

# Chapter 3

## Institutional Legalization of Racism: Exploitation of the Core Groups



Racism became institutionalized in the culture and structure of the United States through a process of legalization that systematically subjugated and exploited persons who the dominant group (WASPs) viewed as “the other.” Four groups were directly and openly targeted using legal strategies and mechanisms, as well other means. They were First Nation Peoples, Africans, Mexicans, and Chinese. How each group came to be in the United States varied, but each group was part of the social construction of race that is particular to American society. The evolution of oppressive scaffolding that maintains racism in the United States is tied to the country’s history with these four groups. The rungs of the scaffolding (see Fig. 1.1) provided the value base and belief systems that encouraged and endorsed the development of a nation that institutionalized race-based discrimination and that relegated persons of color to a subordinate status. This system of institutionalized racism was initiated and legitimized through laws, treaties, legal practices, and court decisions that focused on these four racially constructed groups, which we refer to as the “core groups.” The oppressive mold for systemic racism was created primarily on Africans, but it was adopted, applied, and adapted to the other core groups. This chapter will discuss how legalized institutional bias promoted the systematic prejudice, discrimination, and exploitation experienced by these core groups. It will note the unfair treatment of these groups, which established a history that laid the foundation for broad persistent pervasive oppressive racism in the U.S.

### Historical Context

The scaffolding that supports racism in the U.S. was not yet fully in place when the first European explorers arrived at the shores of North America. Racial scaffolding was constructed and shaped bit by bit over a period of 400 years.

The colonial approach is to resettle in a new geographic area and, ultimately, to take it over. The European settlers who came to America as colonialists utilized a colonial approach in their “new” world, retaining certain structures and practices from their “old” world. Some examples include governmental structures, business/trade practices, class structures, legal structures and practices, the right to own property/land, religious/cultural beliefs and practices, language, and the state of scientific, philosophical, and intellectual thought. Thus, colonialism was a foundational part of the scaffolding.

As colonialists, the early settlers in America created a society with elements that can be conceptualized as the rungs of the scaffolding that supports racism in America. Colonialism was the first rung in the scaffold and it facilitated the adding of other rungs. For example, these newcomers established a capitalistic monetary-based economy that respected individual ownership of land and other property. The colonialists introduced a class structure that valued white superiority, leaving other racial groups as “inferiors.” They brought with them their attitudes about the inferiority of people perceived as “other” and established a class structure that ranked people according to race and other characteristics. They accepted the prevailing scientific thinking that there are natural schema for ranking people according to race (Sanjek, 1994). Thus, prevalent intellectual thought and belief systems of the American colonists, and later, of power-holding citizens in the United States, contributed to the development of a country based on the ideology of white supremacy. Colonialism allowed for and encouraged biased laws and social positions that exploited, debased, and devalued persons outside of their (white) group. And, very importantly, the colonists and their white successors who were in positions of power and privilege established legal structures and practices that protected their self-interests and that were very instrumental in the systematic exploitation and subjugation of First Nation Peoples, Africans, Mexicans, and Chinese.

Colonialism provided the historical context that allowed for the creation of legal structures that would become a particularly strong scaffolding rung in the support of race-based discrimination and the subordination of non-white persons. First Nation/Indigenous People, Africans, Mexicans, and Chinese were major contributors to this country’s development by forced events and/or needs of the white colonialists, such as slavery, slave labor/indentured servitude or detention, and land confiscation. Through their desire for exploration, dominance, and expansion, whites gained overwhelming influence over the development of the infrastructure of institutionalized racism that exists today. In essence, whites embraced and took charge over this land at the expense of other racial groups. The rungs of the scaffolding provided the basis for targeting these four core groups as the country established a broad system of institutionalized racism. As a result of this history, two insidious forms of subjugation took root and grew: individual racism and institutional racism. These discriminatory practices still exist today, and now also have expanded so that they impact and establish barriers for other non-white racial groups who live in this country.

## Exploitation of the Core Groups

### *First Nation Peoples Institutionalization*

We know our lands are now become more valuable: the white people think we do not know their value; but we are sensible that the land is everlasting, and the few goods we receive for it are soon worn out and gone. For the future we will sell no lands but when Brother Onas [the proprietor of Pennsylvania] is in the country; and we will know beforehand the quantity of the goods we are to receive. Besides, we are not well used with respect to the lands still unsold by us. Your people daily settle on these lands, and spoil our hunting...

*Excerpts from speech by Canassatego, an Iroquois Chief  
as printed by Benjamin Franklin, 1740s*

First Nation Peoples were the original inhabitants of what is now known as the United States of America. As Europeans immigrated to this land, over time, they established a “Trust Relationship” (Brown, 1978b) with the native inhabitants through agreements, treaties, and statutes. The most recognized institutionalization of a “Trust Relationship” is noted in the Constitution of the United States. This was the initial institutional recognition that proud and self-sufficient people, the first inhabitants of this country, were considered autonomous, and as such acknowledged the many tribes inhabiting this country as sovereign governments (Brown, 1978b). From the beginning however, these immigrants from Europe believed they were culturally superior. Initially, such thinking was nurtured by the religious beliefs that they had a mission to bring Christianity to First Nation People and in so doing, “civilize” them (Knowles & Prewitt, 1969). Many native tribes bonded with Europeans—some to combat their enemies (other tribes or the colonial government) and some through culture (Schaefer, 1988). Such bonding was fluid and alliances changed with time. The practice of “civilizing” inevitably failed and provided the *raison d’être* for the transition from spiritual benevolence to conquering malevolence—from co-inhabitants in the “new world” to Europeans attaining land and First Nation Peoples becoming servant, slave, and ultimately reservation bound. This transition was reinforced and given credence by the endorsement of white superiority and eventually the quest for westward expansion (Knowles & Prewitt, 1969; Segal, 1966; Stampp, 1956). Knowles and Prewitt (1969) spoke of this transition when they explicated that “[s]ince Indians were capable of reaching only the stage of ‘savage’, they [w]ould not be allowed to impede the forward (westward, to be exact) progress of white civilization” (p. 8).

Many agreements and treaties beyond the Trust Relationship were made with First Nation Peoples and the evolving United States of America (Brown, 1978b; Knowles & Prewitt, 1969; Segal, 1966; Schaefer, 1988; Stampp, 1956); for example, from colonial times, beginning in 1656, a series of statutes by the Virginia Assembly barred “Indian” enslavement (Stampp, 1956; Knowles & Prewitt, 1969). Enslavement of First Nation Peoples would have been an ineffective labor proposition since this was land they knew well and from which they could easily escape servitude; in addition, First Nation People were better viewed as allies for Colonial settlers in a land in which settlers were

mostly unfamiliar (Stampp, 1956). How well Colonials and First Nation Peoples related was contingent on whether the sovereignty of First Nation Peoples was deemed congruent with Colonial dictates and needs. With the passage of time, as the white settlers gained familiarity with the eastern landscape, had less need for war allies, and were motivated to move further west, First Nation People became less an asset and more of a liability to them. With the removal of First Nation People from Eastern colonies and with westward expansion of white settlers, by the middle of the 1800s and beyond, reservations became a way of life for native peoples throughout the land (see also Brown, 1978a; Campisi, 1991; Jaimes, 1994; Luhman, 2002; Unger, 1977). Ultimately, every agreement, statute, and treaty that recognized the sovereignty of First Nation People was dishonored (Schaefer, 1988; Knowles & Prewitt, 1969). Although land confiscation was the objective, whites felt comfortable in their actions because they believed they were “racially superior” (based on religion, intellect, and military might). The sovereignty of First Nation People was further repressed when in 1824 the Bureau of Indian Affairs was established within the confines of the War Department—the ultimate institutionalization of First Nation People by race (Schaefer, 1988). Through this establishment of the Bureau, *racial institutionalization* became firmly ensconced in the American system of government for First Nation People.

An example of the hypocrisy and land confiscation under the Bureau was Indian removal. Indian removal across the Mississippi River was legislated in 1830, 6 years after the Bureau was established. This process lasted for more than a decade, and moved major Southeastern tribes (Cherokee, Creek, Chickasaw, and Seminole) across land to Oklahoma (Luhman, 2002; Schaefer, 1988). This mandated migration provided more land for white settlers who had begun to view North American land as theirs. The migration west for the Southeastern tribes was known as the “Trail of Tears” because of the severe circumstances under which they were forced westward—inadequate governmental planning and supplies, a lack of attention to the health of native peoples while being moved, and most importantly for native tribes, the loss of ancestral land (Brown, 1978a; Luhman, 2002; Schaefer, 1988). Although the Bureau of Indian Affairs since the twentieth century has tried to change and limit the Bureau’s involvement with native peoples (Schaefer, 1988)—it still has jurisdiction over reservations (Jaimes, 1994; Schaefer, 1988). For example, The Indian Reorganization Act of 1934, which focused on the revocation of the Land Allotment Act as well as the acknowledgment of tribal identity, still *proposed the contradictory concept of assimilation* of Native peoples into the broader society (Schaefer, 1988). The Termination Act of 1953 is another example that began as an act supportive of Indian autonomy and sovereignty, and then in a planned manner gradually decreased funding of supportive services such as road building, medical care, and college scholarships. This gradual transition that was to allow native peoples a chance to acclimate to independent life did not occur. The final version of this 1953 Act focused on reducing costs and disregarded gradual abatement of services for infrastructure and social services on reservations (Schaefer, 1988).

This overview does not encompass all of the treaties or acts prior to or after the establishment of the Bureau of Indian Affairs, nor does it provide specific examples of the struggles experienced by the First Nation Peoples of the northeast, plains and west. It does, however, provide a sense of the deceptions, governmental pretexes, and betrayals

that took place and it provides some understanding of how the initial scaffolding affected First Nation People and institutionalized racism within the Federal governmental structure. Native people wanted all along to live as sovereigns on *their* land, as they had done for centuries. However, Europeans took over their land through colonialism and they injected their class structure, their legal structures, and their intellectual belief systems. With the subsequent desire of white settlers for westward expansion, *sovereignty of First Nation Peoples* became a meaningless phrase. Institutional domination by the Federal government of the United States became the norm.

## *Africans Made Slaves*

Dere was hundreds of acres in dat dere plantation. Marse Lewis had a heap of slaves. De overseer, he had a bugle what he blowed to wake up de slaves ... When a rainy spell come and de grass got to growin fast, dey wukked dem slaves at night, even when de moon warn't shinin. On dem dark nights one set of slaves helt lanterns for de others to see how to chop de weeds out de cotton and corn. Wuk was sho' tight dem days.

*Rachel Adams 78 years old – interview compiled as part of the Federal Writer's Project of the Works Progress Administration during 1936–1938*

Records show that the first blacks were brought from Africa to this country and the West Indies during the 1500s by individuals from Spain and England. The majority of Africans in the American colonies lived generation after generation as slaves from 1619 to 1865. Initially, Africans had the same status as indentured servants, but, during the 1600s and 1700s, slavery was codified in the laws of the English colonies. The laws swiftly established a distinction between indentured servants and slaves (Du Bois, 1903). For example, Maryland's law made this distinction as early as 1640; Massachusetts legally recognized slavery in 1641; Virginia passed a law-making Negroes slaves for life in 1661. The intersection of legislation, racism, and servitude continued until there were roughly 600,000 slaves at the time of the signing of the Declaration of Independence (Foster, 1954).

Theorists (Du Bois, 1903; Myrdal, 1944; Stampp, 1956) argue that Europeans and later European Americans did not create the slave system all at once in 1619. Stampp (1956) regards slavery not as a method of regulating race relations or as an arrangement that was essentially paternalistic, but as a practical system of controlling and exploiting labor. He also argues that Southerners built the institution of slavery little by little, step by step, choice by choice, over a period of years, and all the while many slaveholders appeared blind to the ultimate consequences of the choices they were making (Stampp, 1956). The use of slaves “initially in southern agriculture was a deliberate choice, made by men who sought greater returns than they could obtain from their own labor alone and who found other types of labor more expensive” (Stampp, 1956 p. 5). While the gravitation of Northern colonies toward embracing slavery was not motivated by the desire to cultivate land, New Englanders were partners in the rise of Atlantic slavery (Wilder, 2014). In fact, African slavery and the slave trade subsidized early colleges and the colonies. In the north, according to Wilder, “newcomers used indentured servants until they could afford to procure Negroes” (p. 30).

Laws were also upheld in court proceedings about slavery throughout New England before the American Revolution (Wilder, 2013). Soon after, Northern states outlawed chattel slavery. Vermont's constitution abolished slavery in 1777 and Massachusetts followed in 1780, declaring that all men were born free and equal, which its courts interpreted as abolition in 1783. Other states followed suit with emancipation laws—Pennsylvania in 1780, Rhode Island and Connecticut in 1784, New York in 1799, and New Jersey in 1804 (Melish, 1998). This wave of emancipation laws occurred quite early in the international age of abolition. However, as Melish (1998) documents, most of these laws sanctioned gradual emancipation, which did little to change internalized contradictions and hypocrisy in the attitudes and behaviors supported by public policy for most Americans. Slavery survived until the 1860s in some parts of the North.

Little is written about the 200-year history of Northern slavery. Robert Steinfeld (2003) articulates that slavery was abolished by 1804 in New England, although more than 1000 slaves remained in New England. There are many illustrations of contradictions, for example, a black woman named Zipporah Potter, a seventeenth-century African-American woman, owned property in the North End of Boston. To be black and a woman put her ahead of her time and made her the first African-American landowner in Boston, male or female (Baker & Crimaldi, 2014; Johnson, 2010).

The rise of slavery, however, particularly in the South, seemed inevitable in the sense that racial institutionalization solidified through *scaffolding* (such as exploitation, violence, and cultural imperialism) intertwined in a web of laws, codes, and habits connecting every aspect of life for Africans in the United States (Stampp, 1956, Myrdal, 1944, Miller, 2007). Southern resistance to extending the rights and privileges of citizenship to blacks persisted following Emancipation, and Southern states used all their powers, including terror and violence to subvert the intent of the Thirteenth and Fourteenth Amendments (Du Bois, 1903). These amendments were adopted between 1865 and 1870, the 5 years immediately following the Civil War. The Thirteenth Amendment officially abolished and continues to prohibit slavery and the Fourteenth Amendment declared that all persons born or naturalized in the United States are American citizens including Africans.

Structural and systemic oppression was perpetuated through the creation of the Black Codes, laws that limited the rights of former slaves (Novak, 1978). Former slave owners retained a slavery mind-set and responded by recreating as many aspects of slavery as possible (Novak, 1978). Thus, at the federal level, legalized slavery was supported by the United States Constitution, which allowed the slave trade to continue for twenty more years, and counted a slave as 3/5 of a man for the purposes of determining seats in the House of Representatives (United States Constitution).

Legislative actions by Congress maintained slavery began in the 16th century, spanning 1863 to 1877, however others note that this period was from 1865 to 1877 following the Civil War (Jones & Freedman, 2011). After emancipation, one of the first laws was passed in February of 1865. Congress established in the War Department a Bureau of Refugees, Freedmen and Abandoned Land. Additional legislative actions began during the Reconstruction Era under the administration of

President Andrew Johnson in 1865 and 1866, at the same time as new southern state legislatures passed additional restrictive “black codes” to control the labor and behavior of former slaves and other blacks. Some of the laws, including judiciary review, began during this period and continue to influence blacks today. The more salient laws include *Plessey v. Ferguson* (1896), Jim Crow laws, segregation, *Brown v. Board of Education* (1954), and civil rights acts. The history of race relations between blacks and whites can be viewed in caste-like terms (Bell, 1997). The outcome of chattel slavery in the 17th, 18th, and 19th centuries was complete stratification: whites of all ethnicities and immigrant statuses were at the top of the social and economic hierarchy, and blacks were at the bottom. Graves (2002) notes, “Race and racism were fundamental forces in the founding of the United States of America. Many of our present political and social problems stem from that fact” (pp. 2–3).

Reflecting on the past, the historical importance of the role of legislative operations, norms, and values at the state and federal levels strengthened the specter of skin color as a determinant of privilege and power. The infrastructure of racism is apparent even when it goes unmentioned, as it was both visible and invisible forces that influenced (and continue to influence) public policy as well as private relationships (Franklin, 1947). Myrdal (1944) similarly wrote that the predicament of American society was the conflict between the ideals that white Americans proclaimed and their betrayal of these ideals in daily life. He held that this was particularly true in the South, where, he argued, discrimination was due less to bias than to a failure of the courts and the police to enforce the Constitution.

### *Mexicans Enveloped within America*

Since 1848 Native Americans and Mexican Americans have struggled to achieve political and social equality within the United States, often citing the Treaty of Guadalupe Hidalgo as a document that promised civil and property rights.

*War's End Treaty of Guadalupe Hidalgo* by Richard Griswold del Castillo (2006).

Institutional domination of territories that formally were a part of Mexico was accomplished over a period of years by means of treaties, trust and land expansion issues between American settlers and Mexico, and wars. The country we now know as Mexico was once a colonial territory of Spain. The original native inhabitants of the Mexican Peninsula were conquered by Spanish explorers who intermarried with natives and after several centuries the Mexican people as we know them today emerged as a distinct group of people (Schaefer, 1988). Since the seventeenth century, Mexicans had had a presence in their northern territories which included the provinces of Texas, New Mexico, Arizona, and California. Mexico gained its independence from Spain in 1821; its freedom, however, began to be tested by U.S. Anglo settlers residing within the confines of the northern Mexican territories. Mexico initially welcomed settlers to Texas, for the land was arid, mostly desert, and few Mexicans lived that far north (Longres, 2000; McLemore & Romo, 1985; Schaefer, 1988). Anglos then began to covet ownership of this land and this

was reinforced by their belief in Manifest Destiny—that God was supporting their expansion westward (Luhman, 2002). The first major rift between Texas and Mexico took place in the 1830s with the Anglo revolt led by Sam Houston to usurp power from Mexico. During this Texas conflict Mexico won an important battle (the Alamo), but eventually lost the war (Acuña, 1972). This was the context for the American government using institutional scaffolding in its takeover and racial subjugation of Mexicans.

The Texas War of 1836 was the catalyst for the eventual annexation of Mexican border territory by the United States government. After the Texas War, Texas became a Republic, and remained so until it was made a state in December 1845 by a joint resolution of the Congress of the United States. This resolution was passed at the request of President Tyler whose tenure as President was coming to an end (Acuña, 1972). Mexico viewed the annexation unfavorably. In addition, there was not agreement between the United States government and Mexico as to the location of the border of the new state. The United States claimed the border existed at the Rio Grande. Mexico asserted that the border was 150 miles further north, at the Nueces River (Acuña, 1972). This feud was the impetus for the Mexican-American war. The fervor around this dispute was intensified by the United States crossing the Nueces River. Mexico subsequently refused to accept the terms posed by the United States envoy sent to Mexico by incumbent president, Polk, and Mexican forces crossed the Rio Grande attacking the United States military contingent. The Mexican attack gave President Polk the excuse needed to declare war on Mexico, pursuing not only the disputed land between the Nueces River and the Rio Grande, but also other Southwest territory held by Mexico (Acuña, 1972; McLemore & Romo, 1985).

The war gave further momentum to the process of westward expansion that was underway in the United States. Settlers already inhabited border territories belonging to Mexico. Acquiring this territory through war gave the United States more land and resources to complete its westward expansion. President Polk therefore went into the war with three goals in mind:

- 1) Mexicans would be cleared out of Texas; 2) Anglos would occupy California and New Mexico; and 3) U.S forces would march to Mexico City to force the beaten government to make peace on Polk's terms. And that was the way the campaign basically went. In the end, at a relatively small cost in men and money, the war netted the United States huge territorial gains: all of the Pacific coast from below San Diego to the Forty-ninth Parallel, and the whole area between the coast and the Continental Divide. (Acuña, 1972, p.21).

The outcome of the war (the signing of the Treaty of Guadalupe Hidalgo of 1848) was that the US not only added Texas as a state, but it also acquired the territories of Arizona, New Mexico, and California as United States possessions.

Prior to the Texas and Mexican-American wars, and under terms stipulated by the Mexican government, Americans were encouraged to settle in Mexican territories. The Mexican government had abolished slavery, but American settlers in the Texas territory, most of whom migrated from slaveholding southern states (Alvarez, 1985; McLemore & Romo, 1985), found ways to elude the intent of the law, often maintaining former slaves as indentured servants (McLemore & Romo, 1985). These American settlers who owned slaves wanted to maintain their way of life. They brought with them their beliefs about their superiority and their practices of oppressing and denigrating a group of people who were racially different from them.



The slaveholding attitudes and practices of American settlers also were manifested in distinct ways in their relationships with Mexicans. Most settlers felt superior and entitled, viewing the Mexican as inferior and incompetent (Acuña, 1972; Alvarez, 1985; McLemore & Romo, 1985; Romo & Romo, 1985). Thus, although the peace treaty negotiated between Mexico and the United States included clauses to ensure the continued welfare of Mexicans who remained in the territories that became a part of the United States, Mexican welfare was usurped by Anglo Americans who continued to settle in these territories. Each territory developed and became populated in ways unique to that particular area and to the events and occurrences of that time period. However, economic subjugation of Mexicans, as well as ethnic and racial prejudice against them (Alvarez, 1985), was the common thread that ran through all of these territories.

The course of events that took place in the California territory is an example of how the shift in power and the manifestation of oppression throughout these territories occurred. In the California territory, the discovery of gold, which occurred the same year as the signing of the Treaty of Guadalupe Hidalgo, brought American settlers to this territory in mass. This great influx “assured their success at the ballot box, while drought, floods, the new legal system, and squatters all assisted to remove the Californios from their lands. This process of subordination involved overt conflict too, including lynchings and physical expulsion” (Moore, in McLemore & Romo, 1985 p. 10).

The residual war hostilities, the general feeling by American settlers of superiority, the quest for land through westward expansion, and the influx of American settlers as a result of moving west, placed the Mexicans residing within what would eventually become the contiguous United States in a clearly subordinate position. The culture and laws by which they lived as Mexicans were under siege as they became Americans of Mexican descent. Cultural ties and identity, although assaulted, lingered (Acuña, 1972; McLemore & Romo, 1985; Romo & Romo, 1985), but laws created within and for United States territories benefited Anglo settlers and further assured the subordinate position of Mexican Americans. Such laws, and the belief in the superiority of whites, provided the structure for treating Americans of Mexican descent as second class citizens. This was evident in the widespread phenomenon of whites gaining property ownership and Mexicans (as well as First Nation Peoples) losing property through legal means established by the U.S. government. For example, “by 1892, the federal government granted grazing privileges on public grasslands and forests to anyone but Chicanos” (Schaefer, 1988, p. 298). Over time, the institutional legalization of racism was firmly established for this group.

### *Chinese Oppressed*

We were 3 years with the railroad, and then went to the mines, where we made plenty of money in gold dust, but had a hard time, for many of the miners were wild men who carried revolvers and after drinking would come into our place to shoot and steal shirts, for which we had to pay. One of these men hit his head hard against a flat iron and all the miners came and broke up our laundry, chasing us out of town. They were going to hang us. We lost all our property...

In all New York there are only thirty-four Chinese women, and it is impossible to get a Chinese woman out here unless one goes to China and marries her there, and then he must collect affidavits to prove that she really is his wife. That is in [the] case of a merchant. A laundryman can't bring his wife here under any circumstances, and even the women of the Chinese Ambassador's family had trouble getting in lately.

Excerpts from *Biography of a Chinaman* by Lee Chew (Lee, 1903)

Like the other core groups that experienced legalized institutional oppression, so too did the Chinese. Drawn by the California Gold Rush and within the context of an extremely repressive imperial regime in China, large numbers of Chinese began immigrating to the United States in the 1840s. Many of these early immigrants came from a small district in southern China characterized by rocky barren land that was inadequate to sustain its residents (Sung, 1967). Their local economy was sustained by the adventurous few men who ventured out and became trade merchants in Hong Kong and other coastal ports. Through their business transactions with sea merchants, these trade merchants became aware of the opportunity to amass great wealth in the United States. Along with other Chinese, primarily from the Canton area, they sailed from Hong Kong to join the American Gold Rush in the American West (Sung, 1967; Tsai, 1986).

Like many other immigrant groups who voluntarily came to North America seeking a better life, the Chinese, as they began to arrive in larger numbers, were perceived as a threat to the status quo and the economic well-being of the established white residents. However, unlike early European immigrants who relatively easily could blend into the larger mainstream population of white residents, Chinese immigrants stood out as clearly different. They were easily identified by their distinct physical characteristics and their cultural practices, and, thus, became easy targets for scapegoating and discriminatory practices. As their numbers grew, legal and institutional constraints were implemented that resulted in restricted entry into the United States, exclusion from citizenship (including the rights and protections of U.S. citizens), economic hardship, and restricted rights and freedom. California, the major gateway for Chinese immigrants, took the lead in establishing restrictive laws aimed at excluding Chinese from immigration, eliminating Chinese from certain occupations, and punishing and harassing Chinese persons (Lyman, 1974). For example, California passed the Foreign Miners License Act (1850) which imposed a monthly fee on foreign-born miners. Because most foreign-born miners were Chinese, this law had the effect of driving Chinese from the mining camps and excluding them from the economic opportunities presented by mining (Tsai, 1983). When they left mining, many Chinese men remained in the United States with the intention of establishing themselves financially and then bringing over other family members. Many settled in San Francisco where they often engaged in carpentry, washing/ironing, and running restaurants. Numerous California laws intended to restrict Chinese persons from certain occupations were eventually ruled unconstitutional (Tsai, 1983).

Chinese men also were used as a marginal work force. So, to promote the wealth acquisition of white Americans, laws and attitudes about the Chinese were adapted to accommodate this need for labor. For example, during the 1850s and 1860s, Chinese immigration was encouraged because the Chinese men were considered very adaptable and docile workers who were willing to do whatever work was

undesirable to white men (Tsai, 1986). During the building of the transcontinental railroad in the 1860s, there was a great need for workers willing to toil under dangerous and difficult conditions and the Chinese became the primary workforce for creating the western segments of the railroads. Chinese workers also did much of the work to transform swamps into the land that supports the city of San Francisco. By 1884, half of the agricultural workers in California were Chinese (Sung, 1967). However, despite being allowed into the US as marginal workers, Chinese persons were not given the legal rights and privileges of United States citizens.

With the widespread unemployment of whites during the depression that followed the Civil War, the Chinese became an easy and visible target for scapegoating. In ways that parallel the treatment of African Americans in the South, terrorism and violence were used as mechanisms to subordinate, control, and exclude the Chinese, particularly in the American West. Chinese were the targets of scapegoating by politicians, particularly in California where it was considered political death for a politician to support rather than condemn the Chinese (Lyman, 1974; Sung, 1967). In fact, it was police and politicians who incited many of the attacks on Chinese people. Similar to the lynching of blacks, it became virtually a sport for whites to stone, assault or murder a Chinese person. There were massacres and entire Chinese populations were driven out of some towns, including Seattle and Tacoma Washington (Lyman, 1974). Because of widespread anti-Chinese sentiment that was validated and institutionalized through the legal system, as the Chinese dispersed, they were confronted with overt prejudice and hatred wherever they went.

Despite widespread prejudice against the Chinese, when the United States needed to open up trade with China, it signed the Burlingame Treaty (1868) between United States and China which gave most favored nation status to the citizens of each nation living in the other country. Under this treaty, Chinese citizens residing in the U.S. were guaranteed freedom from religious persecution, the right of residence and travel, and the privilege to operate their own schools. In return, this treaty gave the US advantageous trade deals with China. However, anti-Chinese sentiment was so strong at that time that the racial and political climate in the U.S. kept the country from upholding its obligations to Chinese citizens in the United States. In 1879, the U.S. Congress passed a bill to prohibit Chinese immigration. President Hayes vetoed the bill because it violated the Burlingame Treaty, but, to placate the West, he negotiated the Treaty of 1880 which allowed the U.S. to limit Chinese immigration (Sung, 1967; Tsai, 1986). Then, Congress passed and President Chester Arthur signed the Chinese Exclusion Act (1882) which suspended Chinese immigration for 10 years and required all Chinese workers currently in the U.S. to carry detailed identification papers. The Geary Act (1892) extended the Exclusion Act for ten more years and then the Scott Act (1902) extended it indefinitely. These laws effectively stripped Chinese persons of all rights in the United States. The expression, “not a Chinaman’s chance” originated around this time and reflected the general sentiment in the country (Sung, 1967). Despite being against the U.S. Constitution and in violation of existing treaties with China, these laws were declared constitutional by the U.S. Supreme Court (Sung, 1967). Exclusion laws and restrictions were applied even to Chinese who had established communities for centuries in

Hawaii and the Philippines. Laws that specifically restricted the immigration of Chinese women, such as the Immigration Act of 1924, effectively prevented the establishment of a growing population of stable Chinese families living in the US. The exclusion laws specific to the Chinese remained for 60 years and were not repealed until the Magnuson Act (1943). In fact, the Chinese were the only racial or ethnic group ever specifically excluded from the U.S.A. by law.

## Summary

The legalization and institutionalization of racism was an outgrowth of targeted laws and acts that specifically relegated the core groups to marginalized and discriminatory positions in the society. Land was illegally taken because of broken treaties and acts for First Nation People as well as Mexicans. Cheap labor was needed to till the soil and build portions of the transcontinental railroad. Africans were actually enslaved and Chinese immigrants were cheap labor. Such actions have been the cornerstone for institutionally inculcating racism in America, becoming ingrained aspects of all systems that operate and manage this country. Systemic oppressive scaffolding in combination with the institutional web continues to support the racism that finds its way into the lives of the core groups as well as the lives of new immigrants of color that reach these shores.

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