount,” made a phenotypically white person legally black (Harris: 1738; Bennett: 5). Depending on what suited white people financially, politically and emotionally, they adjusted the definitions of non-white racial and ethnic groups. The legal situation of Native Americans was and remains directly opposite to that of people with black ancestry in the past. Very remote Native American ancestry is not enough to define oneself as a Native American before the law. It was and is much more complicated to define oneself as a Native American because anyone who proves one-eighth of Native American descent is entitled to financial benefits from the state (Piper: 427).

The afore-cited “Nordic fiber” originating at the inception of the American nation persisted in various forms in the laws passed already in the modern day era (Kingston: 150). Until 1968, the Chinese and other Asian ethnic groups usually received a separate, exclusionary treatment. The Refugee Act passed in 1948 applied only to Europeans. The Chinese were covered by a separate Displaced Persons Act (Kingston: 155). Since 1968 the number of immigrants allowed to enter the country was allocated by hemisphere, not by race or nation: 120,000 allowed to enter from the Western Hemisphere and 170,000 from the Eastern Hemisphere. Still, the 20,000 per-country quota remained in effect for the Eastern Hemisphere. These inequalities between hemispheres were removed in 1976, when the Immigration and Nationality Act Amendments applied a 20,000 per country limit to the Western Hemisphere as well (Kingston: 157).

Economic Hegemony of Whiteness Enshrined in the Laws

Whiteness captured by Kingston in “The Laws” chapter is also the whiteness that guards access to economic resources, creating legislation and adjusting existing laws in such a way as to preserve economic hegemony. Chinese immigrants were either consistently excluded from economic resources or unjustly punished

through various fiscal punitive measures. Economic policies towards Chinese immigrants reflected other practices employed by the white apparatus of power, which either excluded Chinese immigrants or offered them an “exclusive” treatment in a pejorative sense of the term. Citing the fiscal measures against Chinese fishermen, Kingston notes that although they pioneered the fishing of certain fish varieties, they were the only Californian fishermen who had to pay fishing and shellfish taxes (Kingston: 151). The same principle of “exclusive” treatment applied to those Chinese immigrants who were expected to pay a “police tax” to cover super-ordinary police supervision incurred by their very presence (Kingston: 151). In 1884, the 1882 Exclusion Act was perfected in order to eliminate Chinese competition in such areas of business as for example fishing (Kingston: 152). The economic repercussions of the anti-Asian and anti-Chinese laws illustrate Valerie Babb’s phrase “conservation of whiteness” (Babb: 12). Consecutive laws show how the white apparatus of power perfected the system of exclusion in such a way as to maximize its own economic advantage and pluck all the loopholes that might facilitate the aggrandizement of Asian and Chinese capital in the United States or potentially spur the creation of such capital with new waves of Asian and Chinese immigration. A measure aimed at stemming Chinese immigration was the Scott Act of 1888 that proclaimed the certificates of return invalid. The 1954 ruling of the Supreme Court on *Mao v. Brownell* maintained the law “forbidding Chinese Americans to send money to relatives in China” (Kingston: 156). Whatever Chinese Americans earned in the United States they were supposed to spend in the United States, fuelling the national economy not only with their labor but also with their capital. Kingston cites numbers in line with which Chinese Americans sent \$70 million during World War II. If one accepts Linda Frost’s statement that “American identity [...] has historically been defined by way of property ownership” (Frost: 157), then various forms of economic disempowerment have been one more way of excluding Chinese Americans and Asian Americans from the national narrative.

“Vast hordes” “crowding” “upon” the United States and cited by Kingston in connection with the recurrent revocation of the certificates of return on the part of the United States as well as Chae Chan Ping’s 1889 legal appeal after the recall of his certificate (Kingston: 153) were problematic for the American

government and broader American public not only on account of their potential unsettling of the earlier cited “Nordic fiber” of the nation, but also because of presenting competition on the labor market. While Chinese Americans were indispensable labor, especially at the very beginning of their immigration, the growing numbers of Chinese American population made them much more of a threat in the eyes of the white labor force. Kingston claims that the Exclusion Acts dramatically reduced the number of Chinese immigrants in the United States from 107,000 in 1882, the date of the passing of the first Exclusion Act to 70,000 in the 1920s (Kingston: 155). Sucheng Chan estimates the number of Chinese immigrants’ arrivals in California and Hawaii between the late 1840s and early 1880s at 370,000 Chan: (3). Citing Takaki’s statistics in line with which “by the end of 1870, there were three workers – two white and one Chinese – for every job in San Francisco,” Linda Frost argues that the numbers of Chinese immigrants in California “ensured their position as the region’s most visible, exploitable, and consequently threatening cultural other” (Frost: 141). Tomás Almaguer calls the competition in which whites were locked with Chinese immigrants “frenzied” (Almaguer cited in Frost: 141). The job stealing argument is one of the persisting arguments against new immigrants, not only against Chinese immigrants, the other three arguments being that they do not match the standards of the host culture because of their racial and cultural inferiority, that they do not assimilate and finally that they fuel “political crises” for the government (Feagin cited in Bedhad: 140). Virtually all of these arguments arise in one way or another in the anti-Chinese and anti-Asian legislation cited by Kingston in “The Laws” chapter.

Cross-Racial and Cross-Ethnic Application of the Laws

The focus of “The Laws” chapter falls on anti-Chinese legislation, yet Kingston puts this anti-Chinese legislation into broader perspective, tracing interethnic and interracial patterns of oppression and probing the othering practices applied by whites in relation to other races as well as other ethnicities within the Asian diaspora. The nineteenth-century school legislation in California cited by Kingston had a cross-racial application, excluding Mongolians, Indians, and Negroes from public schools (Kingston: 151). Presumably covering various

Asian ethnicities, the term "Mongolians" is very general, failing to give credit to the heterogeneity of Asian immigrants and conflating all of them. In the strictly legal context of a court appearance, the distinction between the Chinese and Mongolians is clear: "No 'Chinese or Mongolian or Indian' could testify in court 'either for or against a white man'" (Kingston: 151). The law is a good illustration of a situation described by David Roediger in the autobiographic section of *The Wages of Whiteness* (1991), the section in which he reminisces about his childhood in the segregated Cairo of the 1960s. Many of the decisions taken by the city council, like the decision to "close Cairo's swimming pool rather than integrate it," negatively affected white people, but whites still bent over backwards to cautiously guard the exclusivity of their whiteness as if this exclusivity was a value in itself, even without any conspicuous benefits (Roediger: 4). Whites were determined to protect the exclusivity of their whiteness and the rights reserved for it even if the very exclusivity compromised their own interests.

Interethnic exclusion of racial minorities comes up again in "The Laws" chapter when Kingston cites the 1906 decision of the San Francisco Board of Education to segregate all Chinese, Japanese and Korean children into an Oriental school (Kingston: 154). The same decision shows whites' readiness to allow the existence of cracks within its segregationist policies since at the request of President Theodore Roosevelt, after the complaints of the Japanese government, the rule of school segregation in San Francisco was lifted for Japanese students. Making an exception for the Japanese also exemplifies swinging moods towards the Japanese and the Chinese. At the time Japan was one of the new superpowers, having just emerged victoriously from the Russian War, while China was in a state of internal disarray, suffering the plunder of foreign powers. Finally, an allusion to interracial exclusion laws can be indirectly traced in 1943 laws, already after the signing of a treaty of alliance against Japan together with China. Kingston quotes the definition of a Chinese as anyone with a higher percentage of "Chinese blood" than fifty percent (Kingston: 155). As mentioned earlier, different rules applied to African Americans and Native Americans.

Immigrant Acts – Agency Exercised by Chinese Americans in the Struggle against the Laws

“The Laws” chapter registers not only the exclusion laws, but also legal challenges of these laws by Chinese immigrants. Kingston lists the challenges chronologically, interweaving them with anti-Chinese and anti-Asian legislation. Kingston entitled the chapter of her book “The Laws,” yet like Lisa Lowe, the author of *Immigrant Acts* (1996), she shows immigrants’ responses to the exclusion laws, empowering immigrants and placing them in the position of active subjects. Chinese immigrants may or may not have been citizens of the United States, but they demonstrated agency in trying to decrease the cleavage dividing them from citizenship. Kingston claims that federal courts pronounced part of the state and city legislation unconstitutional, sporadically leading to the rescinding of the most drastic anti-Chinese legislation, which was often still re-introduced in altered forms. Chinese immigrants undertook a concerted effort to fight exclusion laws in court, for example by collecting money for legal representation (Kingston: 153). Even if the legal challenge was unsuccessful, as it was the case with the above-cited Chae Chan Ping’s challenging of the nullification of his certificate of return in 1889, the very act of standing up for their rights was still significant in itself. For the purpose of fighting the legislation targeting them, Chinese Americans also founded the Equal Rights League and the Native Sons of the Golden State (Kingston: 153). To avoid being trapped outside the United States, Chinese Americans called to have their citizenship verified before leaving the country. A crucial immigrant act and a legal victory came in 1898 in the ruling of the United States v. Wong Kim Ark. The ruling of the Supreme Court acknowledged that the Fourteenth Amendment of 1868 should apply to Chinese immigrants born in the United States as well, granting them the right to American citizenship on account of the *jus soli* citizenship classification prevailing in the United States (Kingston: 153). Kingston does not go into the details of the Wong Kim Ark case, but she identifies it as a legal landmark for Chinese immigrants’ claims to their American citizenship. The Wong Kim Ark ruling was the first definitive challenge to the white only or “Nordic fiber” only rule applied in reference to Chinese Americans and other Asian Americans. It was also the Wong Kim Ark

ruling that paved the way for the 1952 McCarran-Walter Act abolishing all racial bars to American citizenship. In "*China Men, United States v. Wong Kim Ark, and the Question of Citizenship*" Brook Thomas delves into the details of the case, introducing the context in which the case appeared before the Supreme Court (Thomas: 695). Wong Kim Ark was born in 1873 in San Francisco in a Chinese immigrant family. He decided to stay in the United States, while his parents returned to China. After visiting his parents in 1890, Wong Kim Ark encountered no problems entering the United States, but no entry permission was granted on his return in 1895. When the case came before the Supreme Court in 1898, the Supreme Court Justices ruled 6 to 1 in Wong Kim Ark's favor.

Reporting other legal victories on the part of Chinese immigrants, Kingston usually does not probe the details of these cases either, recording the breakthrough which they brought about, but stopping short of unveiling the situational context leading to the undermining of white supremacy. For example, she introduces the 1886 *Yick Wo v. Hopkins* case with one word: "A victory" (Kingston: 153). What follows is a brief outlining of the ramifications of the Supreme Court's ruling on the matter – toppling San Francisco ordinances as aimed at hounding Chinese laundrymen. The date appearing beside the *Yick Wo* case in the 1986 edition of *China Men* is faulty, 1896, not 1886, the date of the Supreme Court's ruling ("*Yick Wo v. Hopkins* – Case Brief Summary:" 1). The immediate reason for *Yick Wo v. Hopkins* was the imprisonment of Yick Wo for running his laundry in a wooden building and hence violating a San Francisco statute. Prior fire and safety inspections over the twenty two years revealed no violations. Apart from skipping the details of the case, Kingston does not mention the fact that in legal analyses, *Yick Wo v. Hopkins* is often related to another case preceding it only by one year – 1885 *Tape v. Hurley* (Ngai: 138). In both of these cases, the United States Supreme Court ruled that the law was implemented in a racially biased manner. *Tape v. Hurley* originated in the denial of admission to the Spring Valley School to eight-year-old Chinese American Mamie Tape. Both the Superior Court and the California Supreme Court ruled in Tape's favor. Yet at the same time the San Francisco school board pressured for separate education for Chinese and "Mongolian" children, bringing about the creation of the Oriental Public School in San Francisco. An immigrant victory significant for the shape of the Chinese American

community and reported by Kingston in “The Laws” was *The United States v. Mrs. Cue Lim*, allowing wives and children of treaty merchants to come to the United States (Kingston: 154). The final immigrant victory comes in the last sentence of “The Laws,” in which Kingston announces that “The 1980 census may show a million or more” Chinese Americans living in the United States (Kingston: 158), a stark contrast to the numbers cited earlier by Kingston: 107,000 in 1882, the year of the passing of the first Exclusion Act and 70,000 in the 1920s (Kingston: 155).

Gender Specificity of the Laws

Anti-Asian laws expose the gender-specificity of whiteness, in relation to which other races and ethnicities are treated gender-specifically. An example of such a gender-specific law comes in the form of the 1870 Act and 1875 Page Law, both banning the immigration of Chinese women for the purpose of prostitution (Chan: 54). Bill Ong Hing argues that such legislation almost equated all Chinese women with prostitutes (Hing: 45). According to Patti Duncan, one of the ramifications of anti-Asian laws was the “destruction of Asian family systems and traditional gender and familial roles” (Duncan cited in Zhang: 14). An at least partial restructuring of Chinese families was a corollary of anti-Asian legislation, the primary motivation of the bans on female immigration being to prevent Chinese immigrants from setting roots in the United States, to forestall an increase in Chinese population and to force Chinese immigrants into an eternal sojourner category. In her catalogue of anti-Asian laws, Kingston does not explicitly mention the 1870 ban on female immigration or the 1875 Page Law, but she notes the unequal treatment of female immigrants, observing that only after the passage of the 1952 Immigration and Nationality Act did the same rules of the immigration law pertain to Chinese women and men.

Conclusion

In "The Laws" chapter of *China Men*, Maxine Hong Kingston exposes the contradictions underlying the legal construction of whiteness. The basic contradiction is that through the laws and socio-historical practices, whiteness accords itself the status of the norm, at the same time creating an air of rarity and exclusivity around itself. The norm usually entails commonness and accessibility. This was not, however, the case with whiteness. The discriminatory laws and concomitant socio-historical practices of othering and exclusion were to guarantee whiteness the status of a rare, unique, exceptional and exclusive quality, which one still had to possess to pass the test of admission to the privileges of the American democracy. Being non-white equaled being non-normative, different, inferior, unworthy of belonging in a full sense of the term. Being white meant being legally and socio-historically normative and at the same time special, unique, exceptional, worthy of rewards stemming from American citizenship. In *China Men*, Kingston shows what legal measures and socio-historical mechanisms had to be employed to hedge the oxymoron of whiteness as normative and yet unique, difficult to obtain. Without a whole battery of laws, as well as socio-historical devices of othering and stereotyping, whiteness would have quickly crumbled, inevitably exposing the fact that its self-ascribed qualities and self-assigned status of normative exception or exceptional norm by no means inhered in whiteness, but were meticulously manufactured.

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**The Legal Oxymoron of Whiteness
in "The Laws" Chapter of *China Men* by Maxine Hong Kingston**

Summary

The article centers on the legal construction of whiteness captured by Maxine Hong Kingston in "The Laws" chapter of *China Men* (1980), exposing the oxymoron of whiteness, which consists in its simultaneous gesturing towards universality and particularity. On the one hand, the laws passed by white Americans enabled them to cast whiteness as the self-proclaimed standard-bearer, the self-declared legal norm. On the other hand, this self-proclaimed norm rests on the principle of exclusivity and exclusion. Wielding a weapon of exclusion, white people have constructed a legally

manufactured white identity that bars non-whites, in this case Chinese and other Asian immigrants from citizenship, economic resources, space, the “mainstream” American society and mainstream American culture. Kingston not only exposes anti-Chinese and anti-Asian legislation, but also shows Chinese immigrants’ responses to this legislation, their failed and successful attempts at countervailing various forms of exclusion and “exclusive” treatment they received.

Keywords: Maxine Hong Kingston, *China Men*, “The Laws,” Chinese Americans, Chinese immigrants, Asian Americans, whiteness, white people, white Americans, whiteness studies, oxymoron of whiteness, the legal construction of whiteness

Słowa kluczowe: Maxine Hong Kingston, *China Men*, “The Laws,” Amerykanie chińskiego pochodzenia, chińscy imigranci, Amerykanie azjatyckiego pochodzenia, białość, biali ludzie, biali Amerykanie, studia nad białością, oksymoron białości, prawna konstrukcja białości

Cytowanie

Szmańko, Klara. “The Legal Oxymoron of Whiteness in “The Laws” Chapter of *China Men* by Maxine Hong Kingston”. *Rocznik Komparatystyczny* 13 (2022): 213–230. DOI: 10.18276/rk.2022.13-11.