DOUBLE PUNISHMENT: TWO CHINESE AMERICAN OPIUM COURT CASES

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ABSTRACT

Chinese immigrants have been treated unfairly in the United States since they arrived in this country. The American legal system has played a large part in this unfair treatment of Chinese Americans and other ethnic minorities. Historically, compared to non-Chinese, Chinese offenders were frequently more severely punished by the justice system, and at times, Chinese American were victims of double punishment. This paper examines the discriminatory treatment of the Chinese in the United States via court cases of two Chinese Americans convicted of violating early twentieth century federal opium laws.

INTRODUCTION

From the nineteenth to the mid-twentieth century, Chinese Americans who were convicted of criminal offenses were often punished more harshly than their Euro-American counterparts. While Chinese American offenders were party to many different types of offenses ranging from violent crimes against the person such as murder, to minor victimless offenses such as working in a laundry after "legal hours,"[1] a large number of offenses were opium-related violations. In prosecution of these offenses, there were clear patterns of racial prejudice and discrimination ranging from the assumption that most Chinese were drug offenders to the application of harsher penalties for Chinese defendants.

The majority of early twentieth century Chinese American opium cases were tried in the lower federal courts of the western part of the United States. If a defendant was dissatisfied with the federal lower court's decision, a legal appeal could be made to the United States Circuit Court of Appeals for the Ninth Circuit.

This paper examines two Chinese American drug cases that were adjudicated in the Ninth Circuit Court of Appeals. These two cases illustrate how the legal system viewed and treated Chinese American defendants during the early twentieth century. Chinese opium offenders were more severely punished by the justice system than their non-Chinese contemporaries. Often Chinese were punished twice: first by the judicial branch under criminal law and second by the Department of Labor under immigration law. Thus, Chinese Americans became victims of double punishment.

REVIEW OF THE LITERATURE

The literature concerning opium and Chinese in the United States is neither a focused nor systematic body of information. In fact, research is found in two rather diverse sources, the history of drug abuse in America on the one hand, and Chinese American Studies on the other. Insight into the unique experience of Chinese Americans prosecuted for opium-related offenses in the criminal justice system is gained from an examination of these two areas.

The historical study of drug abuse in America highlights the role that economics and race play in drug legislation and the anti-opium (drug) movement. In his examination of the history of narcotic drugs in the United States, Musto (1973) connects U.S. involvement in international anti-opium conventions at Shanghai in 1909 and the Hague in 1911, 1913, and 1914 and the subsequent passage of the 1914 Harrison Act, the first major federal drug law, to economic and racial concerns revolving around Chinese Americans and African Americans.

Musto attributes U.S. participation in the anti-opium conventions to its interest in securing a lion's share of the China trade by gaining a "moral" advantage over other nations with similar economic aspirations. Through its involvement and leadership in the eradication of opium in China, the United States believed it could demonstrate its good will. The desired response was that hundreds of millions of Chinese consumers would acknowledge this and reciprocate by purchasing American goods and products.

Musto further explains how Southern fear of African Americans and their use of cocaine around the turn of the twentieth century contributed to the passage of the Harrison Act. Southerners feared that African American cocaine users would abuse their social standing and begin to move beyond their lower class confines, thus threatening the structure of Southern White society (Musto 1973). This fear gave impetus to anti-drug legislation that would assist in controlling African Americans. Musto similarly associates White fear of Chinese Americans' encroachment into White

society and their use of opium in the western part of the United States. He concludes that it is no wonder that the South and West took the lead in urging federal anti-drug legislation that was viewed as the most effective weapon to thwarting African American and Chinese American threats to the established social structure.

In John Helmer's (1975) comprehensive study of the origins of the anti-opium movement and opium legislation, race is targeted as a major factor. Helmer argues that drug control efforts were a product of class conflicts involving competing elements of local and regional labor, wage differentials, business cycles, and unemployment. The overall thesis of Helmer's work is that anti-drug agitation was utilized by America's ruling class as one of the methods to control the country's working class, which included the Chinese.

By the 1870s, Chinese on the West coast were believed to be in direct competition with White labor. Regardless of skill, Chinese laborers were grudgingly accepted and paid less than White workers (Helmer 1975). When White labor became unemployed or low wage-earners, and small enterprises earned small profits, the Chinese became the scapegoat. Thus,

> whites turned their attack from the source of economic power to the source of labor competition, and attacked the Chinese to drive them off the fields. (Helmer 1975)

The image of the Chinese opium addict was a product of the anti-Chinese movement and anti-opium legislation. It served both as a practical means to harass Chinese Americans and as an ideological justification for their removal (Helmer 1975).

Unlike the other drug literature, Helmer's (1975) work recognized that the first anti-narcotic campaign revolved around opium during the 1870s and was directly related to the anti-Chinese crusade. In his view of the early anti-drug movement, the humanitarian reform movement and its adherents did not play a role. Rather, the anti-drug movement was instigated by poor economic conditions, the same conditions which also created the anti-Chinese movement.

Similarly, in his investigation of the development of drug laws and policies in the United States, Pat Lauderdale (Inverarity, Lauderdale, Field 1983) claims that America's earliest drug laws were not motivated by humanitarian and medical concerns but by concerns for preserving the economic status quo and political control. Lauderdale argues that the first drug law in the U.S., the San Francisco ordinance, which prohibited the smoking of opium in dens, was racially motivated and it initiated further local, state, and federal anti-opium legislation.

In his study of the politics and morality of deviance, Nachman Ben-Yehuda's (1990) reiterates that the anti-opium and anti-Chinese crusades in the United States were directed against Chinese workers in an effort to remove them from the white dominated labor force.

Stephen Hester's and Peter Eglin's research (1992) on crime in Canada identify similar anti-Chinese sentiments underlying drug legislation. In their analysis of the origins of Canada's drug laws, the authors note that the impetus for early Canadian anti-drug laws was to criminalize Chinese immigrants who were believed to be a major cause of the country's drug and economic problems.

Most of the research of Chinese Americans and anti-opium drug laws is found within the study of the history of drug abuse in America. This type of research has not been a main focus in Chinese American Studies. In fact, the study of Chinese in the United States is a relatively new and emerging field.[2] Most of what has been researched and published has concentrated on the period prior to the Chinese Exclusion Act of 1882. Due to the paucity of in-depth research, many authors explain Chinese American history in a rather general way. The research does not contain detailed examinations of the impact of significant historical events on the Chinese community, and little attention is given to specific topics related to or involving Chinese Americans. Some studies (Barth 1964; Chan 1990, 1991; Coolidge 1909; Lydon 1985; McClellan 1971; Miller 1969; Sandmeyer 1939; Saxton 1971; Takaki 1989; Tsai 1986) discuss the anti-Chinese movement and frequently mention the negative opium-addict stereotype that mainstream America perceived about Chinese in the United States. However, these works do not explicitly discuss how this negative stereotype and the accompany anti-Chinese racist movement was translated into social policy.

In this paper, I examine one specific social policy topic—the treatment of Chinese drug offenders by the United States criminal justices system via the court cases of two Chinese American drug offenders in 1922. As

the literature concerning the history of drug abuse in America and Chinese Americans indicate, the pattern of the racialization of Chinese Americans and drugs began even before the prosecution of these two cases.[3]

THE CASES OF CHARLIE GIB AND LEE KEE HOW

Two cases, *Charlie Gib v. Luther Weedin, as Commissioner of Immigration for the Port of Seattle, Washington*, and *Kee How v. Luther Weedin, as Commissioner of Immigration for the Port of Seattle, Washington* were heard together at the U.S. Circuit Court of Appeals for the Ninth Circuit because the Court considered the charges, the circumstances, and legal issues to be similar. Chung Bar Kiup alias Jung Ngip, or better known in the broader Washington State community as Charlie Gib, was born on July 17, 1856 in Guangzhou (Canton), the Guangdong (Kwangtung) provincial capital. At the age of 19, he emigrated to the United States and arrived in San Francisco on March 1, 1876. Although Gib was already an American resident before the passage of the Chinese Exclusion Act, this and other laws greatly affected his life in the United States.

In 1922, at the time of his arrest for a narcotic violation, Mr. Gib had spent the better part of his life, 46 years, in this country. He was still a resident alien because United States immigration laws prohibited Chinese from becoming naturalized citizens.

According to McNeil Island Penitentiary receiving records (February 1923),[4] he was 67 years old, almost 5'4", 119 pounds, did not read or write English, did not have a wife and family in the U.S., and was working as a restaurant keeper. He lived in and was part owner of a house in Carson City, Nevada. During his 46 years in America, Gib never returned to China to visit friends and relatives. He probably led the typical Chinese American bachelor life: he lived alone, was devoid of an immediate family, and worked in menial jobs.

In April 1922, Charlie Gib was arrested for several narcotic violations in Gardnerville, Douglas County, Nevada. On December 5, 1922, he was indicted at Gardnerville in violation of the February 9, 1909 Act and the amended May 26, 1922, Narcotic Drugs Import and Export Act, because he was accused of concealing illegal imported opium. On January 12, 1923, the United States District Court for the District of Nevada convicted him for violating the Import/Export laws. On January 29 and February 1, 1923, the District Court sentenced Gib to 11 months at the McNeil Island Federal Penitentiary. He arrived at McNeil Island on February 23, 1923 and was scheduled to be released on February 27, 1924. However, due to his good behavior in the prison, Mr. Gib was released early on December 19, 1923.

Before Gib's release from McNeil Penitentiary, on November 12, 1923, Mr. Robe Carl White, Second Assistant Secretary of Labor, from the U.S. Department of Labor in Washington, D.C., ordered the Commissioner of Immigration in Seattle, Washington to deport Mr. Gib, who was a resident alien, to China. The document, "Warrant-Deportation of Alien," stated that:

> WHEREAS, from proofs submitted to me, after due hearing before Immigrant Inspector Arthur J. Kahl, held at McNeil Island, Washington, I have become satisfied that the alien CHUNG or CHING BAR KIUP alias CHARLIE GIB alias JUNG NGIP who landed at the port of San Francisco, Calif., on or about the 1st day of March, 1876, is subject to be returned to the country whence he came under section 19 of the immigration act of February 5, 1917, being subject to deportation under the provisions of a law of the United States, to wit, the Act of February 9, 1909, as amended by the Act of May 26, 1922, in that he is an alien who has been convicted under subdivision (c) section 2 thereof.
>
> I, ROBE CARL WHITE, Second Assistant Secretary of Labor, by virtue of the power and authority vested in me by the laws of the United States, do hereby command you to return the said alien to China the country whence he came, at the expense of the appropriation "Expenses of Regulating Immigration, 1920." You are directed to purchase transportation for the alien from Seattle, Wash., to his home in China at the lowest available rate, payable from the above-named appropriation. Execution of this warrant should be deferred until he is released from prison. (*Gib v. Weedin*)

United States citizens convicted of narcotic offenses were not deported. Only foreign aliens such as Charlie Gib were punished for their crimes and then subjected to deportation. This additional punishment was mandated despite the fact that Gib had spent most of his life in the United States, was elderly, had already been punished for his crime, had committed a victimless crime in which no one else was

affected, had no visible remaining ties to China such as family, and most significantly was not eligible to be a U.S. citizen.

The Department of Labor ordered Gib's deportation immediately after his completion of his prison sentence. Upon his release from the McNeil Penitentiary, Luther Weedin, U.S. Commissioner of Immigration, held Gib in detention at the Federal Immigration Station in Seattle, Washington.

In response to the Secretary of Labor's order for deportation, on January 8, 1924, in the U.S. District Court for the Western District of Washington, Charlie Gib's attorneys applied for a writ of habeas corpus. The grounds for this appeal was that Mr. Gib's "confinement and restraint was illegal and contrary to law" (*Gib v. Weedin*).

The narcotics case of Kee How, alias Charley Kee or better known in the Chinese community as Lee Kee How, was submitted along with Charlie Gib's in both the United States District Court (western Washington) and the Ninth Circuit Court of Appeals because their cases were based upon the same laws and the same character of facts. Lee Kee How was born in 1858 in Canton. On April 13, 1874, at the age of 16 years, he left his family in China and arrived in San Francisco, California in order to try his fortune in the United States. In 1922, he was approximately 64 years old and lived in Gardnerville, Douglas County, Nevada. He had been a U.S. resident for 48 years. According to the records of prisoners received at the McNeil Island Penitentiary (May 19, 1923), Lee Kee How was 65 years old, almost 5'6", and 161 pounds. His occupation was restaurant keeper and his personal property consisted of restaurant equipment. He did not read or write English and did not claim any religious affiliation.

Mr. Lee had lived in the center of Gardnerville in the East Fork Hotel, which was also a saloon and restaurant. Across the street from his residence was the Corner Saloon, where, according to a sworn affidavit on November 18, 1922, "Charley give (sic) yenshee (opium) to an Indian known as 'Big Nosed Bill.'" The witness, Sam John, also a Native American, filed his affidavit with the United States Commissioner for the District of Nevada, which resulted in the December 5, 1922 warrant to search Lee's residence for concealed narcotics. Law enforcement officers discovered opium in Kee How's residence and he was subsequently arrested and charged with two violations. The first was for

> unlawfully, knowingly and willfully, having in his possession a quantity of intoxicating liquor, containing one half of one per cent, or more of alcohol by volume, fit for use for beverage purposes.

The second was for having in

> his possession, unlawfully, knowingly and willfully a quantity of Yen Shee, a derivative of opium, fit for smoking purposes, and not having paid the required license for the possession of the same.

Lee Kee How was immediately put into a jail until his trial because he could not afford to post bond (*Kee How, alias Charlie Kee v. Weedin*).

The next month, on January 12, 1923, in the District Court of the United States of America, in and for the District of Nevada, a Federal Grand Jury indicted Lee Kee How for violating two counts of the February 9, 1909, as amended May 26, 1922 Act. First, the Grand Jurors charged (slightly different than the original charges) that he "willfully, knowingly and unlawfully conceal (sic) narcotic drugs, to-wit: yenshee, knowing the same to have been imported contrary to law." The second count claimed that Mr. Lee "willfully, knowingly and unlawfully sell (sic) narcotic drugs, to-wit: yenshee, knowing the same to have been imported contrary to law" (*Kee How, alias Charlie Kee v. Weedin*).

United States of America v. Charley Kee was adjudicated in the District Court of the United States for the District of Nevada in Carson City; the Honorable E.S. Farrington was the presiding judge. On May 4, 1923, the decision was rendered. The second count concerning selling smuggled opium was dismissed. Kee How pleaded not guilty to the first charge but the jury found him guilty as charged for concealing smuggled opium. Judge Farrington sentenced Mr. Lee to be imprisoned in the U.S. Penitentiary at McNeil Island, Washington, for one year and two months and fined him $103.50. He was received at the Penitentiary on May 19, 1923, and was scheduled to complete the full term of his sentence on August 2, 1924. However, due to good behavior, correctional staff released him some four months prior to completion of his sentence on April 10, 1924. As with Charlie Gib,

Lee Kee How's early discharge from McNeil Island gave him only a momentary euphoria. Just six days before his release, on April 4, 1924, a federal document addressing the Commissioner of Immigration, Seattle, Washington or to any officer or employee of the U.S. Immigration Service was received by immigration authorities. The document, "WARRANT DEPORTATION OF ALIEN, United States of America, Department of Labor, Washington," declared that:

> Lee Kee How is subject to be returned to the country whence he came under section 19 of the immigration act of February 5, 1917, being subject to deportation under the provisions of a law of the United States, to wit, the Act of February 9, 1909, as amended by the Act of May 26, 1922, in that he is an alien who has been convicted under subdivision (c) Section 2 thereof. (Kee How, alias Charlie Kee v. Weedin)

The order, signed by Robe Carl White, Second Assistant Secretary of Labor, further instructed Immigration officials to send him back to his home in China at the lowest possible rate and that the execution of the order should be implemented upon his release from prison. A few weeks later, on April 18, 1924, Luther Weedin, Commissioner of Immigration, in a signed, notarized statement to the U.S. District Court for the Western District of Washington, Northern Division, testified that he agreed with the deportation orders. Although the defendant had been released only eight days earlier from McNeil Island, he was immediately arrested and detained, pending deportation by the U.S. immigration authorities, at the Immigration Station in Seattle, Washington. Despite the quick turn of events, Kee How and his attorneys were able to delay his pending deportation.

On July 17, 1924, the applications for a writ of habeas corpus were made and entered on behalf of both Charlie Gib and Lee Kee How. Their attorney, John J. Sullivan, believed that the legal basis for their appeals depended upon four factors. First, the Secretary of Labor did not have the authority to issue a warrant to deport the defendants. Next, the "indictment upon which petitioner was convicted did not charge any crime whatever against the laws of the United States." Third, conviction for narcotic violations was not moral turpitude. Last, the federal government's deportation orders for Gib and Lee were in violation of the U.S. Constitution and the 1880 treaty between China and the United States (Kee How, alias Charlie Kee v. Weedin).

Unfortunately for the petitioners, on September 8, 1924, Judge Neterer of the U.S. District Court, Western District of Washington, Northern Division, ruled that the Charlie Gib and Lee Kee How petitions and also their applications for the writs should be denied. Although Neterer may have sympathized with both defendants, he believed that the legal issue that these men were unlawfully detained was clear. In his official decision the Judge stated that:

> Subdivision C, Sec. 2, Act Feb. 9, 1909, as amended May 26, 1922, Sec. 8801 Cum. Sup. C. E. provides in substance that any alien convicted after his entry shall, upon the termination of his imprisonment, upon warrant issued by the Secretary of Labor, be deported in accordance with Secs. 19 and 20 of the Act of Feb. 5, 1917. (Gib v. Weedin)

On the same day (September 8, 1924), the attorneys for the defendants filed notices of appeal to the U.S. Ninth Circuit Court of Appeals. Gib and Lee were released from custody upon submitting $1,000 contingent on the condition that they appear before the Ninth Circuit Court of Appeals and abide by its judgment. For the next eight months, there was little or no activity on the case. To Gib and Lee, their court odyssey must have seemed like an endless stream of paper work and legal maneuvering. Charlie Gib's journey started with his April 1922 arrest, and continued with the December 1922-January 1923 district court trial, his January 29, 1923 imprisonment, the November 12, 1923 deportation orders, and, beginning on January 8, 1924, his reappearance in the U.S. District Court to appeal his threatened deportation via a petition for a write of habeas corpus. His May 4, 1925 appearance in the U.S. District Court represented only the end of court proceedings at the lower court level. On May 27, 1925, F. D. Monckton, Clerk for the U.S. Court of Appeals for the Ninth Circuit received the Transcript of Record for Case Number 4629, Charlie Gib, Appellant, v. Luther Weedin, as Commissioner of Immigration at the Port of Seattle, Washington, Appellee, which had been officially filed on June 29, 1925 with the Ninth Circuit Court of Appeals. The Appeals court affirmed the lower court's ruling and available evidence indicates

that Mr. Charlie Gib was deported to China (Gib v. Weedin).

Mr. Lee Kee How's journey followed an almost identical path. Lee was arrested on December 5, 1922, on similar narcotic violations. His trial was held in January 1923, and on May 4, 1923, he too was sentenced to the Federal Penitentiary at McNeil Island. On April 4, 1924, Lee was also ordered to be deported to his homeland in China. On April 18, 1924, he petitioned the U.S. District Court for a writ of habeas corpus. His petition and appeal for a writ were denied. On June 3, 1925, the U.S. Court of Appeals for the Ninth Circuit received the Transcript of Record for Case Number 4628, but Lee Kee How's appeal was denied and the district court's ruling was affirmed. However, unlike Gib, on October 8, 1929, at the age of 71, Lee received official notice that the President of the United States of America had rescinded the order for his deportation. Reasons for this decision are unknown. Normally, pardons are a result of political connections or intense public pressure, or in this case it is possible that an appeal by the presiding judge was the impetus for the pardon (interview with Eric Yamamoto, October, 1996).

DOUBLE PUNISHMENT

The first Federal drug laws[5], the February 9, 1909 "Act to prohibit the importation and use of opium for other than medicinal purposes," and the 1914 Harrison Act that was initially an opium taxation act did not specify any additional punishment for aliens convicted of drug offenses. However, the Immigration Act of February 5, 1917 mandated that foreign aliens, unlike their American citizen counterparts, receive additional punishment for narcotic and other violations in the form of deportation to their native countries. This Act to regulate the immigration of aliens to, and the residence of aliens in, the United States (39 Stat. 874) stated:

> SEC. 19. That the provision of this section respecting the deportation of aliens convicted of a crime involving moral turpitude shall not apply to one who has been pardoned, nor shall such deportation be made or directed if the court, or judge thereof, sentencing such alien for such crime shall, at the time of imposing judgment or passing sentence or within thirty days thereafter, due notice having first been given to representatives of the State, make a recommendation to the Secretary of Labor that such alien shall not be deported in pursuance of this Act; nor shall any alien convicted as aforesaid be deported until after the termination of his imprisonment:...In every case where any person is ordered deported from the United States under the provisions of this Act, or of any law or treaty, the decision of the Secretary of Labor shall be final.

Thus, if foreign aliens were convicted of committing a serious crime involving moral turpitude, Sec. 19 provided for their return to their native country.

For the Immigration Service, the legal basis for deportation was that violations of the Narcotic Drugs Import and Export Act were serious crimes involving moral turpitude. Moral turpitude is behavior universally considered to be clearly vile wicked, and immoral and wrong such as murder, rape, arson, homosexuality, compulsive gambling to the detriment of one's family, and drug addiction. This concept was pivotal for Chinese and other ethnic minority group members. Its definition and application were vague and open to broad interpretation. For Chinese residents who were not U.S. citizens, it meant that conviction of a crime of moral turpitude such as a drug offense imposed the double punishment of incarceration and banishment from their adopted country.

Chinese Americans were caught in a double bind. According to the 1882 Chinese Exclusion Act ("An Act to Execute Certain Treaty Stipulations Relating to Chinese"), Chinese who immigrated to the United States were prohibited from becoming naturalized citizens (Act of May 1882, 22 United States Statutes at Large 58). Chinese not born in the United States were considered to be foreign aliens. Chinese were ineligible to become naturalized U.S. citizens and consequently did not have the rights of citizens. Thus, according to the 1917 Immigration Act, regardless of how many years Chinese had resided in the U.S. and regardless of their contributions to this country, if they were convicted of a crime involving moral turpitude, they would be deported to China. Exceptions were made if the presiding judge recommended to the Secretary of Labor to rescind the order. In cases of threatened deportation, the judge possessed a great deal of discretionary powers.

The May 26, 1922 Narcotic Drugs Import and Export Act (the Jones-Miller Act, 21 USCA 175) amended the Act of February 9, 1909. This legislation, "An Act to amend the

Act entitled 'An Act to prohibit the importation and use of opium for other than medicinal purposes,'" further clarified and reinforced the use of deportation in drug cases. SEC. 2 (e) was directed towards individuals not born in the United States.

> Any alien who at any time after his entry is convicted under subdivision (c) shall, upon the termination of the imprisonment imposed by the court upon such conviction and upon warrant issued by the Secretary of Labor, be taken into custody and deported in accordance with the provisions of sections 19 and 20 of the Act of February 5, 1917, entitled 'An Act to regulate the immigration of aliens to, and the residence of aliens in, the United States.'

According to the 1922 Act, convicted drug offenders such as Charlie Gib and Lee Kee How should have been deported.

For lawmakers, judicial discretionary powers allowed too many non-citizens to successfully evade deportation. A judge could exercise a great deal of discretionary powers in deciding whether an individual could remain in the country or be deported. On February 18, 1931 an even stronger piece of legislation was enacted.

> "An Act To provide for the deportation of aliens convicted and sentenced for violation of any law regulating traffic in narcotics."
>
> Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That any alien (except an addict who is not a dealer in, or peddler of, any of the narcotic drugs mentioned in this Act) who, after the enactment of this Act, shall be convicted and sentenced for violation of or conspiracy to violate any statute of the United States taxing, prohibiting, or regulating the manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, or exportation of opium, coca leaves, heroin, or any salt, derivative, or preparation of opium or coca leaves, shall be taken into custody and deported in manner provided in sections 19 and 20 of the Act of February 5, 1917, entitled 'An Act to regulate the immigration of aliens to, and the residence of aliens in, the United States.' Approved, February 18, 1931. (Act of February 18, 1931)

It seems that Congress believed that aliens convicted of opium and cocaine offenses were a special and significant source of drug abuse in America. As a result, the Act of February 18, 1931 clearly singles out these violators and provides for their deportation. Thus, any non-US citizens convicted of violating federal drug laws, in particular the Harrison Act and the Jones-Miller Act, after completing their sentences were subjected to deportation.

Since the Immigration Act of 1917, drug and immigration laws have continued to be further intertwined. Non-U.S. citizen offenders are punished sequentially by criminal and immigration laws. The immigration consequence of different criminal activities (not just narcotic violations) has been permanent deportation. Deportation has been part of the U.S. immigration policies to bar undesirable non-citizens from residing in this country.

CONCLUSION

In this paper, we have examined two cases, representative of how a certain group of drug violators, namely the Chinese, were subject to deportation by the Immigration and Drug Acts of 1917 and 1922. Chinese residing in the United States were one of the first and one of the major groups to fall victim to these laws which buttressed a clearly anti-immigrant policy on the part of the justice system.

During the past four decades, this policy has been further clarified, amended, and strengthened. The Immigrant Act of 1952 further integrated criminal law (including narcotic offenses) with immigration law. Later the Anti-Drug Abuse Act of 1988, P.L. 100-690, effective November 18, 1988 broadened the strengthened laws directed towards drug, violent, and weapon violators. The Immigration Act of 1990, P.L. 101-649, 104 Stat. 4978 expanded the categories of criminal acts which could result in deportation, reduced assistance for deported alien residents, and eliminated the provision for a judge's recommendation not to deport. Unfortunately, anti-immigrant sentiments in the United States continue to underlie legislative policy. The 1994 passage of California's Proposition 187 which proposed to ensure severe restrictions upon "alien immigrants," is evidence of this.

As this paper establishes through the analysis of two court cases, expulsion for Chinese Americans defendants appeared to be unnecessary and excessive punishment, disregarding the circumstances of the crime and the personal situation of the accused. Nevertheless, even today deportation remains

an important weapon in American criminal and immigration policies. In the 1990s, many other immigrant groups besides Chinese are affected by discriminatory criminal and immigration laws and practices.

Perhaps the most significant insight the opium cases of Charlie Gib and Lee Kee How provide is how one group of American citizens and residents can be treated so cruelly, all within the confines of American law and it's administration. From a non-legal humanities perspective, the cases of these two longtime United States residents provide some additional insights into the treatment of Chinese Americans by the justice system, and the type and quality of life of the early Chinese pioneers in America. Unfortunately, the precedence set by these cases help to perpetuate the legal tradition for American immigrants and non-citizens of "double punishment."

ENDNOTES

[1] For additional information regarding harassment laws directed towards Chinese hand laundries, see Gregory Yee Mark 1988.

[2] The field of Chinese American Studies began in the late 1960s due to three factors: 1) the emergence of publications by Chinese American historians such as Him Mark Lai in San Francisco, 2) the implementation of courses focusing on the Chinese in the United States, and 3) the establishment of Chinese historical societies nation-wide.

[3] For information on racialization in the United States, refer to Michael Omi and Howard Winant 1986.

[4] The McNeil Island Penitentiary Record is located at the National Archives—Pacific Northwest Region. There are four volumes: Vol. I - December 23, 1891 to June 26, 1909; Vol. II - July 8, 1909 to February 24, 1923; Vol. III - March 1, 1923 to March 24, 1929; and Vol. IV - March 24, 1929 to December 22, 1937.

[5] The first federal law to suppress opium use was April 1, 1909 Act entitled, "To prohibit the importation and use of opium for other than medicinal purposes."

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