

## **“Encouraged and excluded: the Chinese at the Cape a century ago”**

Karen L Harris

Department of Historical and Heritage Studies

University of Pretoria

While Victoria College was opening its doors of higher education to history students a century ago, the figurative doors of the Cape colony were being closed on a section of South African society. Nineteen-hundred-and-four marked the introduction of the Chinese Exclusion Act, a significant but relatively unknown and unresearched development in Cape colonial history. Following in the wake of the politically constrained legislation of the Immigration Act of 1902, its blatantly restrictive nature revealed the not-so-liberal and racist underside of Cape colonial politics. It also had ramifications that went beyond the purpose for which it was initially promulgated.

The 1904 Act is virtually ignored in South African history mainly because it does not accord with the black-white dichotomy of traditional historical analysis. Moreover, it deals with a cultural group which is generally disregarded due to its minority status and relatively non-participatory political profile. This paper focuses on the Chinese Exclusion Act because of its significance on three counts: first it is an important milestone in the history of the overseas Chinese in this country; second, it has important international comparative parallels in Australia (1855), New Zealand (1881), the United States of America (1882) and Canada (1885); and third, it provides revealing comment on Cape liberal politics and the nature of the British Colonial Office’s selective protectionism, despite its proclaimed “imperial philosophy of equality”. Moreover, it also ranks as one of the first overtly racist pieces of legislation introduced during the genesis of white hegemony in southern Africa.

The paper pieces together, from fragmentary evidence, the chequered history of the overseas Chinese during four relatively distinct chronological phases. It firstly discusses the initial years of encouragement during the early period of European colonial rule; in the second section, it considers the colonial furore around indenture from the late nineteenth century onwards; and then focuses on the vehement reaction to and exclusion of Chinese from the Cape which followed in the early twentieth century; which, as will be shown briefly in the fourth section, ultimately led to their being virtually ostracized throughout the entire country for the greater part of the remainder of the century.

### **Encouraged**

The sporadic and small influx of free Chinese immigrants to southern Africa dates back to the inception of the establishment of the Dutch East India Company’s (DEIC) refreshment station at the Cape in 1652. Even before the decision was taken by the DEIC’s governing body, the *Heren XVII*, to found the station, the “Remonstrance” or memorandum advocating the idea suggested that the company garden should be cultivated by

... some Chinese ... brought from Batavia; they are industrious people most of them understand gardening, and there are always

enough of them in irons.<sup>1</sup>

Within a fortnight of establishing the Cape station, the Dutch commander, Jan van Riebeeck, reiterated this sentiment in the first of many subsequent requests for Chinese labour.<sup>2</sup> He expressed a wish for some of the “industrious people who had done so much to develop Java” to help develop the Cape and that it would “not be amiss if some of the hard-working Chinese were to come here for that purpose”.<sup>3</sup> He also noted in his diary that “not one hundredth part of the suitable land could possibly be cultivated because of their [Dutch] small numbers, so that an immigration of a multitude of Chinese ... would be of service”.<sup>4</sup> Although, like the “Remonstrance”, he also referred to the possibility of using Chinese who were imprisoned in Batavia because of debts they owed the DEIC, he also made it apparent that “some married Chinese and other free *Mardijkers*<sup>5</sup> could be allowed to occupy some plots of land”.<sup>6</sup> In a letter dated 15 May 1652 to his superiors in Batavia, Van Riebeeck again made the request for free Chinese when he asked for the importation of “a hundred Chinese or other ambitious free families with a knowledge of cultivating Indian produce”.<sup>7</sup> In 1656 he referred to them as being “by nature industrious” and had, “as skills useful for the Cape, knowledge of rice- and sugar planting and the making of arak”.<sup>8</sup>

Zacharias Wagenaar, Van Riebeeck’s successor, also proposed the importation of Chinese as a solution to the labour shortage and ineptitude of the local Dutch farmers.<sup>9</sup> In 1662 he made a request for “25 or 30 *armeledigde Chinese* [impoverished Chinese] who understood agriculture and who would be equal to 50 of *ons unwillig luije boere kinkels* [our obstinate lazy farmer louts].<sup>10</sup> In 1664 he repeated his plea for “voluntary or imprisoned Chinese” who were skilled in the trades so desperately needed at the Cape – a sentiment which was reiterated at least twice by governor Simon van der Stel two and a half decades later.<sup>11</sup> However, the DEIC authorities in India to whom most of the requests

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<sup>1</sup> Remonstrance of 1649 compiled by Leendert Janzen and Matthys Proot in D. Moodie (ed.), *The record: or, a series of official papers relative to the conditions and treatment of the native tribes of South Africa*, Cape Town, 1960, pp. 2-3.

H.B. Thom (ed.) *Journal of Jan van Riebeeck*, Cape Town, 1952, I, p. 33; J.C.H. Grobler, “Die arbeidsvraagstuk aan die Kaap, 1652-1662”, MA, Universiteit van Stellenbosch, 1968, discusses Van Riebeeck’s attempts to acquire Chinese labour.

<sup>3</sup> Moodie (ed.), *The record*, p. 11; M. Robertson, “The economic development of the Cape under van Riebeeck”, *The South African Journal of Economics*, 13, 1, March 1945, pp. 7, 16.

<sup>4</sup> Thom (ed.) *Journal of Jan van Riebeeck*, I, p. 33; Robertson, “The economic development of the Cape”, p. 7.

<sup>5</sup> “*Mardijkers*” are liberated slaves or East Indians.

<sup>6</sup> Thom (ed.) *Journal of Jan van Riebeeck*, I, p. 35; Robertson, “The economic development of the Cape”, p. 7.

<sup>7</sup> Thom (ed.) *Journal of Jan van Riebeeck*, I, p. 33, fn. 5; Robertson, “The economic development of the Cape”, pp. 8, 16.

<sup>8</sup> Cape Archives Depot, (CAD) Council of Policy (C) 493 Uitgaande briewe 566-573, Van Riebeeck en Raad – Raad van Indië, 20 September 1656, as quoted by J. C. Armstrong, “The Chinese at the Cape in the Dutch East India Company Period”, paper presented at the Slave Route Conference, Cape Town, 1997, p. 7.

<sup>9</sup> W.P. C. Galt, “The Rand ‘crisis’”, *Natal University Law Review*, 1, 4, 1975, p. 191.

<sup>10</sup> Moodie (ed.), *The record*, p. 262; Armstrong, “The Chinese at the Cape”, p. 7.

<sup>11</sup> Armstrong, “The Chinese at the Cape”, pp. 7-8.

were addressed did not oblige. Instead, free Dutch burghers and slaves arrived, and so, as James Armstrong, historian and specialist on slavery at the Cape puts it, this “prefigured a different course of development for labour and race relations in the Cape”.<sup>12</sup>

The specific request for Chinese was a result of Van Riebeeck’s and his successors’ experiences of the Chinese contribution to developing the Dutch colonies in the Far East. They were acclaimed as “efficient and industrious”,<sup>13</sup> a stereotype which was to gain widespread currency throughout the colonial world a century and a half later. This coincided with the expansion of colonial economies which were particularly dependent on mining, plantation and later railway developments, as well as the adoption of indentured labour as a replacement for slave labour.<sup>14</sup> It is however important to note that in all these destinations, the favourable views were not always sustained or generally shared by the predominantly European settlers of the host countries. Throughout the colonial world Chinese immigrants “were as much welcomed as they [were later] objected to”,<sup>15</sup> a scenario which was to become apparent at the Cape Colony despite the minuscule number of Chinese present.

While no Chinese were officially imported to the Cape and free emigration of Chinese never took place on any large scale during the DEIC period, they were nevertheless present at the Cape from the early years of Dutch settlement. Most of the first Chinese formed a small part of the hundreds of unwanted criminals and political exiles of Eastern origin who were sent to the Cape by the Batavian authorities, while free Chinese individuals came ashore from passing ships or even immigrated intentionally.<sup>16</sup> Armstrong has done extensive pioneering work on the Chinese during the DEIC period using both the Rijksarchief in the Hague, as well as the Cape Archives Depot in Cape Town. Although the documentary record is “very fragmentary” with most Chinese leading “archivally unrecorded lives”, through a “mosaic-building process” he has managed to trace the presence of some of the early individuals.<sup>17</sup> The total number of Chinese who went to the Cape before 1795 is therefore not known precisely, but according to Armstrong’s data base of Chinese names and personalia, there were at least 350. He further states that there were probably never more than about 50 at any one time, including both the convicts banished from Batavia and free immigrants.<sup>18</sup>

Travellers’ journals and Cape paintings of the period depict the Chinese in a variety of small-scale trades and crafts. They were described as dealing in commodities such as tea, chinaware and eastern fabrics, with chandeling forming another profitable trade. Others

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<sup>12</sup> Ibid., p. 7.

<sup>13</sup> Thom, (ed.) *Journal of Jan van Riebeeck*, I, p. 33, fn. 5.

<sup>14</sup> D. Northrup, *Indentured labor in the age of imperialism, 1834-1920*, Cambridge, 1995, pp. 5, 10; K. Saunders, *Indentured labour in the British Empire, 1834-1920*, London, 1984, pp. iv-v; P.C.

<sup>15</sup> Campbell, *Chinese coolie emigration to countries within the British Empire*, London, 1932, p. 94. H.F. Mac Mair, *The Chinese abroad: their position and protection – a study in international law and relations*, Shanghai, 1924, p. vii.

<sup>16</sup> Armstrong, “The Chinese at the Cape”, pp. 8-9; L. H. Pineo, *Chinese diaspora in western Indian ocean*, Mauritius, 1985, p. 210; T. Huang, *The legal status of the Chinese abroad*, Taipei, 1954, p. 47.

<sup>17</sup> Armstrong, “The Chinese at the Cape”, pp. 2-4.

<sup>18</sup> Ibid., pp. 4-5.

sold fish, confectionery or cultivated produce on private plots of land, while they were also known to sell or barter fresh products from small boats to the crew of ships entering the harbour. The small eating houses run by the Chinese were also favourably reported on as being popular among sailors, soldiers and slaves, serving fried fish, rice, mutton stew, tea and coffee.<sup>19</sup> The distinct prevalence of the Chinese in these contemporary depictions can partly be ascribed to a colonial fascination with the “exotic”, as well as the Chinese status as an identifiable cultural minority. It does however also suggest that they were possibly more numerous than the archival record indicates. This relative predominance in colonial society is also due to the fact that many of the Chinese exiled to the Cape were allowed to “fend for themselves and pay a special tax” as part of their terms of punishment.<sup>20</sup> Armstrong corroborates this, but argues that this was actually a situation in which the Chinese were subject to the extortion of the DEIC officials.<sup>21</sup>

That some of these early Chinese immigrants were reasonably wealthy is evident from registers that list them as slave owners, wills which record their many possessions, as well as documents indicating their purchase of female slaves as wives.<sup>22</sup> Their prosperity is further apparent in the numerous petitions made by *freeburghers* [free citizens] specifically against Chinese competition. These resulted in at least four *plakkaten* [ordinances] which forbade Chinese participation in the sale of certain goods and services, with licences being suspended and fines imposed for disobedience.<sup>23</sup> The reaction that the Chinese elicited from the Dutch settlers is completely disproportionate to their small numbers, but emphasizes the extent to which they were regarded as unwanted outsiders by the settler community. This was clearly depicted in the *opgaaf rolle* [annual register or census] in which Chinese were listed last, indicating that they were what Armstrong calls a “kind of unassimilated appendage”.<sup>24</sup> This accords with what American historian, John Higham, terms “nativism” – a dislike for an internal community because of its foreign connections.<sup>25</sup> The irony of such xenophobia is underlined in documents which record the consistently favourable accounts of Chinese skills by DEIC officials who required Chinese to develop the colony. While it should be remembered that these conclusions are drawn from limited and biased sources, they reflect a pattern which emerges more strongly in late nineteenth and early twentieth century South Africa.

<sup>19</sup> O. F. Mentzel, *A geographical and topographical description of the Cape of Good Hope*, ii, Cape Town, 1925, pp. 91-2, 150; C. Thunberg, *Travels in the Cape of Good Hope*, Cape Town, 1986, p. 22; R. Elphick and R. Shell, “Intergroup relations: Khoikhoi, settlers, slaves and free blacks” in R. Elphick and H. Giliomee, (eds), *The shaping of South African society, 1652-1840*, Cape Town, 1989, p. 223.

<sup>20</sup> Mentzel, *A geographical and topographical description*, ii, p. 91.

<sup>21</sup> For a detailed discussion of this see Armstrong, “The Chinese at the Cape”, pp. 11-12, 21, 38.

<sup>22</sup> *Ibid.*, pp. 3, 33-42; Mentzel, *A geographical and topographical description*, ii, p. 149; Elphick and Shell, “Intergroup relations”, pp. 209, 217.

<sup>23</sup> G. C. de Wet (red.), *Suid-Afrikaanse argiefstukke: resolusies van die politieke raad*, vii, Johannesburg, 1971, pp. 308-309; K. M. Jeffreys and S.D. Naudé (reds), *Kaapse argiefstukke: Kaapse plakkaatboeke, 1707-1753*, ii, pp. 121, 172, *1754-1786*, iii, p. 101; Elphick and Shell, “Intergroup relations”, p. 223; Armstrong, “The Chinese at the Cape”, p. 37.

<sup>24</sup> Armstrong, “The Chinese at the Cape”, p. 61.

<sup>25</sup> J. Higham quoted by R. Daniels, *Asian Americans: Chinese and Japanese in the United States since 1850*, Seattle, 1988, p. 19.

This trend was evident among the subsequent British authorities at the Cape (1795-1803, 1806-1910) who also attempted to import free Chinese to assist with the development of the colony. Not unlike the Dutch, the British East India Company (BEIC) was involved in the Far East from the 1600s, both for trade and labour purposes and was therefore aware of Chinese expertise. In fact, it was the British Empire that was rated as having “above all, ... dispersed Chinese across the world”.<sup>26</sup> Yet despite numerous accounts and requests for members of this “industrious race”<sup>27</sup> and a widespread recognition of their work acumen by the officials as well as individual settlers, no large scale immigration or importation occurred. Throughout the first century of British occupation of the Cape there were traces of only small numbers of Chinese being imported on contract and arriving as individuals on an intermittent basis.<sup>28</sup> However, it was not until the early twentieth century, after the South African mineral revolution, that the British finally succeeded in importing Chinese labourers to South Africa on a large scale.

### **Indentured**

From the second half of the nineteenth century the limited immigration of free Chinese to the southern African region formed part of an international diasporic emigration of over two million people from China.<sup>29</sup> Particularly after the economic growth that followed the respective mineral discoveries in Kimberley (1870) and on the Witwatersrand (1886), small numbers of Chinese increasingly arrived as free individuals to establish or work in privately run trade and service businesses in the more urban areas of the Cape and Transvaal. During most of the nineteenth century they remained a small and relatively inconspicuous element within the two regions. However, with the launch of the campaign to introduce Chinese indentured labour to the Witwatersrand gold mines in 1902, their legal and social position changed dramatically. The subsequent course of events revealed the extreme nature of Western prejudice, anti-Sinicism and “orientalism”.

The decision to import Chinese labour to the Witwatersrand gold mines to solve the post South African War (1899-1902) “labour shortage” was as hotly debated by contemporaries, as it has been by subsequent historians. The pro- and anti-Chinese debate raged between quarters as divergent as mine magnates and trade unionists, British and Boer leaders, and Liberals and Unionists, and continued well after legislation sanctioning importation had been ratified. In the historical debate, some historians, reflecting the sentiments of the anti-lobbyists, claimed that the labour shortage had been “artificially contrived” by the mine owners who depressed African wages and exaggerated future demands for labour in order to obtain Chinese indentured labour.<sup>30</sup> The counter argument

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<sup>26</sup> A. Farrington, “Chinese materials in the India Office Library and Records” in F. Wood, *British library occasional papers: Chinese studies*, London, 1988, p. 62.

<sup>27</sup> J. Barrow, *An account of travels into the interior of southern Africa*, ii, London, 1804, pp. 430-31; Moodie, *The record*, v, pp. 16, 28; CAD Colonial Office (CO) 4227, S122: Memorial – C.B. Smith recommending Chinese immigration, 9 October 1882; G. Thompson, *Travels and adventures in southern Africa*, I, London, 1827, p. viii.

<sup>28</sup> For a detailed discussion of this see K.L. Harris, “A history of the Chinese in South Africa to 1912”, D thesis, Unisa, 1998, pp. 90-99.

<sup>29</sup> S. Chang, “The distribution and occupations of overseas Chinese”, *Geographical Review*, 58, 1, 1971, p. 92.

<sup>30</sup> Historians such as Sheila van der Horst, Robert Davies and Donald Denoon subscribe to this interpretation.

held that the decisions on “wage levels and expansion possibilities” owed less to mine owner greed and more to low grade ore, as well as a long term fall in profit. In other words, the decision to import Chinese was only part of a more fundamental crisis of accumulation in the mining industry.<sup>31</sup>

Given the inordinate problems which the Transvaal gold mines faced in procuring an adequate and constant supply of African unskilled labour, it is not surprising that even before this “labour crisis”, the mine owners had considered the alternative of importing unskilled labour from beyond Africa.<sup>32</sup> The pre-war desire to import indentured labour for the mines from elsewhere, became a decision in the immediate post-war period. As the British Empire had a legacy of indentured labour of almost a century<sup>33</sup> and because contracting labour from further afield meant longer contracts making for a more reliable and controllable workforce,<sup>34</sup> this was a viable and practicable option. The choice of Chinese, as opposed to Indian labour, had as much to do with the governments of the respective source countries, as with the experience of the indentured Indians in the sugar plantations of Natal (1860-). Of more importance than the experience afforded by the Natal indentured scheme was the direct influence that the presence of the Indian labourers had on the Transvaal scheme. Owing to white public insistence it was stipulated that the Chinese would not enter the mines on the same terms as the Indians had entered Natal.<sup>35</sup> Consequently, there was a stark contrast between the terms of the Natal legislation and the Transvaal Labour Importation Ordinance. This was arguably one of the main reasons why the Indian government refused to consider the Transvaal’s request for Indian labour for the mines.<sup>36</sup>

At the intercolonial customs union conference held in March 1903, a resolution which was disdainful of the introduction of Chinese labour, had been accepted by the representatives of the four southern African colonies and Rhodesia. Regarding the matter of a manpower shortage, the conference agreed:

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<sup>31</sup> Historians such as Alan Jeeves and Peter Richardson subscribe to this interpretation.

<sup>32</sup> The matter had for example been raised from 1896-1898. N. Levy, *The foundation of the South African cheap labour system*, London, 1982, pp. 196-7; P. Richardson, *Chinese mine labour in the Transvaal*, Hong Kong, 1982, p. 32.

<sup>33</sup> Northrup, *Indentured labor*, pp. 17, 29; C. M. Malherbe, “Indentured labour: towards an understanding of its place in the spectrum of unfree labour systems practised in South Africa”, Paper, Cape slavery and after conference, Cape Town, 1989, pp. 3, 9-12.

<sup>34</sup> F. Johnstone, *Class, race and gold*, London, 1976, p. 33.

<sup>35</sup> L. V. Praagh, (ed.), *The Transvaal and its mines*, Johannesburg, 1906, p. 533; Campbell, *Chinese coolie emigration*, pp. 171-2.

<sup>36</sup> I. Dobbie, “Chinese labour”, *MacMillan’s Magazine*, August 1906, p. 799; Lord Stanmore, “The Chinese labour ordinance”, in B. Hirson (ed.), “South Africa: The war of 1899-1902 and the Chinese labour question” Microfilm, Yorkshire, 1983, p. 7; H. Tinker, *A new system of slavery: the export of Indian labour overseas*, London, 1974, pp. 298-9

the permanent settlement in South Africa of Asiatic races would be injurious and should not be permitted; but if industrial development positively requires it, the introduction of unskilled labourers under a system of government control only, by which provision is made for indenture and repatriation at the termination thereof, should be permissible.<sup>37</sup>

In July 1903, Governor of the Transvaal, Alfred Milner, appointed a commission to investigate the labour needs of the colony. The resultant Majority Report confirmed that the labour supply was insufficient and recommended importation.<sup>38</sup> Although it was regarded as a “scam” and “a barefaced put-up job”, it led to a draft ordinance to import labour, which, after heated and prolonged debate, was passed in May 1904 as the Labour Importation Ordinance.<sup>39</sup> It was however subject to the sanction of the Imperial government which required that the white population in the Transvaal should approve the scheme.<sup>40</sup>

The leaders of the mining industry therefore launched an intensive campaign to lobby in favour of Chinese labour to ensure that the Imperial government became convinced of popular support. Under its auspices, the Labour Importation Association was created to canvass approval.<sup>41</sup> The Chinese were lauded for their “economic value”<sup>42</sup> and his virtues were extolled – in “orientalist” fashion - above those of other sources of labour:

viewed solely from a commercial point of view, Chinese labour is by far the best. The Chinamen is not turbulent like the Arab, nor is he rebellious under pressure like the Kaffir he is thrifty and economical like the Indian, but, unlike him, is not mean and hoarding, but, on occasion, can and does spend, and even give freely ... he is neat and (compared with other coolies) intelligent in his work, while for patient, steady, persevering work ... he has few equals and no superior.<sup>43</sup>

The protagonists were also well aware of the vehement opposition that could arise from local Europeans who would feel economically threatened and so stipulated that “no immigrant would be imported into this colony otherwise than as an unskilled labourer”.<sup>44</sup>

<sup>37</sup> *Parliamentary papers*, 1903, xlv, Cd 1640, “Minutes of proceedings of the South African Customs Union Conference, held at Bloemfontein, March 1903”.

<sup>38</sup> D. Denoon, “Capital and capitalists in the Transvaal in the 1890s and 1900s”, *The Historical Journal*, 23, 1, 1980, pp. 120-5; A.H. Jeeves, “The control of migratory labour on South African gold mines in the era of Kruger and Milner”, *Journal of Southern African Studies*, 2, 1, 1975, p. 9.

<sup>39</sup> *Ordinances of the Transvaal*, no. 17 of 1904, Labour Importation Ordinance.

<sup>40</sup> D. Denoon, “The Transvaal labour crisis, 1901-1906”, *Journal of African History*, viii, 3, 1967, p. 489; Levy, *The foundations of the South African cheap labour system*, p. 220.

<sup>41</sup> D. Tickin, “White labours’ attitude, 1902-1904., towards the importation of indentured Chinese labourers by the Transvaal Chamber of Mines”, *Africa Seminar: Collected papers*, University of Cape Town, i. 1978, pp. 70-1.

<sup>42</sup> Campbell, *Chinese coolie emigration*, pp. 175-6.

<sup>43</sup> P. Leys, “Chinese labour for the Rand”, *The Nineteenth Century and After*, 51, January – June 1902, pp. 183-4.

<sup>44</sup> C.K. Cooke, “Why Asiatic labour is necessary for the Rand: the facts and the figures”, *The Empire*

At the same time, however, opposition to the scheme was ruthlessly crushed by the magnates.<sup>45</sup>

The anti-Chinese lobby, on the other hand, emanated from opposing positions, with one having a blatantly “racist” agenda and the other being “humanitarian”. The opponents also represented a diverse range of people including trade unionists, politicians, clergy, businessmen, Boers and British colonists. Organizations such as the “Anti-Asiatic Importation League”, “White Labour League” and “African Labour League” rallied fervently against the proposed scheme.<sup>46</sup> One of the main concerns of the opposition was the threat the Chinese posed to the white worker. The stereotype of the Chinese as far more energetic, hard working, able and diligent was manipulated to show how they would “take the bread out of the mouths of the white man” and was construed as a potential “national danger” as they could “ruin or overrun the country”.<sup>47</sup> The anti-Chinese campaigners also emphasized how other colonies regarded the importation of Chinese as “retrograde and dangerous”, and pointed out how in

every temperate country, without exception, to which the Chinese had made their way – in the United States, in Canada, in Australia, in New Zealand – has led, after bitter experience and long agitation, to their complete or almost complete exclusion.<sup>48</sup>

The ostensibly more humanitarian opposition to the scheme focused their attention on the “unfair” restrictions set out in the draft importation legislation. They argued that

what difference there was between Chinese contract labour under this Ordinance and Negro chattel slavery as it existed in the Southern States of America, [was] all to the advantage of the Negro.<sup>49</sup>

The diverse local and British furore caused by the pending importation of Chinese, combined with the Anglo-Chinese Labour Convention of May 1904, which stipulated, among other conditions, “the proper supervision and protection of such immigrants”,<sup>50</sup> resulted in the British leaders, Transvaal colonial government and the Chamber of Mines devising regulations with a dual purpose. On the one hand they introduced “lenient conditions” to quell cries of slavery, while on the other, devised “stringent measures” to annul fears of labour intrusion.<sup>51</sup> To appease the former, a Foreign Labour Department

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*Review*, 34, November 1903, p. 366; R.K. Cope, *Comrade Bill: The life and times of W. H. Andrews*, Cape Town, n.d., p. 71.

<sup>45</sup> For a detailed discussion of this see Ticktin, “White labours’ attitude, 1902-1904”, p. 78.

<sup>46</sup> R. Forsyth and H.E.S. Freemantle, *Anti-Asiatic Importation League*, Cape Town, 1906; Campbell, *Chinese coolie emigration*, p. 175.

<sup>47</sup> Transvaal Archives Depot (TAD), Secretary of Native Affairs (SNA) 33, 1255/03, Asiatic Affairs, re Indian immigration. R.V. Loveday – T.A. Brassery, p. 33; A.W., “Yellow slavery – and white”, *Westminster Review*, clxi, 5, May 1904, p. 478.

<sup>48</sup> H. Samuel. “The Chinese labour question”, *The Contemporary Review*, lxxxv, April 1904, p. 458.

<sup>49</sup> A.W. “Yellow slavery – and white”, pp. 490-491.

<sup>50</sup> TAD: British Parliamentary Papers, Cd 1945, “Correspondence re the introduction of Chinese labour to the Transvaal”, lxii, February 1904. P. 3.

<sup>51</sup> T. Naylor, *Yellow labour: the truth about the Chinese in South Africa*, n.p., 1904, p. 6; F. D.



with a Superintendent of Labour was established to administer the scheme. Inspectors were appointed to monitor the implementation of regulations, treatment and complaints, while there were prescribed conditions for recruitment, the passage to South Africa, specific compound and ablution facilities, as well as medical attention and dietary requirements.<sup>52</sup> It was also agreed that the Emperor of China would appoint a Chinese Consul-General in Johannesburg to oversee the welfare of the emigrants.<sup>53</sup> The participation of the Chinese in the contract regulations marked a change in its policy and revealed an attempt to combat the world wide exploitation of Chinese labour which had taken place over the past four decades. This was also achieved in an increasingly hostile international environment, since countries such as the United States, Canada, and Australia had all by then implemented Chinese exclusion acts.<sup>54</sup>

To overcome the latter predominantly white artisan opposition, 17 of the 35 sections of the Labour Importation Ordinance were purely restrictive.<sup>55</sup> The labourers were to be employed only on the Witwatersrand gold fields as unskilled miners, and they were not to be employed in 55 stipulated occupations, except in unskilled positions. They were to be issued a passport and reside on the premises where they were employed, and could only leave with a permit which would be granted for periods of less than 48 hours. All labourers had to enter into a contract of service not exceeding three years, after which they had to return to their country of origin. They could not own landed property or engage in trade, while refusal to take up employment would result in immediate repatriation, while other offences were punishable by imprisonment or a fine.<sup>56</sup>

At the time it was said that “few Acts of Colonial legislation have created more sensation”. From the outset it engaged the steady opposition of the Liberal Party in the United Kingdom, resulting in an adjournment of the House of Commons to discuss the principles of the new Law which caused a temporary suspension of the Ordinance.<sup>57</sup> Once sanctioned, the Labour Importation Ordinance was to remain a persistently contentious issue both in British and local politics, and in particular during the various elections, until its termination in 1906. The net result therefore was the introduction of 63 659 Chinese indentured unskilled labourers for the mines and a heightened prejudice, throughout the country, against the Chinese.

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Chaplin, “The labour question in the Transvaal”, *The National Review*, February 1905, pp. 999-1000; Hales, “Transvaal labour difficulties”, *The Fortnightly Review*, July 1904, p. 119.

<sup>52</sup> TAD: Cd 2026 vol. 51: “Further correspondence relating to the Labour Importation Ordinance”, May 1904; Cd 2183, vol. 54: “Further correspondence re labour in the Transvaal mines”, August 1904.

<sup>53</sup> Public Record Office (PRO): Colonial Office (CO) 291/89 no. 4902/05, Chinese Consul General, 13 February 1905; Barlow Rand Archives (BRA): Herman Eckstein (HE) 252, file 136, no. 596, Eckstein and Company to Beit and Company, 17 October 1904.

<sup>54</sup> Richardson, *Chinese mine labour*, p. 35.

<sup>55</sup> Stanmore, “The Chinese labour ordinance”, p. 3; Denoon, “The Transvaal labour crisis”, p. 489.

<sup>56</sup> *Ordinances of the Transvaal*, no. 17 of 1904, Labour Importation Ordinance, section 1, p. 75; section 9, a, p. 79; section 15, p. 81; section 15, p. 81; section 18, p. 82; section 19, pp. 82-3; section 25, p. 86; section 26, p. 86; section 31, 5, p. 89; schedule 1, p. 93;

<sup>57</sup> Praagh, *The Transvaal and its mines*, p. 534.

## Excluded

The widespread political outcry against the Transvaal Chinese labour experiment ricocheted throughout Britain down to its colony in the Cape. The small and virtually invisible free Chinese community living in the more urbanised areas in the region, were propelled into the foreground of Cape “liberal” politics. This resulted in the introduction of one of the first overtly racist pieces of exclusionist legislation hitherto promulgated in southern Africa – “The Chinese Exclusion Act of 1904”.<sup>58</sup>

Cape society of the nineteenth century was ethnically and culturally diverse, both in terms of indigenous and foreign communities. In keeping with the “liberal tradition”,<sup>59</sup> of British colonial administration, the Cape Colony’s representative government, which was established in 1853, had not introduced any immigration regulations nor any limitations on foreigners.<sup>60</sup> This “constitutional non-racialism”<sup>61</sup> was in stark contrast to the three other southern African states where there was restrictive legislation which dealt directly or indirectly with “Aziatische kleurlingen”.<sup>62</sup> The non-discriminatory form of the nineteenth-century Cape constitution and policy was however not simply the outcome of philanthropic and humanitarian fervour, but rather, as historians such as Stanley Trapido and Tim Keegan have argued, the results of economic processes which underlay political developments.<sup>63</sup> Trapido emphasizes the material or common class base of Cape liberalism,<sup>64</sup> while Keegan argues this gradually led to the “narrowing of opportunities for coloured people” within Cape society.<sup>65</sup>

There are numerous reasons for the stark contrast between the Cape Colony’s apparently milder treatment of foreigners, or persons of Asian descent, in the nineteenth century. Besides factors that obtained in each of the other states, and the more generalized perception of the Cape as “more liberal” and therefore socially tolerant,<sup>66</sup> aspects such as the fledgling nature of its responsible government, the predominantly material concerns of its parliament, the absence of sophisticated party politics, the relatively uncontested elections,<sup>67</sup> and the larger number of developed urban centres and ports that influenced Cape demographics and economics positively, partly account for this contrast.

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<sup>58</sup> *Statutes of the Colony of the Cape of Good Hope*, Act 37 of 1904, The Chinese Exclusion Act.

<sup>59</sup> See P. Lewsen, “The Cape liberal tradition – myth or reality?”, *Race*, 13, 1971, pp. 65-80.

<sup>60</sup> S. Trapido, “The origins of the Cape franchise qualifications of 1853”, *Journal of African History*, v, I, 1964, p. 37; J.L. McCracken, *The Cape parliament, 1854-1910*, Oxford, 1967, pp. 62-70, 138.

<sup>61</sup> T. Keegan, *Colonial South Africa and the origins of the racial order*, Cape Town, 1996, p. 245.

<sup>62</sup> Legislation prohibiting or restricting the immigration of “races from Asia” or “Aziatische kleurlingen” was introduced in the Transvaal and Orange Free State in 1885 and Natal in 1897.

<sup>63</sup> See R. Elphick and h. Giliomee, “The origins and entrenchment of European dominance at the Cape, 1652-1840” in Elphick and h. Giliomee, *The shaping of South African society, 1652-1840*, pp. 554-555 for an earlier discussion of this.

<sup>64</sup> S. Trapido, “The ‘Friends of the Natives’: merchants, peasants and the political and ideological structure of liberalism at the Cape, 1845-1910”, in S. Marks and A. Atmore (eds), *Economy and society in pre-industrial South Africa*, London, 1980, pp. 249, 268; Trapido, “The origins of the Cape franchise”, pp. 40-41.

<sup>65</sup> Keegan, *Colonial South Africa*, p. 245.

<sup>66</sup> M. Shain, “The Jewish population and politics in the Cape Colony, 1898-1910”, MA thesis, University of South Africa, 1978, p. 8; R. A. Huttenback, *Racism and Empire: White settlers and coloured immigrants in the British self-governing colonies, 1830-1910*, New York, 1976, p. 148.

<sup>67</sup> McCracken, *The Cape parliament*, p. 105.

The changes which the early twentieth century brought to some of the above aspects goes a long way to explain the racist reaction of whites at the Cape, both in terms of public opinion and legislation, when the introduction of Chinese labour was considered for implementation in the Transvaal. After the turn of the twentieth century, the Cape Colony followed its neighbours in introducing some form of immigration legislation. It could obviously not remain the only southern African state with unrestricted access. The Cape “Immigration Act of 1902” included various restrictions on entrance into the colony, as well as measures to remove “prohibited immigrants”.<sup>68</sup> The Act was defined on similar lines as the notorious European language test or “Natal formula” which had also become a model for other British regions, such as the United States and Australia,<sup>69</sup> and therefore had the sanction of precedent. Unlike these other colonised areas, the immigration of one specific group - albeit it Chinese in the case of the United States and Australia and Indian in the case of the Natal – was not the purpose of the legislation. Rather, the enormous escalation in the arrival of immigrants<sup>70</sup> en route to the Transvaal goldfields, and later, of refugees during and after the South African War led to a gradual rise of “anti-alienism” in the Cape Colony. This was compounded by intensified economic competition and post-War recession. As historian Milton Shain argues, the alien or “undesirable immigrant”, increasingly became the “scapegoat” for the ills of Cape society.<sup>71</sup>

Of more imminent relevance for the eventual introduction of the Chinese Exclusion Act was that while the post-War Transvaal government and mining magnates were seeking sanction for Chinese labour from the Colonial Office, Cape politicians were gearing up for one of the first fully-fledged party-political contested elections, and they used this as an issue to attract popular support. This was not an unprecedented tactic. Politicians in countries such as Australia, New Zealand, Canada and the United States, had effectively used the “Chinese” as a plank in their respective political platforms.<sup>72</sup> Notions of the “other” and the “alien threat” provided powerful and emotive imagery to canvass votes. In a reinterpretation of the origins of the American Chinese Exclusion Act, historian Andrew Gyory argues along similar lines regarding political opportunism, but takes the point even further. He challenges the long held standard explanation that the national labour movement was one of the most important forces behind the introduction of the Chinese Exclusion Act. He states that “contrary to the claims of numerous scholars, most

<sup>68</sup> *Statutes of the Colony of the Cape of Good Hope*, Act no. 47 of 1902, The Immigration Act.

<sup>69</sup> E. Bradlow, “Immigration into the Union, 1910-1948”, D thesis, University of Cape Town, 1978, p. 1; *The Transvaal Leader*, 12 February 1903; R. A. Huttenback, *Gandhi in South Africa*, London, 1971, p. 210.

<sup>70</sup> *The Transvaal Leader*, 12 February 1903.

<sup>71</sup> M. Shain, “Diamonds, pogroms and undesirables – Anti-alienism and legislation in the Cape Colony, 1890-1906”, *South African Historical Journal*, 12 November 1980, pp. 17-18; Shain, “The Jewish population”, pp. 29, 32, 108-9, 150.

<sup>72</sup> C. Y. Choi, *Chinese migration and settlement in Australia*, Sydney, 1975; pp. 24-5; C. Price, “‘White’ restrictions on coloured immigration”, *Race*, vii, 3, 1966, p. 223; A. Markus, *Fear and hatred: purifying Australia and California, 1850-1901*, Sydney, 1971, p. 2; E.C. Sandmeyer, *The anti-Chinese movement in California*, Chicago, 1973; H. Chen, “Chinese immigration into the United States: An analysis of changes in immigration policy”, D thesis, The Florence Heller graduate school, 1980, p. 47.

workers evinced little interest in Chinese exclusion”, rather, the motive force behind its introduction was “national politicians who seized and manipulated the issue in an effort to gain votes”.<sup>73</sup>

Once the respective elections were over, political parties were then obliged to transform their anti-Chinese assurances into legislation. This was evident in the legislation promulgated in many overseas colonies, as well as the Transvaal and Cape Colony. These developments also had far-reaching and devastating effects on the resident Chinese communities. Gyory contends that in the context of the United States, it went beyond just the Chinese community. He believes that the Chinese Exclusion Act

reversed not only American policy, but also American tradition, changing forever the nation’s image of itself as a beacon of hope, a refuge for the poor and the oppressed the world over.<sup>74</sup>

In his view, the Chinese Exclusion Act “forged a consensus” which led to more far-reaching exclusion of other Asians in the 1900s and Europeans in the 1920s. Moreover, he argues that it set the precedent for “broader exclusion laws and fostered an atmosphere of hostility towards foreigners that would endure for generations”. In the final analysis he believes “in legitimizing racism as national policy”, it set the stage for, amongst others, state-sponsored segregation.<sup>75</sup> In the Cape, the Act also had a lingering effect on post-Union politics.

In early twentieth century Cape politics, the “Chinese question” – as it became known – was rated as a major political issue.<sup>76</sup> After being prorogued in 1902, the Cape parliament was dissolved in September 1903, making it necessary to hold elections for both the Legislative Assembly and Legislative Council. This marked the first general election at the Cape since 1898,<sup>77</sup> and in the wake of the hostilities of the South African War, it was set to be a fiercely contested campaign. The two main contenders were the Progressive Party and the erstwhile Afrikaner Bond, now known as the South African Party (SAP).<sup>78</sup> The Progressives tended to represent British urban interests, while the SAP embodied Afrikaner rural and agricultural interests. Although the SAP appeared to be the more popular, this advantage was offset by disenfranchisement of the Cape rebels by the military court.<sup>79</sup> In the aftermath of the War, both groups had to address the poor economic situation as well as reconciliation between the two white ethnic groups. It was

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<sup>73</sup> A. Gyory, *Closing the gate – race politics and the Chinese Exclusion Act*, Chapel Hill, 1998, p. 1.

<sup>74</sup> Ibid.

<sup>75</sup> Ibid., pp. 1-2.

<sup>76</sup> M.A.S. Grundlingh, *The parliament of the Cape of Good Hope, with special reference to party politics, 1872-1910*, Archives Year Book of South Africa, 1969, 2, Johannesburg, 1973, p. 294; Shain, “The Jewish population and politics”, pp. 118-120.

<sup>77</sup> McCracken, *The Cape parliament*, p. 34; Grundlingh, *The parliament of the Cape*, p. 293.

<sup>78</sup> T.R.H. Davenport, *The Afrikaner Bond: The history of a South African political party, 1880-1911*, Cape Town, 1966, pp. 244-5.

<sup>79</sup> T.R. H Davenport, *South Africa: A modern history*, Bergvlei, 1988, pp. 104-10008; Grundlingh, *The parliament of the Cape*, pp. 293-4;

within this strained and relatively fractured atmosphere that the Transvaal Chinese issue was seized upon as an innovative electoral weapon.

Even before the War was over, the rumour of the possible introduction of Chinese labour to the Transvaal mines elicited Afrikaner Bond reaction in political circles in the Cape.<sup>80</sup> And, shortly after the intercolonial customs union conference held in Bloemfontein in March 1903, where “grudging consent” had been given to a proposal for the possible importation of Asian labour, the Bond again made its opposition clear in the Legislative Assembly.<sup>81</sup> Thus when the election campaign got underway in 1903, opposition to the introduction of Chinese mine labour was already part of SAP policy, and was regarded in political rhetoric to be the “very greatest question they had got before them at the present time”.<sup>82</sup>

During electioneering the employment of Chinese was, in the first instance, presented as a threat to future generations and the ideal of developing South Africa as a “white man’s country” and the SAP pledged to resist its introduction at all costs, not only in the Transvaal, but in South Africa as a whole.<sup>83</sup> They declared that there were no guarantees which would ensure that the indentured Chinese would be confined to the Witwatersrand mines and that the controls and border vigilance which were introduced would eventually be relaxed. To substantiate this argument they alluded to the “object lesson” of their “sister- colony”, Natal, with another group of “Asiatics”, the Indians.<sup>84</sup> In the second instance, the SAP capitalized on the Chinese importation issue as a means to discredit the Progressive Party. Dubbing them as “pro-Chinese” and the “importation party”, they claimed that the Progressive leaders had financial interests in the Witwatersrand mines and as a result supported Milner and the importation scheme. They therefore claimed every vote for the Progressives was “a vote for the Chinese”.<sup>85</sup> They launched a combined attack on “mandarin, Milner and the magnates”, images of which were vividly portrayed in cartoons of the Bond cartoonists, D.C. Boonzaaier and P.C. de Wet as well as the commentary by G.H. Kingswell, editor of *The Owl*.<sup>86</sup>

Although obviously exaggerated, the SAP was not entirely wrong about the Progressive Party’s stance on the Chinese. They addressed the issue in their election campaign, but it was an “awkward problem” and their ambivalence was apparent in the cumbersome manner in which they contended with it from the outset.<sup>87</sup> Point 12 of their manifesto

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<sup>80</sup> *Cape of Good Hope: Debates in the House of Assembly*, August-November 1902, p. 581. J.A. Reeves, “Chinese labour in South Africa, 1903-1910”, MA thesis, University of the Witwatersrand, 1954, p. 156.

<sup>81</sup> Campbell, *Chinese coolie emigration*, p. 171; Reeves, “Chinese labour”, pp. 85, 156.

<sup>82</sup> *South African News*, 13 January 1904..

<sup>83</sup> *Ibid.*, 21 December 1903; *Cape Times*, 14 September 1903; *South African News*, 28 December 1903.

<sup>84</sup> *South African News*, 8, 21 December 1903; *Transvaal Leader*, 15 September 1903.

<sup>85</sup> *Transvaal Leader*, 15 September 1903, 8 January 1904; *South African News*, 8 December 1903, February 1904.

<sup>86</sup> See for example *South African News*, 12, 14 January 1904; Reeves, “Chinese labour”, pp. 157-159; I.M. Meyer, “Die Chinese arbeidersvraagstuk van die Witwatersrandse goudvelde, 1903-1910”, D tesis, Universiteit van Pretoria, 1946, p. 183; Davenport, *The Afrikaner Bond*, p. 252.

<sup>87</sup> Grundlingh, *The parliament on the Cape*, p. 295.

stated, “[o]pposition to the introduction of Asiatics in South Africa, and the adoption of practical measures to exclude them from the Colony”.<sup>88</sup> Commenting on this, historian Mauritz Grundlingh points out that if the opposition to Asiatic labour had been genuine it would not have been necessary to adopt “practical measures”.<sup>89</sup> In a biography of the leader of the Progressive Party, Leander Jameson, Chinese labour is highlighted as a particular question on which election victory depended.<sup>90</sup> Jameson had to steer warily on the issue so as not to embarrass Milner or hinder the “salvage of the water-logged mining industry”. In Jameson’s private letters to his brother he admitted that the “Chinese business” was the “very devil just at the present moment” and believed they would win the elections if it were not for the “pigtail question”.<sup>91</sup> He also privately revealed his strategy on the Chinese:

Of course they must come, and the sooner the better; but I have to continue the egg dance down here until they do arrive. ... Now I am trying to get Milner to hurry it up so that the legislation can be published before our elections. Then I can ... get my coloured bretheren [sic] to believe that we have been sincere and can help them better than the Bond in keeping [the Chinese] out of the Colony.<sup>92</sup>

The coloured and African vote was seen as an element of the electorate which could favourably tip the election result. To canvass the native vote, the Progressives avoided the actual importation and advocated local measures to exclude the Chinese from the Cape.<sup>93</sup> The SAP, on the other hand, tackled it head on warning the coloured electorate that it was certain that they would “bitterly resent the coming of Chinamen to take the bread out of their mouths.”<sup>94</sup> What percentage of the indigenous population concerned itself with the Chinese issue is, however, difficult to gauge. As regards the Chinese at the Cape, in an exceedingly rare communication, a member of the free Chinese community, W. Manshon, wrote a letter to the press on the subject of the importation of Chinese labour. He was commenting on a resolution taken at a public meeting to oppose importation:

I am proud to think, though a Chinaman by birth, that such a step has been taken, as we also contend that it would be detrimental to the social interests of the Colony as well as the labouring community, the end of which means starvation and crime. Consequently you will allow me, through the columns of your read-all-over paper to join the public of Cradock by entering my protest, together with my brother Chinamen here, against the importation of the lower class of Chinese labourers into South Africa. We also contend that it would be detrimental to our own interests as business men,

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<sup>88</sup> *Cape Times*, 14 September 1903; *Transvaal Leader*, 15 September 1903.

<sup>89</sup> Grundlingh, *The parliament on the Cape*, p. 295.

<sup>90</sup> I. Colvin, *The life of Jameson*, London, 1922, p. 226.

<sup>91</sup> *Ibid.*, p. 226-229.

<sup>92</sup> *Ibid.*, p. 230.

<sup>93</sup> *Ibid.*, p. 225.

<sup>94</sup> *South African News*, 8 December 1903, 13 January 1904.

and reflect [negatively] upon the present social positions we hold.<sup>95</sup>

Although a single letter from one region cannot be construed as representative of the views of the entire free Chinese community, this remains significant testimony, precisely because the same sentiment was expressed at the time by the free Chinese community in the Transvaal. In any case, the individual opinions expressed by the free Chinese did not alleviate the untenable conditions they were to subsequently endure.

The Cape press took up the Chinese question with enthusiasm. The two leading newspapers, *The Cape Times* and the *South African News* - Progressive and SAP organs respectively - carried detailed reports on the Chinese policies of their political parties. The *South African News* ran a public petition against the importation of Chinese which did much to raise white public awareness of the Chinese labour issue.<sup>96</sup> This must have made the small free Chinese community much more conspicuous within Cape colonial society. Not unlike their contemporaries in other overseas colonies, an Anti-Asiatic League was established in Cape Town. Here the Chinese were rated as the “greatest peril” that ever threatened the country, and one which would corrupt and demoralize the entire population ultimately dragging it down.<sup>97</sup> Petitions to the government and letters to the press revealed extreme “orientalism” and a degree of hysteria among the political active public as is evident in the following claim:

Not content with permitting every undesirable non-Britisher to compete on equal terms, in the business arena, with Britons, these mal-visioned Governments ... desire to scourge, debauch, and pollute our apparently accursed land with the pestiferous, yellow-skinned, almond-eyed sons of the Celestial Beelzebub.<sup>98</sup>

The Chinese experiment was assessed as having obsessed both its champions and opponents.<sup>99</sup> The reaction it elicited in the Cape Colony was likened only to the anti-convict agitation of 1848 – representative, impassioned and determined.<sup>100</sup> The high political profile of the Chinese question during the election campaign, the marginal victory of the Progressive Party and the sanctioning of Chinese labour for the Transvaal mines in May 1904, meant that it remained an important issue in the Cape Colony in the immediate post-election period.

The SAP members of the new Cape parliament made a concerted attempt to reaffirm and reassert the unanimous resolution on Chinese labour which had been adopted in the House of Assembly in July 1903.<sup>101</sup> The motion agreed to had been to inform the British parliament that they strongly opposed the importation of Chinese because they regarded it

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<sup>95</sup> *South African News*, 21 January 1904.

<sup>96</sup> See for example *South African News*, 21 January 1904.

<sup>97</sup> *Transvaal Leader*, 30 December 1903; *South African News*, 21 December 1903.

<sup>98</sup> *South African News*, 16 January 1904.

<sup>99</sup> P. Lewsen, *John X. Merriman: Paradoxical South African statesman*, Cape Town, 1982, p. 263.

<sup>100</sup> *South African News*, 21 December 1903.

<sup>101</sup> *Cape of Good Hope: Debates in the House of Assembly*, 2 July 1902, pp. 205-216.

as “prejudicial to all classes of the people of South Africa”.<sup>102</sup> After protracted debates lasting several sessions and spanning three months, the motion was withdrawn because importation of Chinese labour for the Transvaal was a settled matter.<sup>103</sup> Consequently, the opposition bench accused the Progressives of insincerity for using the Chinese question for electioneering purposes and challenged them to carry out the election pledge embodied in their manifesto. They pointed out that during the campaign the Progressives had stressed the fact that they had already drawn up a draft Bill to that effect.<sup>104</sup> This Chinese legislation became the focus of much heated debate until it was finally accepted in September 1904.

It was ultimately agreed among the members on both sides of the House that the Chinese needed to be “dealt with” in order to prevent the entry of Chinese deserters from the Transvaal mines and to exclude an influx of newcomers from China.<sup>105</sup> Throughout the readings of the draft “Chinese Exclusion Bill” there was a general consensus, although the opposition continually criticized the Progressive’s draft legislation for not being adequately restrictive and complained that the Bill was not receiving sufficient attention in view of its urgency.

The proposers of the Bill declared that they had followed the example of the United States of America and Australia by dealing with Chinese immigration by itself, rather than “mixing it up” with other “alien” immigration law. The main reason for this was that these other countries had found that “the Chinese as a race could be more easily dealt with than any other race that came under the Alien Immigration Laws”.<sup>106</sup> Moreover, the latter legislation was in need of considerable alteration which would only be attended to in the recess. Unlike the American legislation which excluded mainly Chinese labourers, the Cape Bill dealt with “all classes” of Chinese and was therefore made applicable to the “whole of the Chinese race”.<sup>107</sup> The only exceptions were those persons who could be admitted by permit.

The compilers of the Bill explained that extreme caution had been taken in formulating the requirements for a permit. Although they could have acted more stringently, they did not want to offend the Imperial Government which could then simply have overruled Cape regulations, as had been the case in Australia.<sup>108</sup> For diplomatic reasons it was agreed that permits should be granted to Chinese who were British subjects - those born in British colonies - and important government officials. Following the examples of America and Australia, it was decided also to issue permits to the Chinese population already in the Cape Colony, but to exclude newcomers.<sup>109</sup> According to the parliamentarians, the number of Chinese present in the Colony was not sizeable: since January 1904,

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<sup>102</sup> Ibid., 8 March 1903, p, 15.

<sup>103</sup> Ibid., 4 May 1904, pp. 430-434.

<sup>104</sup> Ibid., March – May 1904, pp. 15-22, 427-34; *South African News*, 8, 11, 12 January 1904.

<sup>105</sup> *Cape of Good Hope: Debates in the House of Assembly*, 4 March 1904, p. 7.

<sup>106</sup> Ibid., 2 May 1904, p. 391.

<sup>107</sup> Ibid., p. 392.

<sup>108</sup> Ibid.

<sup>109</sup> Ibid.



only 400 trading licences had been issued to Chinese traders, and it was estimated that the total population was about 1 000.<sup>110</sup>

The Bill therefore made it illegal for any Chinese to enter or reside in the Cape Colony unless he (women were not included as independent persons) had a valid Certificate of Exemption.<sup>111</sup> Within one month of the publication of the act in the Government Gazette, every Chinese (male) over the age of eighteen years who was resident or present in the Colony at the time of the passing of the Act, had to apply for a Certificate of Exemption. Each Chinese had to be registered with the Magistrate of the district in which he resided, and his certificate had to be renewed once a year. Should he take up residence in another district, he had to notify the Magistrates of both districts, and re-register in the district to which he moved.<sup>112</sup> Contravention of the provisions of the Act could lead to a fine, imprisonment or deportation to China or the country of origin. Moreover, any Chinese who was twice convicted of either assault, gambling or keeping a brothel, would be deported after expiration of the sentence passed on him. The Act also disenfranchised those Chinese who were not British subjects.<sup>113</sup>

To encumber them further, the 1904 legislation declared that all Chinese who were not British subjects and who left the country would not be permitted to re-enter, and their certificates of exemption would lapse from their date of departure.<sup>114</sup> In view of the tendency of nearly all the Chinese to return to China to fulfil filial duties, visit their ancestral villages, acquire wives, conceive children and take sons to be educated according to Chinese tradition, this proved to be an extremely stringent and discriminatory regulation.<sup>115</sup> The authorities eventually conceded this, and in 1906 the “Chinese Exclusion Act” was amended to allow holders of Certificates of Exemption to visit China and return to the Cape Colony within a prescribed period.<sup>116</sup> If they did not adhere to the period granted, they were denied re-entry.

Throughout the promulgation of the Bill, there was barely a dissenting voice about the proposed treatment of the free Chinese. The only precautionary concerns were related to obtaining the sanction of the Imperial Government. The fact of the matter was that the overseas Chinese were not protected by missionary societies, like the indigenous Africans, nor did they capture the imagination of the philanthropic or humanitarian movements in Britain. Even the missionaries within China did not reveal a very paternal attitude to their subjects. It appears that, like other aliens, and more particularly the Jews, the Chinese had become the main scapegoats for much of the post-War and post-election

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<sup>110</sup> Ibid., p. 395.

<sup>111</sup> *Statutes of the Cape of Good Hope, 1902-1906*, Act 37 of 1904, The Chinese Exclusion Act, section 3.

<sup>112</sup> Ibid., sections 6, 12 and 15.

<sup>113</sup> Ibid., sections 18, 19, 34 and 35.

<sup>114</sup> Ibid., section 33.

<sup>115</sup> Analysis of the CAD The regional representative, Department of Home Affairs, Asian Series, (IRC), 1 – 76 files 1c – 1415c.

<sup>116</sup> CAD: Government House (GH) 23/95, 228, part 1: General despatches. Bill to amend the Chinese Exclusion Act 1904; *Statutes of the Cape of Good Hope, 1902-1906*, Act 15 of 1906, Chinese Exclusion Amendment Act.

pressures. Their negative treatment accorded with the general prejudices of Western “orientalism”.

The “Chinese Exclusion Bill” was accepted for the committee stage with only a single dissenting vote by Francis Oats, the Progressive member from Namaqualand.<sup>117</sup> During the debates he was particularly outraged by the claim by the leader of the SAP, John X Merriman, that the Chinese should be kept out, not because of their “vices”, but because of their “virtues”. He declared that

[t]he exclusion of any nationality, on account of its virtues would not have his support. To his mind the Bill was retrogressive and barbaric, and one which could not have been passed if China had a navy like Japan.<sup>118</sup>

Apart from this lone voice, there was no other defence of the Cape Chinese. Unlike the Indian authorities, the Chinese government took relatively little interest in its overseas subjects. The Chinese Consul-General for the British colonies in South Africa, Liu Yu Ling (Lew Yuk Lin), who later intervened on their behalf, was only appointed in late 1905.<sup>119</sup> Being subject to such blatantly discriminatory regulations together with the demographically dispersed nature of the Cape Chinese, (see Table 1) the community was itself reticent to take overt action lest it should lead to further restrictions.

**TABLE 1: DEMOGRAPHIC FIGURES OF CHINESE IN CAPE COLONY, 1908**

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

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Besides a few traces of low-key reaction from the Chinese in some regions of the Cape Colony against specific requirements and conditions of the “Chinese Exclusion Act”<sup>121</sup> the most significant consequence was that many of the regional Chinese associations which emerged in the Cape Colony after 1900, appear to have been founded as a direct result of the Act.<sup>122</sup> By 1906, the associations founded in Cape Town, Port Elizabeth, Kimberley and East London, had affiliated to form the “Cape Colony Chinese Association”. Although there are no available records about the early history of these

<sup>117</sup> C.J. Beyers (ed.), *Dictionary of South African biography*, iv, Pretoria, 1981, pp. 415-416.

<sup>118</sup> *Cape of Good Hope Debates in the House of Assembly*, 2 May 1904, p. 368.

<sup>119</sup> CAD: GH 23/89, 298: General despatches. Appointment of Mr Liu Yu Ling to act as Chinese Consul-General for the British colonies in South Africa, 19 October 1905.

<sup>120</sup> *Cape of Good Hope: Colonial Secretary’s ministerial division*, Report of the Chief Immigration Officer for the year ending 31 December 1908, p. 6.

<sup>121</sup> CAD: GH 35/63, 5: Native labour question and Chinese Exclusion Act, 1903-1906; GH 23/84, 2: General despatches.

<sup>122</sup> M. Yap and D. Man, *Colour, confusion and concessions*, Hong Kong, 1996, pp. 65, 452, fn. 74.

associations, there is a photograph taken in 1906 of the representatives of the “Cape Colony Chinese Association” which bears an inscription declaring the organization's commitment to “fight for the rights of the Chinese”.<sup>123</sup>

In the hearings of the 1908 “Select Committee on Asiatic grievances” - appointed to investigate the Chinese, Indian and European complaints about the “General Dealers’ Act” - the president of the Cape Colony Chinese Association, Hing Woo, drew attention to the various hardships they suffered as a result of the “Chinese Exclusion Act”. He also complained that it singled the Chinese out among all other aliens.<sup>124</sup> With the arrival of Consul General Liu Yu Ling, in late 1905, and his successor Liu Ngai in 1908, some of the Chinese community's “hardships and disabilities” caused by the “Chinese Exclusion Act” were channelled more effectively to the authorities concerned.<sup>125</sup> These included the permit to visit China, the renewal of licences of Chinese traders who were temporarily absent from the Colony, and intervention on behalf of Chinese wives and children, as well as deportees.<sup>126</sup> Towards the end of the 1910s, Liu also petitioned the Cape government about the extremism of the “Exclusion legislation”, particularly in view of the decreasing numbers of Chinese labourers on the Transvaal mines and the number of free Chinese in the Cape Colony. He requested that the legislation be amended to allow the admission of “educated Chinese subjects” as a means to removing the “regrettable impression that Chinese subjects of any class are undesirable under any circumstances”, an impression which had been created by the existing drastic clauses of the Exclusion Laws.<sup>127</sup>

The government replied that it was unable to hold out any hope of an alteration to the law and declared that in view of the forthcoming unification of the country, it was not in a position to make changes to the position of the Chinese.<sup>128</sup> In the parliamentary debates of 1904 on the “Chinese Exclusion Act”, it had been predicted that

when federated each state would continue to legislate for its own internal affairs, and the same laws which would apply to Cape Colony need not would [sic] apply to the Transvaal. This colony would, when federated, have still a perfect right to keep out Chinese.<sup>129</sup>

This was indeed to be the case. The first immigration legislation in the South African Union, passed in 1913, incorporated all the salient features of the provincial measures

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<sup>123</sup> Ibid., p. 68.

<sup>124</sup> *Cape of Good Hope: Votes and Proceedings of Parliament*, Appendix, vol. II, “Report of the Select Committee on Asiatic Grievances”, September 1908.

<sup>125</sup> Central Archives Depot (SAD): BEP 575 G18/54 Raadpleging en koördinasie met ander instansies: Sjinese organisasies: Vertroulik, 7 Desember 1963.

<sup>126</sup> CAD: Prime Minister’s Office, (PMO) 222, 1231/06: Chinese traders – Renewal of general dealers licences, 15 August 1907; IRC 1-76, files 1c – 1415c include letters written by Chinese Consul General.

<sup>127</sup> CAD: PMO 238, 342/08, part 2: Discrimination against Chinese in South Africa, 1, 20 July 1908, 13 June 1909.

<sup>128</sup> Ibid., 17, 22 June 1909; GH 23/117, 186: General despatches. Correspondence re disabilities under which Chinese subjects labour in Cape Colony, 1908.

<sup>129</sup> *Cape of Good Hope: Debates in the House of Assembly*, 20 April 1904, p. 320.

with the promotion of white immigration and the exclusion of Asians as the main intentions.<sup>130</sup> Moreover, the “Chinese Exclusion Act” remained on the statute books for more than two decades after the Chinese indentured system had been terminated and all the labourers repatriated. It was only removed in 1933.<sup>131</sup> Statistics clearly indicate the “restrictive efficiency of the law”: of the 1 393 Chinese registrations in 1904, 915 remained in 1908,<sup>132</sup> and in 1917 their numbers dropped to 711.<sup>133</sup> While the experiences of other colonies obviously played an important role in the compilation of the Cape Chinese Act, in many ways it proved more restrictive. Together with other discriminatory legislation introduced after Union, it had a far longer and more detrimental effect on the South African Chinese community, putting an end to their immigration for close on three-quarters of a century.<sup>134</sup> Like its American counterpart, this legislation was a classic example of how party politics could create widespread consternation completely disproportionate to the importance of the issue, with extremely dire long-term consequences.

### **Ostracized**

Early twentieth-century Cape politics and the “Chinese Exclusion Act” had an extremely detrimental impact on the Chinese community in the Colony, as well as the rest of the Union and later Republic of South Africa. They were the first people to be singled out and discriminated against in such a blatant manner, mainly because of party political expediency. By the end of the first decade of the twentieth century, the foundation for the future position of the Chinese community in South Africa had been laid. On the one hand they had become numerically insignificant and therefore politically less important, while on the other, there remained a lingering legacy of “orientalism” in the white South African collective memory which made their position in society highly untenable. Throughout the subsequent phases of constitutional and political change in the segregationist and apartheid eras, they were left inbetween in a system predicated upon race and colour, in which they were neither “white” nor “black”, and therefore virtually ostracized.

As the population figures of the Chinese community dwindled, so did their prominence in the race-based political system. In 1933 the Union government confidently repealed the “Chinese Exclusion Act” under the security of the remaining immigration legislation, in order to further the Union’s export trade with China.<sup>135</sup> This pragmatic development did not mean that the Chinese were no longer the subject of discriminatory legislation. Rather, they continued to be implicated in the racial policies. They were included with other “non-Europeans” in broad racial categories for the purposes of specific

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<sup>130</sup> *Statutes of the Union of South Africa*, Act 22 of 1913, Immigrants Regulation.

<sup>131</sup> *Statutes of the Union of South Africa*, Act 19 of 1933, Immigration Amendment Act.

<sup>132</sup> *Cape of Good Hope: Colonial Secretary’s Ministerial Division*, Report of the Chief Immigration Officer for the year ending 31 December 1908, p. 6.

<sup>133</sup> *Union of South Africa Year Book*, 1910-17, p. 192.

<sup>134</sup> *Statutes of the Republic of South Africa*, Act 53 of 1986, Matters concerning admission to and residence in the Republic Amendment.

<sup>135</sup> *Statutes of the Union of South Africa*, Act 19 of 1933, Immigration Amendment; *Cape Times*, 18 December 1980.

segregationist laws.<sup>136</sup> For example, Union legislation governing residential areas prevented the acquisition of land by Asians by any means, while municipalities and regional councils persisted in passing ordinances which denied certain rights to all communities except “whites”. As far as the franchise or any official representation was concerned, they had no vote and no voice, and therefore remained on the periphery of South African society.<sup>137</sup> At no stage was there any mention of the Chinese as a separate ethnic group, or any indication of which category they were likely to be a part.

After almost half a century in the political wilderness under segregationist policies, the assumed “non-European” status of the Chinese was eventually entrenched in racist apartheid legislation. The key to this system was the classification of the population into distinct racial categories by the “Population Registration Act” of 1950.<sup>138</sup> In effect, this Act was intended to put an end to the more fluid system in which people, such as the Chinese, could “pass” from one group into a more privileged one along class lines.<sup>139</sup> The cumbersome Act underwent eight amendments, one of which divided the “coloured category” into subcategories in order to give greater definition which included the Chinese.<sup>140</sup> Although the apartheid government’s acknowledgement of the Chinese as a separate group provided them with the means to differentiate themselves from other “non-European” groups, it did not necessarily follow that they would be dealt with on their own terms.

Another key component of the apartheid system was the “Group Areas Act”<sup>141</sup> which was to prove no less unwieldy than the classification system on which it was based. Although the authorities persisted in trying to devise some form of separation, the Chinese numbers were not large enough to warrant this, yet it became another regulation under which they were most inconsistently treated. For two decades a multitude of areas were proposed, considered and then rejected in search for a Chinese group area.<sup>142</sup> Ultimately, they were subjected to a permit system, which together with occasional displacement to accommodate exclusive areas for other groups, resulted in a dramatic increase of Chinese-born South Africans emigrating.<sup>143</sup> Permits were also the solution to the implementation of the “Separate Amenities Act”<sup>144</sup> where Chinese admission was dependent on the discretion of whites. However, racial harassment remained a cause of anxiety and humiliation, and served to highlight repression under apartheid.

From the 1970s there was an awkward change in the status of the South African Chinese. Increased international pressure on South Africa and the Republic of China on Taiwan, drew the two pariah states together. Because of increased commercial and diplomatic

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<sup>136</sup> M. Horrell, *Legislation and race relations*, Johannesburg, 1963, pp. 10-11.

<sup>137</sup> *Ibid.*, pp. 12-16; K. Kirkwood, *The Group Areas Act*, n.p., n.d., p. 4.

<sup>138</sup> *Statutes of the Union of South Africa*, Act 30 of 1950, Population Registration.

<sup>139</sup> Horrell, *Legislation and race relations*, p. 11.

<sup>140</sup> Proclamation 46 of 1959.

<sup>141</sup> *Statutes of the Union of South Africa*, Act 41 of 1950, Group Areas.

<sup>142</sup> For details on this see K.L. Harris, “Accepting the group but not the area: the South African Chinese and the Group Areas Act”, *South African Historical Journal*, 40, 1999, pp. 179-201.

<sup>143</sup> *Die Transvaler*, 2 Desember 1980; *Sunday Express*, 13 February 1983.

<sup>144</sup> *Statutes of the Union of South Africa*, Act 49 of 1953, Reservation of Separate Amenities.

contact, the apartheid government was obliged to reconsider the position of its Chinese residents.<sup>145</sup> This resulted in some government concessions which gave them certain privileges, but which often led to more inconvenience, given the insecurity relating to the dependence on bureaucracy and white forbearance. They therefore retained an interstitial identity which was perpetuated into the new South Africa.

Although ostensibly part of the new multi-cultural transforming society, the Chinese are now confronted with another dispensation which appears to be intent on excluding them. In an effort to rectify the inequalities and discriminatory impact of the apartheid system, the new democratic government has put a wide range of affirmative action policies in place. These relate to issues ranging from land distribution to equity in employment and social concerns such as health care and education. According to government, blacks, coloureds and Indians qualify as the beneficiaries of these policies, but the Chinese are excluded because they are apparently not regarded as “formally disadvantaged”.<sup>146</sup> The community argues that under apartheid they were “not white enough”, and now under the post 1994 government, they are “not black enough”.<sup>147</sup> They claim that as a community they are “just as marginalised as they were under apartheid”.<sup>148</sup> Thus, after having been one of the first racially identified groupings to be specifically discriminated against, one hundred years on, the Chinese appear to again have an ostracized position on the periphery.

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<sup>145</sup> *Rand Daily Mail*, 20 October 1980; *Sunday Tribune*, 27 August 1978.

<sup>146</sup> *Sunday Independent*, 1 August 1999; 2000; The Chinese Association – Gauteng: Newsletters, August 2000; June, July, August 2002.

<sup>147</sup> *Saturday Star*, 29 January 2000.

<sup>148</sup> *Saturday Argus*, 22 January 2000.