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Living Openly and Notoriously: Sexually Nonconforming Immigrant Women Navigating Immigration Control, 1852-1920

A dissertation submitted in partial
satisfaction of the requirements for the
degree of

DOCTOR OF PHILOSOPHY
in
HISTORY
with an emphasis in LATIN
AMERICAN AND LATINO STUDIES

by

Bristol Cave-LaCoste

December 2021

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Table of Contents

ABSTRACT

Living Openly and Notoriously: Sexually Nonconforming Immigrant Women Navigating Immigration Control, 1852-1920

Living Openly and Notoriously explores the intersection of federal immigration control and state efforts to control women's sexuality in the United States. To interrogate, surveil, detain, and deport immigrant women for prostitution, officials at New York's Ellis Island, San Francisco, and the U.S.-Mexico borderlands developed new sexual policing techniques. Yet, this new federal apparatus proved ineffective to deport Asian, Mexican, and European immigrant women. *Living Openly and Notoriously* examines this disruption of sexual policing. I argue that immigrant women successfully evaded the federal apparatus by migrating covertly across municipal, state, and international borders, thus outpacing state and national officials' efforts to detain and deport them. Although collaborations between local police authorities, the courts, and citizen activists expanded the federal government's reach through what I call a coalitional state, these partnerships did not serve to control or protect immigrant women. By 1924, a comprehensive carceral system against certain sexual practices severely affected immigrant women's lives, but it did not reduce incidence of prostitution. The Bureau of Immigration's failed initiative to contain prostitution from 1852 to 1924 calls into question claims made today that

international, national, and non-profit organizations can reduce sex commerce (or what others have conflated as “human trafficking”) to protect immigrant women.

ACKNOWLEDGEMENTS

When I was young, whenever I complained about a difficult task my mom calmly told me: “you can do hard things.” This dissertation is a physical reminder of that.

This dissertation is also the product of the incredible labor of the educators who have guided me through the years. First and foremost, my advisor and dissertation chair, Dr. Grace Peña Delgado, has taught me that anything worth doing is worth doing well. She has led me through this project with strength, compassion, and more than a little cheerleading as needed.

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the moments in which I got to chant this in the streets with my fellow grads instead of writing.

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CHAPTER ONE

Introduction

In April 1920, Josefa Sánchez appeared before an immigration board of special inquiry at the El Paso line. Daily, Sánchez, a 60-year-old widow, sought permission to cross the Ciudad Juárez border to escort her granddaughter, Ana Maria, to a school in El Paso.[1] Sánchez's request was not uncommon for Mexican immigrant women. Mexican parents and guardians often escorted their children to American schools, citing better opportunities and social uncertainties stemming from the Mexican Revolution. Historically, residents scarcely perceived the national border as a boundary of separation, regularly building lives on American and Mexican sides and crossing for daily or short-term trips.[2] American officials only recently began

[1] Hearing of Josefa Sánchez, Board of Special Inquiry No. 9855, April 30, 1920, El Paso, TX, file 54281/36-P, Accession #001733-013-0335, Records of the Immigration and Naturalization Service (R.G. 85), Series A: Subject Correspondence Files, *Part 2: Mexican Immigration, 1906-1930,* National Archives and Records Administration, Washington D.C. (hereafter NARA-DC), accessed via History Vault.

[2] Julian Lim, *Porous Borders: Multiracial Migrations and the Law in the U.S.-Mexico Borderlands* (Durham: University of North Carolina Press, 2017), 11. For more on transnational lives along the U.S.-Mexico border see Grace Peña Delgado, *Making the Chinese Mexican: Global Migration, Localism, and Exclusion in the U.S.-Mexico Borderlands* (Palo Alto: Stanford University Press, 2012); Grace Peña Delgado, "Border

monitoring these daily "entry and return" crossings and sending suspicious applicants before a Special Board of Inquiry for further evaluation. On the day Sánchez attempted to cross with her granddaughter, officials selected her for additional screening. During the initial questioning, immigration inspectors learned of Sánchez's relationship history. Twenty years prior, Sánchez's husband abandoned her. Since then, and for ten years, the Ciudad Juárez resident entered three separate intimate relationships, but she never remarried. Officials treated Sánchez's behavior as a sign of questionable moral character and proceeded to ask her a series of increasingly invasive personal questions. Sánchez admitted to sexual indiscretions—cohabitation with men, fornication, and adultery—but not prostitution.[3] Most vexing to immigrant officials was Sánchez's honesty about these intimate relationships. Finally, officials asked, "Did you live with each of these... men openly and notoriously as their mistress? [D]id your friends, neighbors, and acquaintances know you as such?"

Control and Sexual Policing: White Slavery and Prostitution along the U.S.-Mexico Borderlands, 1903–1910," *Western Historical Quarterly* 43, no. 2 (2012): 157-78; Pekka Hämäläinen, *Comanche Empire* (New Haven: Yale University Press, 2008); John McKiernan-González, *Fevered Measures: Public Health and Race at the Texas -Mexico Border, 1848-1942* (Durham: Duke University Press, 2012); George J. Sánchez, *Becoming Mexican American: Ethnicity, Culture, and Identity in Chicano Los Angeles, 1900-1945* (New York: Oxford University Press, 1993).

[3] Hearing of Josefa Sánchez, page 3, Board of Special Inquiry No. 9855, April 30, 1920, El Paso, TX, file 54281/36-P, Accession #001733-013-0335, R.G. 85, Series A: Subject Correspondence Files, *Part 2: Mexican Immigration, 1906-1930,* NARA-DC.

Sánchez's concurrence was tantamount to confessing to an act of moral turpitude, an immigration crime that barred her from entering the United States.[4]

By 1920, Sánchez's experience was common for Mexican border crossers suspected of immorality. However, age, marital status, and good intentions did not shield Sánchez from the scrutiny of immigration officials. At sixty years old, widowed, and seeking only daytime entry to El Paso to escort her granddaughter to school, Sánchez seemed an unlikely target of U.S. immigration officials looking to prohibit the entry of allegedly immoral women into the United States. Yet by 1920, decades after national authorities wrested immigration regulation from individual state control, federal-level laws passed in 1875, 1903, 1907, 1910, and 1917 furnished American immigration officials with the administrative architecture to prevent women with an array of sexual pasts from entering the United States. Laws that targeted immigrant women as morally unsuitable border crossers vastly expanded federal authority to exclude and deport immigrants. Since 1875, women like Sánchez navigated an immigration system that scrutinized people's everyday actions to uncover details that could justify an immigrant's exclusion or expulsion from the United States.

[4] The board declared the 13-year-old student Ana María Múñoz to be "especially meritorious" and admitted her, but permanently excluded her grandmother, Josefa Sánchez, for a confession of moral turpitude based on a past of "open and notorious fornication with at least three men in Mexico."

This dissertation, "Living Openly and Notoriously: Sexually Nonconforming Women Navigating Immigration Control, 1852-1920," explores why U.S. immigration control constructed a policing structure and a legal justification to monitor, exclude, and deport women based on sexuality. Critically, this work examines resistance strategies deployed by immigrant women to defy official exclusion and expulsion. By tracing the development of state-level and federal-level immigration control over women's sexuality across multiple geographies, my project asks 1) what is the relationship between the police power of states, elite citizens, and early federal immigration control in regulating women's bodies and their sexuality; 2) why did immigrant women resist attacks on their personhood by local police, and use migration strategies to reassert themselves as rightful immigrants; and 3) what do the conflicts and realities of prostitution and sexual policing in the early twentieth-century offer to contemporary discourse and activism concerning sex work and consent in the United States and internationally?[5] "Living Openly and Notoriously" argues that the federal state policed immigrant women through antiprostitution measures because sex-based charges provided a flexible means of rejecting immigrants, especially poor and non-white women.

[5] This study uses the term "prostitution" as a historical and legal category, aware that sex work is the proper contemporary term. Although the late nineteenth and early twentieth-century targeted sex commerce through brothels and organized criminal networks, the broad application of the law included many forms of sexual intimacy that may not have involved money or compensation and that the accused would not have conceptualized as labor. Therefore, "sex work" serves as an inadequate term for this period.

The apparatus built by federal administrative control to bar, surveil, and deport immigrant women for prostitution began with the 1875 Page Act and culminated in a sophisticated disciplinary system with the 1907 Immigration Act and 1910 Mann Act. Together, these laws encouraged the deportation and indefinite exclusion of any immigrant found working as a prostitute once in the United States.[6] Immigration control's authority and administrative reach ballooned in scope as policy after policy proved inadequate for effectively deterring the movements and work of immigrant prostitutes. Immigration laws barring immigrants accused of prostitution did not stand alone but overlapped with a variety of regulatory measures which classified certain immigrants as undesirable based on race, class, ability status, criminal record, political affiliation, and other identifiers. Yet, the state's means to determine something as nebulous and socially constructed as a sexual character required elastic and invasive forms of state policing. Through trial and error, federal immigration agents attempted to construct sexual character using interrogation, visual inspection, and expanding what constituted prostitution or sexual immorality.

[6] As a general outline of sexual policing immigration laws discussed in this dissertation: the 1875 Page Act excluded suspected prostitutes from entering the United States, mostly enforced against Chinese applicants. The 1903 Immigration Act added procurers and other accomplices to the list of excludable people. The 1907 Immigration Act made prostitution in the first three years of living in the United States a deportable offense. A 1910 amendment to the law made any immigrant prostitute deportable for post-entry prostitution. The 1910 Mann Act also criminalized interstate transit for immigrant and non-immigrant prostitutes by outlawing the transportation of women across state lines for immoral purposes, including non-commercial sexual encounters.

Community members, especially activists agitated by alleged white slavery (forced prostitution of white women), joined in policing efforts and expanded the state's access to women well beyond immigration stations. A vigilance-oriented mindset, derived from police powers traditionally held locally by states, inspired federal agents and the public to more aggressively punish or exclude immigrants on moral and sexual grounds at borders, inside the United States, and internationally. Yet many immigrant women rejected their classification as morally deviant or their treatment as supposed victims of white slavery. This dissertation considers how state policing victimized immigrant women and motivated them to reassert autonomy through their sexual activities, personal relationships, and migrations both within and beyond the state's watchful eye.

My research focuses on processes developed at immigration stations in San Francisco, New York, and the U.S.-Mexico border, where the harrowing entry process punished women for concealing or speaking openly about their past lives. The threat of sexual harassment, stigma, or exclusion deterred some immigrants from even attempting to immigrate, especially Chinese women, who faced the most rigorous interrogations and strictest regulations.[7] Yet, women's lives did not end after enduring the entry process. State surveillance over them spilled into cities and small towns across the United States, inviting immigration bureaucracy to ally with local

[7] George Peffer, *If They Don't Bring Their Women Here: Chinese Female Immigration before Exclusion,* (Champaign-Urbana, IL: University of Illinois Press, 1999), chapter 4: "The Hong Kong Consuls: Erecting Barriers," 43-56.

police and private organizations. By including multiple border sites, local police and courts, and other local cultural institutions ranging from citizen action groups and pseudo-scientific organizations to detention homes and prisons, my work identifies immigrant women's interactions with state power as less of a temporary encounter than a persistent mode of conflict.

The state's expansive immigration laws defined prostitution in the widest possible terms, institutionalizing state speculation about women's sexual histories and normalizing monogamy, marriage, and sexual conformity as expectations of national belonging. While many associate the early twentieth century with a sexual revolution and expanding freedoms for women, the state and public attention on women accused of prostitution and "other immoral purpose," especially immigrants, proved far from liberatory.[8] By 1907, cultural conversations about sexual hygiene, moral reform, and fears over white slavery (forced prostitution) pushed state regulation of sexuality to a greater intensity than imaginable even a generation before.[9] On par with other morals-

[8] On expanding freedoms, see Lewis L. Gould, *America in the Progressive Era, 1890-1914* (New York: Routledge, 2001); Rebecca Edwards, *New Spirits: Americans in the Gilded Age: 1865-1905* (New York: Oxford University Press, 2006), 5; Michael McGerr, *A Fierce Discontent: The Rise and Fall of the Progressive Movement in America, 1870-1920 (*New York: Free Press, 2003); Hannah Rosen, *Terror in the Heart of Freedom: Citizenship, Sexual Violence, and the Meaning of Race in the Postemancipation South* (Chapel Hill: University of North Carolina Press, 2009); Cybelle Fox, *Three Worlds of Relief: Race, Immigration, and the American Welfare State from the Progressive Era to the New Deal* (Princeton, NJ: Princeton University Press, 2012).

[9] For more on connections between monogamy, marriage, and prostitution in immigration policy, see Kerry Abrams, "Polygamy, Prostitution, and the Federalization of Immigration

focused Progressive Era legislation, local, federal, and non-state methods of battling prostitution extrapolated Victorian moral culture onto new state-building projects in the post-Reconstruction era. Despite this complex web of state control, the efforts to prohibit prostitution and eject prostitutes from the country ultimately failed insomuch as sex commerce and other non-monogamous, non-heteronormative forms of sexual expression continued.[10] Many individuals faced devastating personal consequences of this criminalization and yet challenged, evaded, and survived in the crosshairs of a reform-minded Progressive Era state exercising newly forged authority to coerce, surveil, and construct narratives of women's moral and sexual lives.

Law." *Columbia Law Review,* (Vol. 105, No. 3, 2005) 641-716; Jessica Pliley, *Policing Sexuality: The Mann Act and the Making of the F.B.I.* (Cambridge: Harvard University Press, 2014), 4-5. For more on white slavery and policing, see Mark Thomas Connelly, *The Response to Prostitution In the Progressive Era* (Chapel Hill: University of North Carolina Press, 1980); Allan Brandt, *No Magic Bullet: A Social History of Venereal Disease in the United States since 1880* (New York: Oxford University Press, 1987); David Pivar, *Purity and Hygiene: Women, Prostitution, and the "American Plan," 1900-1930* (Westport, CT: Greenwood Press, 2002); Ruth Rosen, *The Lost Sisterhood: Prostitution in America, 1900-1918* (Baltimore, MD: Johns Hopkins University Press, 1982).

[10] This dissertation relies on queer theory's critique of heterosexuality as constructed, unstable, and externally enforced. Heteronormativity in this context does not refer only to same-sex relationships but to any intimacy seen as antithetical to a community-set ideal. In the late-nineteenth and early twentieth century, this meant acceptable heterosexuality was also within legal marriage, monogamous or publicly appearing as such, and privileging reproduction over individual pleasure as a motivation for sex. For more on the hierarchies within heteronormativity, see Eithne Luibhéid's *Pregnant on Arrival: Making the Illegal Immigrant* (Minneapolis: University of Minnesota Press, 2013), 4.

Progressive-Era maneuvers against immigrant prostitutes relied on resilient systems of local policing and morals control that enforced geographic and ideological borders. Most simply, police powers allowed states to maintain public order through the everyday management and punishment of people in ways the Constitution, and therefore federal authority, could not. Police powers drew from English Common Laws, which colonies and later states applied broadly toward individuals deemed threatening to public order or *salus populi*, "the people's welfare."[11] This type of policing sought efficiency more than legitimacy, treating policed persons as imminent threats to support rapid rather than fair state action.[12] The reliance on "common good," though never democratically determined, enlisted citizen support from concerned parents and church groups to regiment everyday life in bodily, and sometimes in mundane ways, by regulating movements, resources, and moral behaviors.[13] Many laws appeared innocuous but could be covertly applied to many people with little recourse. As early as the 1830s, police powers justified morals

[11] William Novak, *The People's Welfare: Law and Regulation in Nineteenth Century America* (Chapel Hill: University of North Carolina Press, 1996), 9.

[12] Markus Dubber, *The Police Power: Patriarchy and the Foundations of American Government* (New York: Columbia University Press, 2005), 83. Dubber writes, "The power to police seeks efficiency, not legitimacy. Patriarchy's concern for the welfare of the state, a concern that expresses itself positively and negatively, in the correction of inferior members of the state household as well as in its protection against threats."

[13] Novak, *The People's Welfare*, 4; Rosen, *Terror in the Heart of Freedom,* 6; Gary Gerstle, *Liberty, and Coercion: The Paradox of American Government from the Founding to the Present* (Princeton, NJ: Princeton University Press, 2015), 11.

policing within this community censure, seeking to punish sexual indiscretions, sexual commerce, or obscene press, among other vices.[14] Local laws favored the imprisonment or expulsion of "vagrant" men and women, as well as migrants or foreign immigrants or even indigenous people deemed a drain on a local community's resources.[15] The interrelated use of charges of prostitution, vagrancy, and public nuisance against citizens and immigrants alike signaled state anxiety over unsanctioned free movement, one of the few tools available to the poor, immigrants, and free people of color.[16] For women, claims of their vagrancy, poverty, or mental

[14] Helen Lefkowitz Horowitz, *Rereading Sex: Battles Over Sexual Knowledge and Suppression in Nineteenth-Century America* (New York: Vintage, 2003), 36; Novak, *The People's Welfare,* 163-170.

[15] Hidetaka Hirota, *Expelling the Poor: Atlantic Seaboard States and the Nineteenth-Century Origins of American Immigration Policy* (New York: Oxford University Press, 2017), 6; Kunal M. Parker, *Making Foreigners: Immigration and Citizenship Law in America, 1600-2000* (Cambridge: Cambridge University Press, 2015), 86. According to Parker, the legal and financial incentives for expelling foreigners from a local community were so great that in the 1830s and 1840s that some locales attempted to pass off native-born paupers as foreigners, in some cases resulting in deportation to a foreign European country. This "passing the buck" method further motivated the shift from local to state management of immigration. Daniel Kanstroom, *Deportation Nation: Outsiders in American History* (Cambridge, MA: Harvard University Press, 2010), 63-70 argues that early expulsions of Native Americans, notably the Trail of Tears made through illegal executive order, provides another example of state and federal efforts to expel rather than contain outsiders.

[16] Andrew Diemer, *The Politics of Black Citizenship: Free African Americans in the Mid-Atlantic Borderland, 1817-1863* (Athens, GA: University of Georgia Press, 2016), 6; Hirota, *Expelling the Poor,* 36; Parker, *Making Foreigners,* 137.

incapacity often included punishment for or control over sexual behavior.[17] Beginning in the Antebellum Period, fines, imprisonment, or expulsion by police power applied the principle of *sic utere tuo*, which condemned acts that would infringe on the property and wellbeing of neighbors, treating policing as a protection of the rights of others rather than negating the liberty of individuals.[18] Yet as the seat of state power shifted from county to state to federal, these "neighbors" became more abstract, with fewer community bonds or a sense of local responsibility that might have softened one's punishment.

Scholars of nineteenth-century police power agree that the laws targeted individuals who were poor, non-white, female, vagrant, and foreign. Historians of the American state, however, offer different reasons *why* these became salient categories for state policing.[19] Gary Gerstle argued police power offered a flexible counterbalance to limited federal power as bound by the constitution.[20] William Novak emphasized the local government's concern with protecting a "common good," partly because of social pressure and demonstrating governing legitimacy.[21] Markus Dubber argued that ancient Greek patriarchal beliefs about managing the

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[17] Novak, *The People's Welfare,* 163-170.

[18] Novak, *The People's Welfare,* 34.

[19] Dubber, *The Police Power,* 9; Hirota, *Expelling the Poor,* 130; Novak, *The People's Welfare,* 16-17; Parker, *Making Foreigners,* 5; Barbara Welke, *Law and the Borders of Belonging in the Long Nineteenth Century United States* (New York: Cambridge University Press, 2010), 3.

[20] Gerstle, *Liberty and Coercion,* 4.

[21] Novak, *The People's Welfare,* 9.

state as a hierarchical family formed the basis for American police power, exercising control primarily over non-elite and non-male denizens.[22] On the other hand, scholars of U.S. immigration point out that fear of outsiders and preservation of local resources stoked the use of police power, especially expulsion, toward African Americans, indigenous people, "vagrants," and immigrants.[23] These motivating factors were not mutually exclusive and often reinforced the expansive on-the-ground applications of police power. Because this type of authority remained a state and local power, regional politics and local trends influenced its use and interpretation.

Though police power remained a salient local tool, historians also recognize Reconstruction as a watershed moment for federal authority and bureaucratic expansion. Looking across a long chronology, many legal histories of police power consider deep roots and continuities in state authority to unsettle depictions of the Reconstruction state as drastically new or radical.[24] Yet the postbellum consolidation of federal authority did shift certain responsibilities away from state police power so that by the Progressive Era, middle and upper-class reform movements actively sought alliances with the expanding federal state, in addition to their local community networks, as a tool for moral transformation.[25] Thus, the police power logic of

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[22] Dubber, *The Police Power,* 80.

[23] Kanstroom, *Deportation Nation,* 63-70; Parker, *Making Foreigners,* chapter 4: "Blacks, Indians, and Other Aliens in Antebellum America," 81-115.

[24] Novak, *The People's Welfare,* 3.

[25] Campaigns that seemed too fringe, religious, or moralizing in the Gilded Age often became more plausible in the Progressive Era, especially as more bureaucratic agencies offered

enacting laws inspired by communal goals inspired federal laws that reached even further into intimate spaces to police many, especially immigrant women's moral behaviors and physical bodies.[26] Tensions between theory and enforcement of these laws left some room for policed subjects to resist or escape the arm of the state, but the case of the Bureau of Immigration also served as a justification for administrative discretion and policies that ignored due process standards in the name of expediency.[27] Greater attention to late-nineteenth-century morals policing and immigration law in the West, especially as they informed debates over Chinese immigration and eventual exclusion laws, expanded our understanding of Reconstruction and federal authority beyond the defeated South or industrializing

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pathways to enacting change. For more on state-reformer alliances, see Peggy Pascoe, *Relations of Rescue: The Search for Female Moral Authority in the American West, 1874-1939* (Oxford University Press, 1993), xvi. Pascoe's comparative study showed how reformers were most successful when demonstrating their project's benefits to the state, usually to the detriment of those living in the settlement homes: unwed mothers, Chinese prostitutes, and women leaving polygamous marriages in Utah. For more on Progressive Era alliances, see also: Edward Bristow, *Prostitution and Prejudice: The Jewish Fight Against White Slavery 1870-1939* (Schocken, 1983), 275; Brian Donovan, *White Slave Crusades: Race, Gender, and Anti-Vice Activism, 1887-1917* (Champaign, IL: University of Illinois Press, 2006); Mary E. Odem, *Delinquent Daughters: Protecting and Policing Adolescent Female Sexuality in the United States, 1885-1920* (Durham: University of North Carolina Press, 1995), 5.

[26] Susan Pearson, "A New Birth of Regulation: The State of the State after the Civil War," *The Journal of the Civil War Era* 5 (2015): 422-439.

[27] Lucy Salyer, *Laws Harsh as Tigers: Chinese Immigrants and the Shaping of Modern Immigration Law,* (Durham: University of North Carolina Press, 1995), 27.

North.[28] The intertwined history of Reconstruction, the Gilded Age, and Progressive Era should be understood as a distinct period of law in terms of immigration control, legislating morality, and policing sexuality, even as a longer and more regional view of police power offer crucial insight into *who* was policed, *how,* and *why*.

Immigration control also expanded the logic of police power into federal purview by constructing a flawed new bureaucracy focused on exclusion and expulsion of those deemed unfit for the community. Hidetaka Hirota identifies early immigration control practices as a state police power campaign waged against the poor and Irish immigrants in Massachusetts and New York in the 1840s-1860s.[29] As with early morals policing, the reasoning of protecting a "common good," this time from an imagined immoral foreign body, proved a legally generous and popular justification for legislation such as California-turned-federal Chinese Exclusion laws that protected a national rather than local body.[30] The rhetoric of protection worked in multiple directions, as California senators championed exclusion of Chinese laborers and Chinese women as a form of righteous abolition against contract labor and

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[28] Gregory P. Downs and Kate Masur, eds, *The World the Civil War Made* (Chapel Hill, NC: University of North Carolina Press, 2015), 10; Andrew Gyory, *Closing the Gate: Race, Politics, and the Chinese Exclusion Act (*Chapel Hill, NC: University of North Carolina Press, 1998), 7; Pascoe, *Relations of Rescue,* xvii; Smith, *Freedom's Frontier*, 7.

[29] Hirota, *Expelling the Poor,* 7.

[30] Hirota is more skeptical of California's prominence in the exclusion narrative, considering the California State Supreme Court's repeated rejection of state exclusion laws despite the East Coast precedents. Hirota, *Expelling the Poor,* 88-91.

prostitution, which they recast as new forms of slavery.[31] However, Stacey Smith argued in *Freedom's Frontier: California and the Struggle over Unfree Labor, Emancipation, and Reconstruction* (2013) that this concern for the freedom of Chinese workers served as a facade for nineteenth-century California's more conservative politics that repeatedly privileged propertied classes over the migratory and economic needs of non-white immigrants and residents.[32] Through immigration legislation, argues Smith, California lawmakers asserted their state's needs as central to national Reconstruction debates rather than an ideological outlier to them.[33] Class-based exemptions in the 1882 Chinese Exclusion Act made necessary political concessions to China by allowing for the continued migrations of Chinese merchants, students, diplomats, and their wives, keeping poverty and morality as key metrics even in race-based exclusion laws.[34] Mere months later, the Immigration Act of 1882

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[31] Kerry Abrams, "Polygamy, Prostitution, and the Federalization of Immigration Law," 664; Kitty Calavita, "Collisions at the Intersection of Gender, Race, and Class: Enforcing the Chinese Exclusion Laws," *Law & Society Review 40(2)* (2006): 258; Gyory, *Closing the Gate,* 24; Moon-Ho Jung, *Coolies and Cane: Race, Labor, and Sugar in the Age of Emancipation* (Baltimore: Johns Hopkins University Press, 2008), 12; D. Michael Bottoms, *An Aristocracy of Color: Race and Reconstruction in California and the West, 1850-1890* (Norman, OK: University of Oklahoma Press, 2013).

[32] Smith, *Freedom's Frontier,* 223.

[33] Smith, *Freedom's Frontier,* 208.

[34] Sucheng Chan, ed. *Entry Denied: Exclusion and the Chinese Community In America, 1882-1943,* (Philadelphia, PA: Temple University Press, 1991), 114; Erika Lee, *At America's Gates: Chinese Immigration during the Exclusion Era, 1882-1943,* (Durham, University of North Carolina Press, 2003), 4; Salyer, *Laws Harsh as Tigers,* 19. On the anti-Chinese violence and public actions that motivated exclusion laws, see: Mary Roberts Coolidge,

further barred any immigrant deemed mentally unfit or too poor to be self-sufficient, categories determined largely through bureaucratic, unilateral means.[35] Adding more complex categorizations of "deserving" and "undeserving," often opaque to the immigrants themselves, signaled the growing role of a bureaucracy to create and enforce categories for exclusion. Agents labeled race, class, and other markers of difference in ways that asserted federal sovereignty by determining an outsider's value to the nation.

Many postbellum federal projects sought to control sex or morality as a primary or secondary feature, including immigration regulation. These included the 1875 Page Act that barred Asian women from immigrating if suspected of being "imported for the purposes of prostitution" rather than free migrants and the 1873 Comstock Law that criminalized circulating obscenity in print through the U.S. mail service.[36] Gary Gerstle identified these laws as "improvisations," attempting a larger

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Chinese Immigration (New York, NY: H. Holt and Company, 1909); Kristofer Allerfeldt, *Race, Radicalism, Religion, and Restriction: Immigration in the Pacific Northwest, 1890-1924* (Westport, CT: Praeger Publishers, 2003); Jean Pfaelzer, *Driven Out: The Forgotten War Against Chinese Americans* (New York, NY: Random House, 2007).

[35] Gardner, *The Qualities of a Citizen,* 53; Hirota, *Expelling the Poor,* 5; Salyer, *Laws Harsh as Tigers,* 6.

[36] For more on the Comstock Law, see Gerstle, *Liberty and Coercion,* chapter 3: "Strategies of Liberal Rule," 89-124; Lefkowitz Horowitz, *Rereading Sex,* part IV: "Sexual Knowledge and Obscenity in New York and the Nation," 297-438. For more on legal justifications for and enforcement of the Page Act, see Abrams, "Polygamy, Prostitution, and the Federalization of the Immigration Law," 647; Kitty Calavita, "Collisions at the Intersection of Gender, Race, and Class," 252; Peffer, *If They Don't Bring Their Women Here*, 9.

moral goal through piecemeal legal channels that could constitutionally fall under federal purview, like mail distribution and international commerce.[37] Yet as such laws expanded federal power, they often exacerbated the problems they purported to solve. Chinese women continued to work as prostitutes in the United States, demonstrating the futility of the exclusionary gatekeeping model, which, if anything, made legal migration more difficult while traffickers could pay higher prices and use institutional knowledge to circumvent the process. Besides functioning under a problematic understanding of sexual morality, interrogation methods and intimidation to uncover women morally susceptible to prostitution did not account for other economic and social realities for immigrant women which might push them toward sex commerce once living in the United States.[38] The Comstock Act produced similarly lackluster results, even while routinely violating civil liberties and freedom of speech and increasing the dangers for women seeking medical information about sexual health or abortions and for male and female "sex radicals" who often served jail time for their writings about free love.[39] Federal censorship through the mail proved an ineffective

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[37] Gary Gerstle, *Liberty and Coercion: The Paradox of American Government from the Founding to the Present* (Princeton, NJ: Princeton University Press, 2015), 94

[38] Lucie Cheng Hirata's seminal work on Chinese women and prostitution in the United States also condemned Chinese patriarchal culture for enabling sex commerce more than U.S. economic conditions or immigration laws. See Lucie Cheng Hirata, "Free, Indentured, Enslaved: Chinese Prostitutes in Nineteenth-Century America." *Signs* 5, No. 1 (1979): 3-29.

[39] Nicola Kay Beisel, *Imperiled Innocents: Anthony Comstock and Family Reproduction in Victorian America* (Princeton, NJ: Princeton University Press, 1997), 5; Lefkowitz Horowitz, *Rereading Sex,* 350, 395; Janice Ruth Wood, *The Struggle for Free Speech in the United*

way to change the moral fiber of a nation, and Comstock's immense and self-appointed authority as postal inspector suggested cults of personality could drive federalization efforts with little oversight or safeguards. The Comstock Act and immigration laws focused on prostitution and rendered sexual information and sexual activities into purchasable goods policeable by the state rather than incidents evaluated locally by community members. During the same period, expanding access to legal marriage contracts also injected federal control into intimate spaces and rewarded those who complied with a very narrow framework of racially segregated Christian heterosexuality.[40] State attention to morality and sexual behavior could precede or exist beyond citizenship and legal rights, especially toward women.

Greater federal control over daily and moral life, especially for immigrants without citizenship, complicates the narrative of Reconstruction as expanding rights and autonomy. The state's more literal expansions in infrastructure and administration offered mobility for some by fostering white settler colonialism into

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*States, 1872-1915: Edward Bliss Foote, Edward Bond Foote, and anti-Comstock Operations (*New York: Routledge, 2008). In addition to the more famed legal battles between Comstock committed suicide in 1902 after her conviction under the Comstock Law.

[40] Rosen, *Terror in the Heart of Freedom*, 131; Amy Dru Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (Cambridge University Press: 1998), 57. Stanley argued the new interpretation of the contract as liberating but paradoxically constraining in practice, generated in the North but was enforced in the South after the Civil War. Stanley also linked labor contracts to forms, such as marriages, which triangulated relationships between two individuals, a worker, employer, and the state. Prostitution often also included contracts, which were considered an affront to the family and marriage even as they served economic purposes.

the West.[41] These changes also wrought violence and exploitation, including against indigenous groups residing in this region and laborers, many of them immigrants, who built infrastructure such as the railroads which enabled such settlement.[42] While constitutional amendments during Reconstruction affirmed personhood in the abstract, other federal projects constructed strict expectations for the behaviors of both citizens and immigrants as an expectation of citizenship. Reconstruction did not remedy the exclusion of Chinese naturalization.[43] Nor did legal citizenship substantially protect African Americans and immigrants from local policing measures and extralegal violence.[44] Yet, the state and residents themselves understood

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[41] Texts that emphasize geographic and technological expansion in the Reconstruction and Gilded Age periods include Edwards, *New Spirits*, 38; Michael McGerr, *A Fierce Discontent: The Rise and Fall of the Progressive Movement in America, 1870-1920 (*New York: Free Press, 2003); Richard White, *Railroaded: the Transcontinentals and the Making of Modern America* (W.W. Norton & Company, 2011).

[42] Downs and Masur, *The World the Civil War Made*, 8. The "Indian Wars" overlapped with other Civil War conflicts and employed many Union soldiers, suggesting preserving the Union meant not just ending slavery but fighting the claims of Native people to their lands and existing treaty agreements.

[43] Lee, *At America's Gates,* 38. Legislature and courts of Reconstruction and the Gilded Age affirmed women's citizenship as derived from their relationship to male family members and repeatedly treated women as anomalous persons with little to gain from individual status. Bredbenner, *A Nationality of Her Own,* 19; Nancy F. Cott, *Public Vows: A History of Marriage and the Nation* (Cambridge: Harvard University Press, 2000), 7; Linda Gordon, *Pitied but Not Entitled: Single Mothers and the History of Welfare, 1890-1935* (New York, NY: Free Press, 1994) 8.

[44] W.E.B. Du Bois, *Black Reconstruction: An Essay Toward a History of the Part Which Black Folk Played in the Attempt to Reconstruct Democracy in America, 1860-1880* (New

citizenship as more than a legal status or enfranchisement. Citizenship invited actions or acts of service that individuals could contribute to collective society rather than what they were entitled to take.[45] Sometimes, this empowered the civic participation of those otherwise disenfranchised in American politics, such as elite Chinese merchants.[46] This conception of citizenship also supported state efforts to regulate

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York: Harcourt, Brace, and Company, 1935), 550; Lisa Duggan, *Sapphic Slashers: Sex, Violence, and American Modernity* (Durham: Duke University Press, 2001), 18-20; Crystal Feimster, *Southern Horrors: Women and the Politics of Rape and Lynching* (Cambridge, MA: Harvard University Press, 2011), 39; Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863-1877* (New York: Harper Collins Publishers, 1988), 120; Rosen, *Terror in the Heart of Freedom,* 16.

[45] Mary McCune, *The Whole Wide World, Without Limits: International Relief, Gender Politics, and American Jewish Women, 1893-1930* (Detroit: Wayne State University Press, 2005), 4; Faith Rogow, *Gone to Another Meeting: The National Council of Jewish Women, 1893-1993* (University of Alabama Press, 2005), 3.

[46] Chinese merchants, especially those linked to the Six Companies, promoted economic development and respectability to be seen culturally, if not legally, as Americans and often sponsored legal battles to defend the rights of Chinese migrants barred from citizenship. See Madeline Hsu, *Dreaming of Gold, Dreaming of Home: Transnationalism and Migration Between the United States and South China, 1882-1943* (Stanford University Press: 2000), 13; Adam McKeown, *Chinese Migrant Networks and Cultural Change: Peru, Chicago, and Hawaii 1900-1936, (*Chicago: University of Chicago Press, 2001); L. Eve Armentrout Ma, *Revolutionaries, Monarchists, and Chinatowns: Chinese Politics in the Americas and the 1911 Revolution* (Honolulu, HI: University of Hawaii Press, 1990); Yucheng Qin, *The Diplomacy of Nationalism: The Six Companies and China's Policy Toward Exclusion* (Honolulu: University of Hawai'i Press, 2009)*;* Lucy Salyer, *Laws Harsh as Tigers: Chinese Immigrants and the Shaping of Modern Immigration Law,* (Durham: University of North Carolina Press, 1995), xv.

moral behavior and punish community outliers because so many equated a good citizen with a respectable, compliant citizen.

With the potential for inclusion through social rather than legal citizenship, immigrant women were expected not just to accept, but eagerly participate in moralizing reform projects as part of assimilating into American life. Most prominently, the Chinese Mission Home in San Francisco "rescued" Chinese women from prostitution but demanded they reside in the home and participate in daily Christian and domestic routines as requirements for safe harbor.[47] Social assimilation became an even more urgent expectation for survival because Chinese-born immigrant women could never attain naturalized citizenship, and even the citizenship of US-born immigrant children remained legally precarious.[48] In other areas of the country, reform homes such as Chicago's Hull House offered Americanization classes to immigrants but especially targeted women as guardians of the home, family morality, and future generations.[49] Some scholars use the concept of sexual

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[47] Pascoe, *Relations of Rescue,* 95-105.

[48] Estelle Lau, *Paper Families: Identity, Immigration Administration, and Chinese Exclusion, (*Durham: Duke University Press, 2007), 5; Nayan Shah, *Contagious Divides: Epidemics and Race in San Francisco's Chinatown,* (Berkeley: University of California Press, 2001), 13; Judy Yung, *Unbound Feet: A Social History of Chinese Women in San Francisco (*Oakland: University of California Press, 1995), 93-98.

[49] Leslie Hahner, *To Become an American: Immigrants and Americanization Campaigns of the Early Twentieth Century* (East Lansing, MI: Michigan State University Press, 2017); Natalia Molina, *Fit to be Citizens: Public Health and Race in Los Angeles, 1879-1939,* (Berkeley: University of California Press, 2006), 10; Odem, *Delinquent Daughters*, 3.

citizenship to identify how the state and society conceptualized women's citizenship status primarily by their sexual roles as wives, mothers, and sometimes victims of sexual assault.[50] Women's sexual roles and behaviors could also be a source of their criminalization and stigmatization as unfit for citizenship or residency. This dissertation primarily uses the language of belonging, exclusion, and nonconformity instead of citizenship because, so few immigrant women had access to the potential benefits of citizenship, even as they were expected to conform to American life. Belonging and assimilation were not necessarily positive outcomes for immigrant women but served as tools for surviving a system that criminalized and banished those who resisted the demands of the state and American society.

The greater emphasis on social, participatory citizenship in the late nineteenth century carved out a more prominent role for non-state groups of reformers and elite citizens who sought to collaborate in the service of local and federal morals control and sexual policing. Both morals and sexual policing utilized police powers, but in different ways. Morals policing in the Gilded Age and Progressive Era targeted alcohol, gambling, narcotics, print culture, and other forms of recreation in addition to non-marital sex, and many of these campaigns informed federal legislation.[51] Courts and police selectively and controversially interpreted morals law, influenced by varied social and political groups with a stake in prosecution (or profiting off

[50] Rosen, *Terror in the Heart of Freedom*, 10.

[51] Lefkowitz Horowitz, *Rereading Sex,*12.

negligence).[52] Immigration agents and others also conflated sexual behavior and morality in euphemistic official language like "immoral purpose" or "crimes of moral turpitude." Sexuality certainly overlapped with other vices in urban landscapes, especially by the 1910s when the social hygiene movement advocated large-scale urban vice sweeps. Yet sex and sexuality can also be understood as something policed somewhat beyond its corresponding vices of the time. Immigration agents would not systematically interrogate or exclude based on gambling or drinking habits and only selectively went after suppliers of these vices; supplying these goods was sometimes racialized but not generally considered by the state to be evidence of immutable character flaws, even if consumers of alcohol and gambling faced stigma and some considered alcoholism to be genetic.[53] Antiprostitution efforts focused almost

[52] Lefkowitz Horowitz challenges this idea of shared moral consensus through her four "sexual ways of knowing," which allowed different social groups to originate different and conflicting ideas about sexuality that coexisted. Lefkowitz Horowitz, *Rereading Sex,* 4. For more on legal justifications of morals policing, sometimes evading reason or consensus, see Dubber, *The Police Power,* 99.

[53] An exception to this general leniency and non-essentializing of drug sales and use would be in US Chinese communities, where opium use was sometimes given as a reason for tighter immigration restriction while white men often consumed it in Chinese neighborhoods. Diana Ahmad, *The Opium Debate and Chinese Exclusion Laws in the Nineteenth-Century American West* (Reno: University of Nevada Press: 2011). Chinese men also faced sexual policing outside of immigration processing, see Mary Ting Yi Lui, *The Chinatown Trunk Mystery: Murder, Miscegenation, and Other Dangerous Encounters in Turn-of-the-Century New York City* (Princeton, NJ: Princeton University Press, 2007) 11; Shah, *Stranger Intimacy,* 10.

completely on the suppliers of vice, procurers and prostitutes themselves, rather than the consumption of those services.

The assumption by legislators and activists that prostitution could be reduced but never fully abolished, and that male customers could largely not resist temptation by the sex industry or be punished for it, intersected with developing ideas about sexuality at the turn of the twentieth century. Even in the antebellum period, ideas developed amongst some sex radicals, reformers, and scientists, that sex included a set of desires, behaviors, and rituals at the core of selfhood, which spread into the mainstream by the last quarter of the nineteenth century.[54] *Sex* as an act became *sexuality*, a facet of identity.[55] With sexuality as a part of self, the quality of that sexuality–conforming or rebellious, proper or immoral–became an enduring status. Police powers had always condoned "predicting" actual activity by punishing based on status rather than behavior.[56] The burgeoning view of sexuality as an integral part of identity made sexuality more about future behaviors or desires rather than acts

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[54] Lefkowitz Horowitz, *Rereading Sex,* 251*;* Passet, *Sex Radicals and the Quest for Women's Equality,* 14. For both Lefkowitz Horowitz and Passet, wider circulation of radical press even in a time of repression made new ideas available to the public. Even when not receptive to the abolition of marriage, many were greatly interested in new ideas about the role of sex in selfhood, including political and personal equality.

[55] Michel Foucault, *The History of Sexuality, Vol. 1: An Introduction* (Vintage Books, 1978) 24. Foucault identified this shift as contributing to the obsession with sex that fueled the alleged "Repression" of the Victorian period. Victorian Americans believed that sex was such a powerful part of the being that it required constant constraint because eradication was impossible.

[56] Novak, *The People's Welfare,* 168-169.

themselves, turning "prostitute" into an even more legible and condemnable status. Laws like the federal Page Act attempted to predict sexual proclivity through surveillance and interrogation, tools anti-vice squads seldom used to raid bars and gambling dens. Perhaps because of this popular understanding of sexual immorality as innate and dangerous, antiprostitution measures lasted well beyond the Progressive Era and with less public outcry than morals policing like Prohibition and print censorship, and with more targeted impact on communities of working class and immigrant women.

Reformers, government workers, the medical community, and often working-class and immigrant communities themselves also deliberated over women's sexuality in relation to Americanness.[57] These visions supported state efforts to expediently criminalize prostitution while avoiding the reality of limited labor opportunities for almost all women under capitalism. An impractically universalized model of heteronormative, married, Christian nuclear family contributed to sex commerce as necessary work for some women.[58] Wealthy reformers acted as

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[57] On working-class families' acceptance and participation in this type of policing, see Odem, *Delinquent Daughters,* 160.

[58] Amy Dru Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (Cambridge University Press: 1998), 258; David Langum, *Crossing Over the Line: Legislating Morality and the Mann Act* (Chicago: University of Chicago Press, 2007), 19; Emma Goldman, *Anarchism and Other Essays* (New York & London: Mother Earth Publishing Association, 1911), 183-200. Unlike many of her contemporaries, Emma Goldman deftly made connections between gender, sex, and economic mobility. In "The Traffic in Women" (1910), she argued that capitalism created

auxiliary agents of the state to expand policing authority and capacity beyond previously possible under police power alone. These actions included heading voluntary citizen police forces to fight "white slavery" while cementing local political standing and operating charitable detention homes as unofficial prisons, often positioning former prostitutes in their facilities as their "wards," available for medical researchers, social workers, and as affordable laborers.[59] The multi-scalar, collaborative nature of this policing also created more complex practices of enforcing discipline and punishment than singular police figureheads could inflict. These practices were more intense because sexual indiscretions could include the physical body, the desiring mind, or just interpersonal relationships. Police power's criminalization of status rather than behavior encouraged state, national, and civilian campaigns against prostitution to target women and sexually nonconforming others within and far beyond urban brothels, associating sexual deviance with women who eschewed community expectations of employment, reproduction, and consumption regardless of whether they accepted cash for sex.[60] The state and public obsession

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"white slavery" and that all marriage was prostitution if women would need marriage for economic survival. It is also worth noting that women performed not all prostitution, and state policing against male prostitution would increase by World War I with concerns over "spreading" homosexuality. For more on state policing to enforce heteronormativity, see Margot Canaday, *The Straight State: Sexuality and Citizenship in Twentieth Century America* (Princeton, New Jersey: Princeton University Press, 2011), 15.

[59] Donovan, *White Slave Crusades,* 2; Pascoe, *Relations of Rescue*, 34.

[60] For more on urban antiprostitution campaigns, see Judith Walkowitz, *Prostitution, and Victorian Society: Women, Class, and the State* (London: Cambridge University Press, 1980);

with punishing interracial couples, immigrant women suggest the potency of sexual policing and stigma in enforcing boundaries by class, race, and nationality.[61] The state policed women's sexuality more boldly because of the enthusiasm and often volunteered resources of elite and middle-class reformers.

Efforts to regulate and punish women for sexual nonconformity, including but not limited to prostitution, relied on a specific Progressive Era assumption of

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Connelly, *The Response to Prostitution*; Brandt, *No Magic Bullet*; Pivar, *Purity and Hygiene*; Donovan, *White Slave Crusades*. However, this dissertation focuses on women, men, and gender-nonconforming people who also worked in sex commerce in the United States and faced state policing for commercial and non-commercial sex, especially by World War I. See Nayan Shah, *Stranger Intimacy: Contesting Race, Sexuality, and the Law in the North American West* (Berkeley: University of California Press, 2013) 64, 74 and Canaday, *The Straight State,* chapter 2: "'We Are Merely Concerned with the Fact of Sodomy': Managing Sexual Stigma in the World War I-Era Military, 1917-1933," 55-90.

[61] Langum, *Crossing Over the Line,* 11. Federal laws like the Mann Act applied unevenly to relationships that would contemporarily be regarded as innocuous, such as between unmarried but adult, consenting couples. This includes the most famous use of the law against boxer Jack Johnson and his white lovers. For more on how these laws policed class amongst working-class girls and women, see Elizabeth Alice Clement, *Love For Sale: Courting, Treating, and Prostitution in New York City, 1900-1945* (Chapel Hill: University of North Carolina Press, 2006), 3; Odem, *Delinquent Daughters,* 2; Peggy Pascoe, *What Comes Naturally: Miscegenation Law and the Making of Race in America* (New York, NY: Oxford University Press, 2010) 3; Kathy Peiss, *Cheap Amusements: Working Women and Leisure in Turn-of-the-Century New York* (Philadelphia: Temple University Press, 1986), 151. For more on policing women by nationality and through the immigration system, see Martha Gardner, *The Qualities of a Citizen: Women, Immigration, and Citizenship, 1870-1965* (Princeton, NJ: Princeton University Press, 2009) 3; Eithne Luibhéid, *Entry Denied: Controlling Sexuality at the Border,* (Minneapolis: University of Minnesota Press, 2002) xxii.

women's passive relationship to sex and capacity for self-improvement. Through much of the nineteenth century, medical experts and religious leaders treated women's passivity in sex as the default and opposed a masculine attitude toward sex as biologically necessary. Some women activists spoke out against women's masturbation, or the "solitary vice," suggesting that many women did not live without sexual pleasure, even if it did not come from partnered sex within marriage.[62] Over the nineteenth century, women's voices would be increasingly marginalized in the mainstream conversation about their "passionatelessness," although a vocal minority of sex radicals politicized women's sexual autonomy and sometimes forged alternative communities in pursuit of more physical and spiritual freedom.[63] Not everyone accepted righteous proscriptions about sex; as Helen Lefkowitz Horowitz suggests in *Rereading Sex: Battles Over Sexual Knowledge and Suppression in Nineteenth-Century America* (2003), women very likely circulated sexual knowledge verbally, beyond state censure or a historian's view.[64]

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[62] April Haynes, *Riotous Flesh: Women, Physiology, and the Solitary Vice in Nineteenth Century America* (Chicago: University of Chicago Press, 2015) 16; Lefkowitz Horowitz, *Rereading Sex,* 144. As Lefkowitz Horowitz explains, "Female moral reform was the movement that most explicitly and repeatedly engaged in the sexual conversation of its time. The women who supported it had to face these essential questions: does making knowledge about sexual matters public work for good or harm? Does ignorance protect women or male prerogatives?"

[63] Nancy F. Cott, "Passionlessness: An Interpretation of Victorian Sexual Ideology, 1790-1850" Signs, vol. 4, No 2 (Winter, 1978), 219-236; Joanne Passet, *Sex Radicals and the Quest for Women's Equality* (Urbana: University of Illinois Press, 2003), 1.

[64] Lefkowitz Horowitz, *Rereading Sex,* 5.

The dominant conception of sex as unpleasant for women prioritized reproductive motivations and discouraged sexual education or acknowledgment of women's bodily autonomy. It also served as a justification for the burgeoning field of gynecology, concerned primarily with addressing infant and mother mortality. Doctors first experimented on those unable to give medical consent, enslaved Black women and poor Irish immigrants, and extrapolated their research onto the white, middle-class bodies they considered normative or ideal.[65] Medical experts during the Progressive Era continued to presume access to women's bodies and made imprecise claims about women's sexual histories based on vaginal examinations at immigration stations and women's prisons.[66] By 1900, reformers called for a social hygiene approach to antiprostitution laws, aimed at punishing illicit sex as a public health measure against venereal disease, rather than a social purity model that encouraged

[65] Deirdre Cooper Owens, *Medical Bondage: Race, Gender, and the Origins of American Gynecology* (Athens: U Georgia Press, 2017), 4; Deborah Kuhn McGregor, *From Midwives to Medicine: The Birth of American Gynecology* (New Brunswick: Rutgers University Press, 1998), 141. See also Kyla Schuller, *The Biopolitics of Feeling: Race, Sex, and Science in the Nineteenth Century* (Durham: Duke University Press, 2017), 100. Medical texts considered white women's vaginas a pinnacle of a civilized and complex body by the late nineteenth century. Meanwhile, black feminists saw their own reproductive and sexual agency as a potential tool for social "uplift."

[66] Vincent J. Cannato, *American Passage: The History of Ellis Island* (New York: HarperCollins, 2009), 265; Clara Jean Weidensall, *The Mentality of the Criminal Woman: A Comparative Study of the Criminal Woman, the Working Girl, and the Efficient Working Woman, in a Series of Mental and Physical Tests* (Baltimore: Warwick & York, 1916), 324.

personal abstinence from non-marital sex.[67] Women who advanced politically and socially during this time often did so by accepting gendered ideas about women's moral propriety, sexlessness, or victimization by men, even when these ideas reinforced the policing and pathologizing of other women.[68] Medicalization empowered the state to further criminalize sexually nonconforming women, as those deemed incapable or unmotivated to change their sexual behavior entered a carceral system largely run and endorsed by privileged women. These elite women regarded the incarcerated as undeserving and even physically damaged by sexual pleasure and, as such, these forlorn women were better off incarcerated and forced to change their habits or be deported from the country altogether.

Policing sexuality served a unique function within the management of the nation-state. By the late nineteenth century, multiple liberal nation-states began to

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[67] One medical professional explained that the vaginas of prostitutes had experienced so much forced contact that they usually could not feel or absorb, becoming a "stagnant reservoir of contagion," Schuller, *The Biopolitics of Feeling,* 11. For more on the intersection of medicine and sexual policing, see Connelly, *The Response to Prostitution*; Brandt, *No Magic Bullet*; Pivar, *Purity and Hygiene.*

[68] See Pascoe, *Relations of Rescue,* xxi. In some cases, adoption of narratives about women's moral superiority or chastity were strategic for making political gains in suffrage and reform projects, while more radical groups included critiques of state and public control over women's sexuality. Donovan, *White Slave Crusades,* chapter 3 "Suffrage and Slavery: The Racial Politics of the Woman's Christian Temperance Union Purity Campaign," 39-55; Rebecca Edwards, *Angels in the Machinery: Gender in American Party Politics from the Civil War to the Progressive Era* (New York: Oxford University Press, 1997); Schuller, *The Biopolitics of Feeling.*

engage in what Michel Foucault called biopolitics, or the "management of population."[69] According to Foucault, a new conception of population signified increased state interest in reproduction as a tool for growth, i.e., that a growing, healthy population would better serve to make the nation-state powerful in relation to other nation-states. This is visible in the United States regarding immigration regulation, which sought to manage both the number and desirability of immigrants admitted. Chinese Exclusion laws made exceptions for wealthier migrants to demarcate whose money made them acceptable for membership in the "population," even as they were denied a path to naturalized citizenship and highly discouraged from bringing wives and children or forming families in the United States.[70] The state targeted prostitutes of foreign origin as threatening on multiple fronts, because they resisted the productive, reproductive, Christian family, and as a threat to American children and male residents who could be seduced away from their ideal role within the nation-state.[71] Even when historians regard sexuality-based exclusions as fringe or affecting relatively few immigrants, the very existence of this policing mechanism embodies primary state concerns at the time.

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[69] Foucault, *The History of Sexuality,* 135.

[70] Calavita, "Collisions at the Intersection of Gender, Race, and Class," 260; Hsu, *Dreaming of Gold, Dreaming of Home,* 11; Lee, *At America's Gates,* 89.

[71] Abrams, "Polygamy, Prostitution, and the Federalization of the Immigration Law," 661; Delgado, "Border Control and Sexual Policing"; Luibhéid, *Entry Denied*, 33; Pliley, *Policing Sexuality*, 34, 44, 66.

Immigration control border points served as a crucial location to policewomen as sexual subjects of the nation-state. No other state agency interacted so closely with a wide array of women, and with enough power over them to demand they reveal intimate details about sexual, familial, and employment history. Despite this significance, the copious historiography on American immigration control tends to focus uncritically on male subjects, with only a few works by Martha Gardner, Eithne Luibhéid, and Deidre Moloney focusing the gendered dimensions of border inspection at length.[72] Women faced specific obstacles during immigration that should not be ignored. As with the tenuous and relational legal status of women's citizenship, immigrant women were mainly categorized by their domestic and marital roles, with categories of exclusion such as "likely to become a public charge" challenging how they might contribute to American society.[73] Regulation did not discover so much as construct the sexually deviant woman, a process that would occur repeatedly in different contexts and especially in policing queer subjects later into the twentieth century.[74] Due to the fluidity and negotiation inherent to

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[72] Gardner, *The Qualities of a Citizen*; Luibhéid, *Entry Denied*; Diedre Moloney, *National Insecurities: Immigrants and U.S. Deportation Policy since 1882* (Durham: University of North Carolina Press, 2016).

[73] Gardner, *The Qualities of a Citizen,* 88; Donna, R. Gabaccia, *From the Other Side: Women, Gender, and Immigration Life in the U.S, 1820-1990* (Bloomington: Indiana University Press, 1995), xxi; Bredbenner, *A Nationality of Her Own,* 53.

[74] Both Canaday and Luibhéid treat regulation as a constructive exercise rather than a discovery of an essential category or characteristic. Canaday, *The Straight State,* 4; Luibhéid, *Entry Denied,* x.

constructing sexual immorality, Margot Canaday calls on historians of the state to recognize sexuality as a powerful lens because, "the history of sexual regulation works against notions of the federal state as monolithic."[75] More contemporary scholarship suggest there are ways in which sexuality, especially queer or non-normative sexual identity, can drive migration itself.[76] Historians should consider the possibility of sexually-motivated immigration in earlier times, knowing that much of the evidence for such motivations would not be visible in traditional archives. This dissertation contributes to a small but growing body of scholarship seeking to understand how women responded to state control in complex, individual, and often combative ways.

This dissertation provides a chronology of immigration laws which policed women's sexuality between 1852 and 1917. The timeline begins with the first attempted deportation of a Chinese woman for prostitution in 1852, which prompted 25 years of local and state efforts building toward the 1875 Page Act. The study closes with major changes to immigration laws in 1917, which coincided with changes in sexual policing which focused more on military bases and "charity girls" having sex with U.S. soldiers during World War I. A chronological progression within chapters illuminates how these laws build on and revised their predecessors,

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[75] Canaday, *The Straight State,* 257.

[76] Lionel Cantú and Eithne Luibhéid, *Queer Migrations: Sexuality, U.S. Citizenship, and Border Crossings* (Minneapolis, MN: University of Minnesota Press, 2005).

adapting to administrators' critiques, public pressure, and a shifting legal landscape. The long period of 1852-1917 encompasses Reconstruction, the Gilded Age, and the Progressive Era in order to critically consider the incredible transformation of federal infrastructure over this period and its effect on immigrant women. This period also encompasses the period of mass migration to the United States, which most historians date between 1880 and 1920.[77] A time of peak migration to the United States as well as peak anti-immigrant public attitudes, women accused of prostitution remained a statistical minority when compared to the millions who sought entry. Yet antiprostitution laws impacted the state's treatment of all immigrant women, and the precedents set by key legal cases like *Chy Lung v. Freedman* (1876) and *Bugajewitz v. Adams* (1913) impacted all immigrants (and, to some degree, all U.S. citizens). The state's interest in stopping immigrant prostitution also increased substantially over this period, offering an example of how the state adjusts their policies and reinterprets their role. The aggressive hunt for supposedly immoral women deserves more historical attention than it has received thus far, as it clearly mattered to those living through this time, on all sides of the issue.

[77] For more on this periodization of immigration policy, see: Roger Daniels, *Guarding the Golden Door: American Immigration Policy and Immigrants since 1882* (New York: Hill and Wang, 2004); Patrick Ettinger, *Imaginary Lines: Border Enforcement and the Origins of Undocumented Immigration, 1882-1930* (Austin: University of Texas Press, 2009); Aristide R. Zolberg, *A Nation by Design: Immigration Policy in the Fashioning of America* (Cambridge: Harvard University Press, 2006).

Yet beyond the legal and administrative pieces of this period, this study considers the interaction between state sexual policing and public antiprostitution campaigns as they collaborated to limit immigrant women's sexual and economic agency. Juxtaposing three somewhat distinct types of sources reveals how much the conversation about women's sexuality mattered in certain government and social circles, and where they collaborated as well as where their visions of control diverged sharply. Government documents from the time spoke often and rather frankly about prostitution, the desire for state interventions, and the legal limits of their power over sex. Groups of private citizens, which historians generally label as reformers, social hygiene groups, or white slavery activists, pushed state control efforts further and generated popular support for such measures. This dissertation uses "citizen groups" and "vigilance groups" to emphasize the quasi-state role of these activist organizations. Their published works and unpublished interactions with one another and government agents suggest their savvy but tenuous influence. While histories of immigrant life in the United States often focus on the impact of reformers, such as in Americanization campaigns, fewer histories of immigration bureaucracy and regulation discuss in-depth how much state agents collaborated with these private citizens.[78] Finally, this dissertation includes a great many immigration case files,

[78] More traditional immigration historiography tends to deemphasize the state, even portraying Ellis Island as an exciting or anxious rite of passage with very little reference to its role in regulation, surveillance, and in some cases exclusion. This historiography instead focuses on efforts at assimilation in tension with ethnic or cultural identity. Carl Frederick Wittke, *We Who Built America; the Saga of the Immigrant* (Cleveland: Press of Western

which provide complicated and incomplete views into how immigrant women experienced sexual policing directly. The combination of these sources allows a more robust view of antiprostitution measures in the Gilded Age and Progressive Era by avoiding a tight bureaucratic or top-down view of the messy dilemmas of sexual control.[79] It also encourages a healthy skepticism toward documents, including court

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Reserve University, 1939); Oscar Handlin, *The Uprooted: The Epic Story of the Great Migrations that Made the American People* (New York: Grosset and Dunlap, 1951), 125; John Higham, *Strangers in the Land: Patterns of American Nativism, 1860-1925* (New Brunswick, NJ: Rutgers University Press, 1955). Newer works include John Bodnar, *The Transplanted: A History of Immigration in Urban America* (Bloomington: Indiana University Press, 1985); Roger Daniels, *Coming to America: A History of Immigration and Ethnicity in American Life* (New York: Harpercollins, 1991); Matthew Jacobson, *Special Sorrows: The Diasporic Imagination of Irish, Polish, and Jewish Immigrants in the United States* (Cambridge, MA: Harvard University Press, 1995), 2; Elliott Robert Barkan, *From All Points: America's Immigrant West, 1870s-1952,* (Bloomington: Indiana University Press, 2007).

[79] The turn toward histories of the bureaucratic immigration process rather than social histories of immigrant life have offered new windows into state power and the literal processes of enumeration, surveillance, and dehumanization that have so shaped immigration in the United States. Tools like photography, passports, and modern medical examinations should not be read as simply convenient and politically neutral in the service of immigration regulation. With such a copious paper trail available, it can become easier to humanize the bureaucrats and obscure or flatly victimize immigrants themselves, even case files give an inherently limited view of interactions based on a state perspective. A less critical interpretation of medical technology, public health, and immigration can be found in Michael LeMay, *Doctors at the Borders: Immigration and the Rise of Public Health* (Santa Barbara: Praeger, 2015). More influential studies have shown public health's oppressive results regardless of doctors' or policy makers' intent; see Howard Markel and Alexandra Minna Stern, "The Foreignness of Germs: The Persistent Association of Immigrants and Disease in

and interrogation transcripts, which purport to be truthful and yet cannot be taken at face value. Documents beyond those produced by the state give necessary insight to how the state operationalized their power and how citizens and immigrant women experienced their actions.

This project also explores how immigration bureaucracy developed and functioned within a local context by studying multiple significant entry sites, primarily San Francisco, New York City, and the U.S.-Mexico border. Each location, and the communication between them by officials, reveals how the Bureau of Immigration faced different challenges to their authority. In San Francisco, the high number of Chinese immigrants, and local anti-Chinese politics, encouraged officials to test the limits of laws and operate with a default assumption that Chinese women immigrated as prostitutes. The high volume of immigration through New York's Ellis Island demanded more streamlined process for observation and fewer women were excluded. The city's local police, undercover investigators, and prominent philanthropists with diverse opinions about which women to control inserted themselves into the discourse on immigration regulation as an antiprostitution measure. At the U.S.-Mexico border many women migrated independently, without

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American Society." *The Milbank Quarterly* 80, no. 4 (2002): 757-88; Stern, "Buildings, Boundaries, and Blood: Medicalization and Nation-Building on the U.S.-Mexico Border, 1910-1930." *The Hispanic American Historical Review* 79, no. 1 (1999): 41-81; Nayan Shah, *Contagious Divides: Epidemics and Race in San Francisco's Chinatown,* (Berkeley: University of California Press, 2001), 13; Molina, *Fit to be Citizens,* 2.

the surveillance of steamships and with many border checkpoints to move between.[80] This challenged the Bureau of Immigration further, as they adjusted to the reality that immigrant prostitutes could outwit the border entry process and continue migrating domestically and internationally as they saw fit. This contestation of state power supports the argument made by Jeremy Adelman and Stephen Aron, that local groups in the U.S.-Mexico borderlands region often dominated over state power because of local knowledge and the ability to move between two nation-states.[81] While some immigration scholarship uses cases from different locations interchangeably, assuming a national cohesion to immigration policy, this dissertation focuses on how such cohesion developed over time through interstation communication, policy directives, and efforts to apprehend specific women who moved around the country. Moving beyond a comparison methodology also accounts for the disparate sources available from this history, as different immigration stations produced disparate records, some of which have since been destroyed by natural disaster or the Immigration and Naturalization Service.[82]

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[80] Delgado, "Border Control and Sexual Policing," 162.

[81] Jeremy Adelman and Stephen Aron, "From Borderlands to Borders: Empires, Nation-States, and the Peoples in between in North American History," *The American Historical Review,* 104 No. 3 (June 1999), 816.

[82] The vast archives of the Bureau of Immigration in RG 85 include only a fraction of the total case files generated during this period. Angel Island and Ellis Island each experienced their own record-destroying fires, Ellis Island most famously in 1897 and Angel Island in 1940. On Ellis Island: Cannato, *American Passage,* 108; Victor Safford, *Immigration Problems; Personal Experiences of an Official* (New York: Dodd, Mead, and Company,

Studying immigration policy at a national level through multiple regions also illuminates the pivotal role of race in sexual policing. State policies never evaluated women based on a single standard of criteria; stereotypes about the links between hypersexuality and non-white women encouraged immigration officials to act more boldly in cases involving Chinese and Mexican women.[83] Racialized media about Jewish women as victims of an international white slavery trafficking ring, allegedly run by Jewish men, served as justification for more aggressive deportation and international collaboration.[84] Race is not always clearly demarcated in the records available from this time period: in immigration case files, debates over whether to mark Jewish immigrants as Jewish as a faith, Hebrew as an ethnic affiliation, or by nationality alone makes it difficult to see which women were policed differently as Jewish and perhaps non-white amongst other European immigrants.[85] Records of

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1925), 215. On Angel Island: Lee and Yung, *Angel Island,* 17. The Immigration and Naturalization Service also destroyed many records in the 1950s and 1960s, including Board of Special Inquiry transcripts for Ellis Island which might have illuminated more about what exact questions were asked of immigrating women.

[83] Gardner, *Qualities of a Citizen,* 9; Moloney, *National Insecurities,* 4.

[84] For more on the international dimensions of the white slavery response, see Pliley, *Policing Sexuality,* 2-4; Grace Peña Delgado, "The Commerce (Clause) in Sex in the Life of Lucille de Saint-André," in *Intimate States: Gender, Sexuality, and Governance in Modern U.S. History,* ed. Nancy Cott, Margot Canaday, and Robert Self (Chicago: University of Chicago Press, 2021), 85-109; Donna Guy, *Sex and Danger in Buenos Aires: Prostitution, Family, and Nation in Argentina* (Lincoln, NE: University of Nebraska Press, 2015).

[85] For more on how Jewish and other European immigrants were included and excluded from whiteness, see: Bodnar, *The Transplanted;* Daniels, *Coming to America*; Eric Goldstein, *The Price of Whiteness: Jews, Race, and American Identity* (Princeton NJ: Princeton University

Chinese women arriving in San Francisco exist far outweigh any other demographic of women, because they faced the most rigorous entry requirements as Chinese immigrants and because of laws since the 1875 Page Act which flagged Chinese women as likely imported for prostitution rather than migrating freely.[86] This dissertation focuses heavily on San Francisco and Chinese women as the first and most severely impacted by sexual policing policies, including interrogation, exclusion, and deportation, usually first tested on them.

Historians of the white slave panic have evaluated the role of race from many angles. Scholars including Brian Donovan and Grace Peña Delgado argue that the specter of sexual slavery carried discursive and legal connections to the history of Black enslavement in the United States, which activists used to grow their ranks as an abolitionist movement requiring urgent government intervention.[87] In this vein, "white slavery" constructed whiteness as a racial category defined by sexual propriety and victimhood (often by an immigrant or non-white male procurer).[88] Many fictional

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Press, 2006); Thomas A. Guglielmo, *White On Arrival: Italians, Race, Color, and Power in Chicago, 1890-1945* (New York: Oxford University Press, 2003) 6; Matthew Jacobson, *Special Sorrows.*

[86] Abrams, "Polygamy, Prostitution, and the Federalization of Immigration Law," 703; Peffer, *If They Don't Bring Their Women Here,* xviii.

[87] Delgado, "The Commerce (Clause) in Sex," 98; Donovan, *White Slave Crusades*, 3; Micki McElya, "The White Slave: American Girlhood, Race, and Memory at the Turn of the Century" in *Child Slavery before and After Emancipation: An Argument for Child-Centered Slavery Studies,* ed. Anna Mae Duane (New York: Cambridge University Press, 2017), 83.

[88] McElya, "The White Slave," 87; Pliley, *Policing Sexuality,* 6.

or unverifiable accounts, including 1913 box office hit *Traffic in Souls* and George Kibbe Turner's sensational article, "Daughters of the Poor," portrayed immigrant women as debased white slaves.[89] Many blamed their un-Americanness, whether through cultural, linguistic, or racial difference, as the reason for their vulnerability. Reformers strongly condemned immigrant men as running the international network of white slavery, making forced prostitution appear even more a by-product of racial inferiority and a matter of foreign affairs warranting state intervention. In San Francisco, Donaldina Cameron campaigned against yellow slavery, which she considered a particularly tragic system of sexual slavery amongst Chinese immigrants, though the term failed to gain much national traction.[90] Closer to reality, immigrant women who worked as prostitutes were more visible to the state through the immigration process and more punishable under deportation laws than U.S.-born prostitutes, making it appear as if a disproportionately high number of working prostitutes were foreign-born. This dissertation focuses on immigrant women, particularly Chinese, Mexican, and Jewish European immigrants, because they so often suffered the material impact of what many historians today view as a cultural panic.

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[89] Shelley Stamp Lindsey, "'Oil Upon the Flames of Vice': The Battle Over White Slave Films in New York City," *Film History* 9 No. 4 (1997): 352; George Kibbe Turner, "Daughters of the Poor: A Plain Story of the Development of New York City as a Leading Center of the White Slave Trade of the World, Under Tammany Hall," *McClure's Magazine* (1909), 45.

[90] Donovan, *White Slave Crusades,* 110.

Sources from the time sometimes did not refer to race specifically but policed in neighborhoods like New York's lower east-side tenements, populated mostly by Eastern European Jewish women and families. Sexual policing methods and discourse which did not explicitly mention immigrant women, or the antiprostitution immigration laws imposed on them, also obscured the material realities of these laws, which began before and outlasted the media interest in white slavery between roughly 1907 and 1913. Beyond the discourse, immigrant women literally lost their livelihoods, were barred from entering the country, or expulsed with little representation or legal recourse. The legal apparatus for immigration control left little room for the rights or privileges that prevented the most aggressive antiprostitution laws proposed for citizen women. Antiprostitution laws and anti-immigration laws worked in tandem against a group of women who resisted condemnation when few others in society fought to defend their right to migration.

Chapter One identifies police power and new conceptions of women's sexuality in the nineteenth century as the underpinnings for sexual policing as a project of immigration control. Historiography of nineteenth and early twentieth century state formation emphasize the improvisational nature of state power, as government officials reacted to ever-changing local conditions and new efforts to manage the nation's growing population and expanding territories with a federalist structure. The new federal agency dedicated to regulating immigration sought to control women's sexuality, but found the task required legal flexibility and bureaucratic agility, as prostitution and sexual immorality proved elusive targets for

punishment. Chapter Two explores how local police and California legislators used police power's justification for punitive actions that served a "common good" to police prostitution in 1870s Chinatown and pass the Page Act, federal legislation intent on excluding Chinese prostitutes from immigrating to the United States. The combined influence of local police and citizens with a vigilance mentality formed a powerful coalitional state in the decades before immigration control became a fully federal endeavor. Chapter Three looks to the early enforcement of federal immigration policies which excluded women at entry points for the often-intersecting accusations of prostitution, poverty, and pregnancy. Laws which permitted immigration officials to debar suspect immigrant women were not as straightforward as first appeared, as officials struggled to apprehend those migrating to work as prostitutes using interrogation and visual inspection. At New York's Ellis Island and in San Francisco, women resisted these efforts to declare them immoral, and many found ways to work the cracks in the system to enter the United States regardless.

Continuing to adapt to the follies of policing sex, in the twentieth century the Bureau of Immigration expanded their punitive regime by increasing domestic surveillance and deportation of immigrant women. Chapter Four looks to the Immigration Act of 1907 and considers the legal and practical debates over the turn toward deporting women who evaded entry controls. The most persistent challenges came from the U.S.-Mexico border, where women and their procurers could often move more deftly than officials across the national boundary. Chapter Five evaluates the Mann Act and "white slave panic" of 1908-1914 with particular attention to

immigrant women, both as rhetorical figures of victimhood which motivated a vigilance activist movement, and as real people who faced the brunt of state repression due to increased efforts to incarcerate or deport prostitutes. Like 1870s San Francisco, community leaders sought to share power with state officials and push for more invasive legislation against sexual immorality. While these vigilance groups of reformers wielded great legislative influence, their popularity and their influence over actual sex commerce proved fleeting. The epilogue challenges the supposed benevolence of such vigilance groups and state policing efforts which claimed to rescue or protect immigrant women from sexual exploitation. A conflict between immigrant Leong Sai Moy and famed reformer Donaldina Cameron mirrors contemporary controversies over criminalizing sex work to stop sex trafficking, often depicted as forced prostitution in ways that harken back unmistakably to debates about white slavery. “Living Openly and Notoriously” condemns the state policing of sex as repressive rather than liberatory, and fundamentally limited by the realities of sex, women’s labor, and global migration. The history explored in this dissertation suggests that a state can expand their power exponentially, but this cannot fully overpower the motivations and desires of those who learn to move faster or smarter than the state.

CHAPTER TWO

Seeing Lewdness: Crafting an Archetype for Exclusion from Policing San Francisco's Chinese Women, 1851-1877

In 1851, the San Francisco Committee of Vigilance formed a temporary government to reestablish public order which the local courts failed to do.[91] Their self-appointed authority included the power to punish or remove women for sexual indiscretions.[92] Two unnamed Chinese women and their male associates, A'Lo and A'Hone, tested this procedure on July 3, 1851, when local Chinese resident Norman Asing reported them as "whores and reprobates" and demanded the Committee of Vigilance deport them.[93] Volunteers formed the Committee and served as unofficial

[91] One scholar described San Francisco's court system as "powerless or unwilling to preserve order" in the early years of statehood. Mary Floyd Williams, editor, *Papers of the San Francisco Committee of Vigilance of 1851: Minutes and Miscellaneous Papers, Financial Documents and Vouchers,* Publications of the Academy of Pacific Coast History, Volume Four (Berkeley: University of California Press, 1919), vii.

[92] At this time, deportation usually meant a boat ticket to a foreign destination (not necessarily point of origin) and a police escort to the ship if the immigrant seemed hesitant.

[93] Williams, *Papers of the San Francisco Committee of Vigilance of 1851*, 171. Norman Asing's name also appeared as Assing or A'Sing in the record. Original case records write

judges, juries, and police, attempting to operate under traditional U.S. notions of police power which supported the punishment or expulsion of anyone deemed harmful to the "common good."[94] In other communities, this often included prostitutes.[95] The Committee of Vigilance had already deported several Australians and publicly executed other accused criminals.[96] However, the Committee of Vigilance–and the state of California at-large–lacked the bureaucratic infrastructure

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A'lo and A'Hone, but a more contemporary spelling would be Ah Lo and Ah Hone. John Lipscom, a colleague of the plaintiff, was also sometimes called Lip Scom. One observer claimed one woman to be Ah Toy, one of the most famous Chinese prostitutes in San Francisco at the time.

[94] Though often called a vigilante group because of their unauthorized beginning, the Committee considered their vigilantism to be not extremism, but a natural result of traditional English and American concepts of *vox populi*, which encouraged self-determination and democratic rule to preserve public order. Williams, *History of the San Francisco Vigilance Committee of 1851* (Berkeley: University of California Press, 1921), 186. For a more contemporary explanation of *vox populi* and the common good, see William Novak, *The People's Welfare: Law and Regulation in Nineteenth-century America* (Chapel Hill: University of North Carolina Press, 1996), 9.

[95] For other works on prostitution and police power, see Dubber, *The Police Power: Patriarchy and the Foundations of American Government* (New York: Columbia University Press, 2005), 134; Hidetaka Hirota, *Expelling the Poor: Atlantic Seaboard States and the Nineteenth-Century Origins of American Immigration Policy* (New York: Oxford University Press, 2017), 122; Novak, *The People's Welfare*, 164.

[96] Philip J. Ethington, *The Public City: The Political Construction of Urban Life in San Francisco, 1850-1900* (New York: Cambridge University Press, 1994), 88–89. The Committee first formed to capture and lynch James Stuart for grand larceny, though he was also suspected of murder and other crimes. Arsonists were also targets of the Committee. Williams, *History of the San Francisco Vigilance Committee of 1851*, 169, 264.

to deport immigrants in ways other states such as Massachusetts and New York began implementing in the 1850s.[97] The plaintiff, Norman Asing, offered to pay the women's fare back to China himself if the Committee of Vigilance could only force the women to board the ship and not return. The group's willingness to wield such authority, even while relying on Asing's donation, created a temporary coalitional state led by elite citizens.

In the fledgling state of 1850s California, private and vigilante organizations often took hold of state authority. In San Francisco, their vigilante justice moved swiftly upon immigrant women. The morning of July 4th, the secretary of the Committee of Vigilance signed a deportation order, but in the afternoon session a committee member claimed that upon his own evaluation of the evidence, he believed Asing developed "a conspiracy to deprive [the accused] persons of their liberty" out of personal revenge.[98] The Committee then rescinded the order and released all parties. Despite the self-appointed authority these local quasi-state actors held over these two Chinese women, the Committee of Vigilance's choice to not deport suggests that they saw limits to their role in policing sexuality.[99] The Committee of

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[97] Hirota, *Expelling the Poor,* 101.

[98] Letter from S.E. Woodworth to General Executive Committee, July 4, 1851, in Williams, *Papers of the San Francisco Committee of Vigilance of 1851*, 172.

[99] *The Daily Alta* printed an article about police court that suggested a local judge also declined to deport Ah Toy in March 1851. "Recorder's Court," *The Daily Alta,* March 8, 1851. Some historians claim the Committee did deport the women, although this is most prominent in Bancroft's work. Writing nearly forty years later, he made a less-than-convincing case that although the Committee surmised the vengeful intentions of the

Vigilance interest in policing Chinese prostitutes offers an early example of state sexual policing in the United States. Sexual policing grew to include a range of state discipline and punishment based on women's perceived sexual activity and/or moral character, as the criteria for punishable offenses and what constituted prostitution shifted over time. But in 1851, the Committee of Vigilance likely had not developed concrete criteria for determining what made a woman worthy of punishment, therefore the case paid more attention to the plaintiff's motives for accusation rather than the women's behavior. The women's social status as prostitutes serving men's sexual needs proved more salient than their status as immigrants vulnerable to discipline and deportation. The broad umbrella of police powers encouraged state and local agencies to act with incredible authority to control populations they considered harmful to the public, including prostitutes. Yet limited resources caused prioritizing certain groups for scrutiny. Historians often regard the policing of Chinese prostitutes as a logical and unsurprising result of nineteenth-century prudery and racism.[100] Yet

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plaintiffs, Norman Asing and Lip Scom, they deported anyway due to disregard for Chinese immigrants in general. This reading was likely informed by Bancroft's own support for broad Chinese Exclusion when writing in the 1880s. Hubert Howe Bancroft, *Popular Tribunals, Vol. 1,* republished under the *Works of Hubert Howe Bancroft, Volume 36* (San Francisco: The History Company Publishers, 1887), 378. Bancroft's claim replicated in Benson Tong, *Unsubmissive Women: Chinese Prostitutes in Nineteenth-Century San Francisco* (Norman: University of Oklahoma Press, 1994), 10.

[100] Charles McClain, *In Search of Equality: the Chinese Struggle Against Discrimination in Nineteenth Century America* (Berkeley: University of California Press, 1996), 55; George Anthony Peffer, *If They Don't Bring Their Women Here: Chinese Female Immigration before Exclusion,* (Champaign-Urbana, IL: University of Illinois Press, 1999), xviii. Scholars often

the Committee of Vigilance's choice to release rather than remove the unnamed women in 1851 suggests that it was not a foregone conclusion that Chinese women would be the primary targets of state sexual policing. Yet amidst California's growing anti-Chinese movement, Chinese women disproportionately fell victim to local ordinances, fines, sweeps, imprisonment, and occasionally deportation by the 1870s.[101]

In San Francisco and its entry port, local police, citizen groups, and state immigration agents coalesced around the shared project of criminalizing Chinese prostitution between 1851 and 1877. Together they acted as a coalitional state, combining the resources and ideologies of private agencies like Protestant mission homes and the elite Chinese Six Companies with the recognizable authority of municipal police and state immigration agents. By collaborating, local groups exerted much more power than possible for any single governing entity alone to discipline, bar, or convert Chinese women into prostitution in the decades preceding federal

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condemn the Page Act and other sexual policing for its ill effects on innocent women, but this argument can also reify criminalizing women who did participate in sex commerce.

[101] Chinese women made up only a tiny portion of San Francisco's population. Male Chinese migrants formed an estimated 9% of California's population, and women a tiny fraction of that. It was often estimated that there 1000-2000 Chinese women lived in San Francisco, and anywhere from 50% to "all but one or two" engaged in sex commerce. Although the Chinese were a minority in San Francisco, they outnumbered African Americans in the city by 10 to 1, making for a very different racial politics than other parts of the United States at the time. See Ethington, *The Public City*, 201-202; Lucie Cheng Hirata, "Free, Indentured, Enslaved: Chinese Prostitutes in Nineteenth-Century America," *Signs* 5, No. 1 (1979): 22; Peffer, *If They Don't Bring Their Women Here*, 6.

immigration control. These groups derived their authority from critiquing existing governance, but ultimately used their power to reinforce long-standing police power logics around controlling women's sexuality and the movements of immigrants.

The coalitional state first sought control over Chinese women domestically and established certain visual and cultural markers to aid in detecting immoral Chinese women living in San Francisco. These markers reinforced beliefs that prostitutes were visibly detectable through static forms of dress and that these women were in most cases unfree and in need of rescue, because they were victims of trafficking for prostitution or constrained by a Chinese gender system that Americans caricatured as starkly more oppressive than their own.

Yet various "experts" on these markers amongst police, missionaries, and Chinese male elite rarely agreed on the signifiers. The conflicting interpretations of details like sleeve width, robe embellishments, hair styles, and traveling conventions came to a head with *ex parte Ah Fook* (1874), when a California Immigration Inspector refused landing to 22 Chinese women who he labeled as "lewd and debauched." As it wound through local, state supreme, district, and eventually the federal Supreme Court, the case made the archetype of the Chinese prostitute, and ways to police her, legible to wider audiences. This racialized archetype allowed legislators, led by congressional representative Horace Page, to turn California's exclusion model into the first federally enforced exclusion law in 1875, months before *Chy Lung v. Freeman* (1876) nullified the California law and reinforced

immigration control as a federal rather than state power.[102] The transfer of immigration regulation from state to federal authority solidified the control of immigrant bodies as a pressing nation-state project rather than an ad hoc local project.

Citizen groups carried considerable clout in nineteenth-century San Francisco during a transitionary period for state power. Between 1850 and 1877, state, local, and federal institutions across the country clashed over conflicts about territorial expansion, slavery, and state versus federal jurisdiction.[103] Within these debates, California sought more power and legitimacy as a state while facing serious limitations to enacting effective governance, due in part to geographic spread, the

[102] Due to the 22 litigants and changing plaintiff names at each court level, the case is often known as simply the "Case of the 22 women." The case is officially named Ex Parte Ah Fook at the district and California Supreme Courts; in re Ah Fong at the (federal) circuit court, northern California district; and Chy Lung v Freeman at the Supreme Court level. Although the case began in August of 1874, it entered the Supreme Court in 1875 and the decision passed down in March of 1876, the same day as decisions in Henderson et al. v. Mayor of New York et. al. and Commissioners of Immigration v. North German Lloyd both nullified bonds against public charges by state immigration agents in New York and Louisiana. Together, the cases marked a decisive rejection of state immigration control as improper regulation of foreign commerce. McClain, *In Search of Equality,* 62.

[103] Gregory P. Downs and Kate Masur, eds, *The World the Civil War Made* (Chapel Hill, NC: University of North Carolina Press, 2015), 4; Novak, *The People's Welfare*, 3, 17. Even while arguing for a continuity of state power across the 18th century, Novak argued that 1877 served as a critical dividing point for studies of the American state.

wildly speculative economy, and the sheer newness of their statehood.[104] The modern conception of the state implies a level of coordination, bureaucracy, and strategy impractical in the mid-nineteenth century, especially in newer states. For this chapter, the "state" is instead a group with elected or self-appointed power to move others around: to detain, expel, or otherwise punish a body, citizen or otherwise, with public support. This framework includes private citizens and reformers traditionally considered non-state actors who took on duties they considered elected governments unable to perform adequately. Gary Gerstle identified this as an intentional governing strategy of privatization in the nineteenth century, when the federal government lacked constitutional support and state governments lacked the resources to fulfill all the policing projects they envisioned and so relied on private groups to take up the mantle of morals policing.[105] Groups that joined in sexual policing in San Francisco often considered themselves to be filling a void rather than taking direction from any existing governing entity. The Committee of Vigilance that formed briefly in 1851, 1856, and 1877 took on state duties explicitly and modeled their organization after existing government structures, but at most points groups served in state capacities in more incidental ways and likely did not consider themselves to be acting as the state. Protestant missionaries and the Chinese merchant group the Six Companies also

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[104] Stacey Smith, *Freedom's Frontier: California and the Struggle over Unfree Labor, Emancipation, and Reconstruction* (Chapel Hill, NC: University of North Carolina Press, 2013), 3.

[105] Gary Gerstle, *Liberty and Coercion: The Paradox of American Government from the Founding to the Present* (Princeton, NJ: Princeton University Press, 2015), 93.

stood out as groups who maneuvered themselves as civilians with public support and benevolent motives even when they exerted control over others as a state would. They also saw their actions as in service to an ill-defined broader public rather than themselves, in line with police power principles toward serving a common good. This chapter refers to them primarily as citizen groups. Citizen references not a legal status–which most Chinese immigrants could never gain–but a social sense of citizenship that empowered these groups to act. While courts parsed out state versus federal jurisdiction over issues like immigration control, local groups moved through those ambiguities with vision and self-importance.

The coalitional state formed by citizen groups and allied local police proved crucial to the project of sexual policing in San Francisco. It is unlikely a local government would have targeted prostitution without the influence and private resources of citizen groups. The prevailing interpretation of the constitution allowed for state but not federal morality control and it remained lower on the list of priorities to a government facing pressure to end or protect slavery, among other projects.[106] Locally, a campaign against Chinese prostitution served more varied interests: amongst those with religious or feminist objections to prostitution; Chinese residents who sought social acceptance and distance from laboring-class and criminalized Chinese; police who could use the project to bolster their credibility or take advantage of a criminalized black market for personal gain; and anti-Chinese nativists who saw

[106] Gerstle, *Liberty and Coercion,* 104, 120.

this campaign as an inroad to broader limits on immigration. Such different investments in policing sexuality allowed for broader public support of the project and fewer allies to defend those harmed by policing. This coalition tacitly agreed to treat sexual behavior as something to be surveilled and disciplined, constructing a problem in order to work to solve it. Not that they fabricated the existence of prostitution, but they decided under what conditions it was punishable. The racial dimension of this campaign, which treated Chinese prostitution as a threat separate from all other sex commerce in the city, further suggests that constructing a crisis offered state-like authority and political clout to groups willing to collaborate.

The patriarchal foundations of police power also bolstered the sexual policing state. Markus Dubber traces this genealogy back to ancient Greeks, who saw communities as parallel structures to a family with elite, white men at the head of both.[107] In nineteenth-century San Francisco, men continued to serve as the arbiters of the supposed common good and assigned punishment or protection to women, children, and non-white residents as they saw fit. Policing a community as a family also encouraged sexual policing of those deemed destructive to normative familial structures, rhetoric that appeared frequently in relation to Chinese prostitutes. San Francisco's non-Chinese residents nearly always considered Chinese women to be subjects to control rather than equal members of the community included within the

[107] Dubber, *The Police Power,* 82

common good.[108] Instead, leaders such as judges, police officers, missionaries, invoked paternalist state protection to justify their actions and used infantilizing language about "girls" in bondage, calling Chinese women: "victims of the basest system of slavery that has ever been tolerated in heathen or Christian lands–slaves to the lusts of the vilest men."[109] Such depictions removed women's agency and ability to advocate for their own needs in order to reinforce the role of police power, to control those deemed incapable of handling their liberty. To recognize the strategy of the mindset of women's dependence does not mean it was intentional, coordinated, or necessarily sinister. Many within the coalitional state truly believed they were working toward achieving justice for women, even if this vision of justice disempowered others.

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[108] This was an old pattern: women who stood out or did not comply with expectations for quiet domesticity were often the easiest to target as public nuisances or fallen women. Dubber, *The Police Power,* 96; for Chinese prostitution specifically, see: Nayan Shah, *Contagious Divides: Epidemics and Race in San Francisco's Chinatown,* (Berkeley: University of California Press, 2001), 79.

[109] B.E. Lloyd, *Lights and Shades in San Francisco* (San Francisco: A.L. Bancroft & Company, 1876), 219. For more on patriarchy and "protection" of Chinese women, see: Col. Albert S. Evans, *Á La California. Sketches of Life in the Golden State* (San Francisco: A.L. Bancroft & Company, 1873) 274; Reverend Otis Gibson, *The Chinese in America* (Cincinnati: Hitchcock & Walden, 1877), 201. For more recent transnational Chinese gender history and patriarchy, see: Cheng Hirata, "Free, Indentured, Enslaved," 7; Judy Yung, *Unbound Feet: a Social History of Chinese Women in San Francisco (*Oakland: University of California Press, 1995), 7.

The final foundational element to the local coalitional state's claim to policing Chinese women came from police power's practice of local immigration control. Massachusetts and New York first modeled this project by moving immigrants labeled "likely to become a public charge" on to neighboring towns just outside their state borders to strain their resources instead.[110] By the late 1840s, local officials phased out the practice of moving immigrants to the next state in favor of forcibly relocating Irish immigrants to Liverpool or Ireland with no appeals process, and deporting birthright American citizens of Irish descent labeled as vagrant and American-born children of immigrants.[111] State governments sought allies in this project. New York and Massachusetts tried to include private passenger ship companies in regulation through complicated bond systems, but most companies resisted bond schemes that limited migration numbers and, therefore, profits.[112] By

[110] Hirota *Expelling the Poor,* 43; Kunal M. Parker, *Making Foreigners: Immigration and Citizenship Law in America, 1600-2000* (Cambridge: Cambridge University Press, 2015), 8, 103.

[111] Hirota *Expelling the Poor,* 11, 94, 114.

[112] Gerald Neuman summarizes pre-1875 state immigration laws as focused on returning (removing) the immigrant, punishing the immigrant, and punishing third parties who played a role in the immigrant's arrival. Gerald Newman, *Strangers to the Constitution: Immigrants, Borders, and Fundamental Law* (Princeton, NJ: Princeton University Press, 1996), 42. For more on the Passenger cases in the courts, see Hirota, *Expelling the Poor,* 72; Parker, *Making Foreigners,* 105-108. Even with international support, officials inconsistently defined criminality and pauperism across entry points and global ports of travel. Zolberg, "The Archeology of Remote Control" in *Migration Control in the North Atlantic World: The Evolution of State Practices in Europe and the United States from the French Revolution to*

the time California became a state in 1850, state deportation and bond practices had already come under legal scrutiny. While California legislators missed the boat, so to speak, on developing systematic deportations in the Antebellum Period, the idea behind states and their localities having self-determination to expel resonated deeply with the agencies forming the coalitional state.[113] Laws that identified and moved vagrants treated criminality as a status rather than specific crimes committed in order to emphasize proactive, elastic local policing over careful judicial review.[114] By 1870, San Francisco's coalitional state came to view excluding undesirable immigrants as a resource-saving measure compared to the staff and costs required for effective surveillance and deportation.[115] And though both Chinese men and Chinese women faced hostility in the 1850s and 1860s predating exclusion laws, patriarchal police

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the Interwar Period, ed. Andreas Fahrmeir, Olivier Faron, and Patrick Weil (New York: Berghahn Books, 2003), 201.

[113] Williams, *History of the Committee of Vigilance,* 123; deportation cases on 232, 362. Although California state laws lagged in immigration regulation, the short-lived 1851 Committee of Vigilance in San Francisco utilized deportation for some Australian criminals, many of whom had already been deported once before from England to the "penal colony." State immigration officials failed to consistently enforce California laws excluding former conflicts.

[114] Dubber, *The Police Power,* 83, 134; Hirota, *Expelling the Poor,* 5; Novak, *The People's Welfare,* 14; Parker, *Making Foreigners,* 11.

[115] In addition to excluding "lewd and debauched" women, the state of California put forth laws in 1870 excluding or requiring a bond for those who appeared likely to become public charges, those disabled or unable to take care of themselves, and convicted criminals. Kerry Abrams, "Polygamy, Prostitution, and the Federalization of Immigration Law," *Columbia Law Review,* (Vol. 105, No. 3, 2005), 676.

power also influenced the conditions of their eventual exclusion. Excluding Chinese men as contract laborers or job competition grew more complicated because Americans benefited economically from the exploitation of Chinese labor.[116] In contrast, excluding Chinese women as potential prostitutes spreading disease, as other states justified excluding or removing poor or disabled immigrants as unable to support themselves, corresponded much more clearly to a police power model which constructed criminality as innate, visible, and grounds for preventative state intervention with fewer critics.

Police power encouraged states and cities to experiment with varied tactics rather than providing an automatic mandate for how to police. The coalitional state developed policies of sexual policing in phases shaped by both internal improvisations and changing external pressures. Each decade beginning in 1851 showed a heightened aggression toward Chinese prostitutes as public nuisances and threats. In the 1850s, some residents voiced support for Chinese prostitutes as offering valuable public sexual services, either to white clients or Chinese men who

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[116] Mary Coolidge, *Chinese Immigration* (New York: Henry Holt and Company, 1909), 344; Smith, *Freedom's Frontier,* 81; William Wells, *Chinese immigration ... A paper read before the Social Science Association at Saratoga, September 10, 1879* (New York: C. Scribner's Son, 1879), 24. The labor benefits that may have slowed race-based exclusions were not limited to California. America's Southern states also briefly recruited Chinese laborers to replace enslaved laborers. Moon-Ho Jung, *Coolies and Cane: Race, Labor, and Sugar in the Age of Emancipation* (Baltimore: John Hopkins University Press, 2006), 12, 113.

could not legally be intimate with white women.[117] When writing on the Committee of Vigilance case discussed at the opening to this chapter, Alexandre Holinski proclaimed in 1851 that the verdict against deportation recognized the social role of prostitutes: "The scrupulous Chinese [Asing] were given to understand that... an exception could not be made to the tolerance shown by the San Francisco police to hundreds of American, French, German and Spanish women whose conduct is hardly more edifying."[118] (translated from French). The Committee of Vigilance probably ruled this way out of respect to the police precedent for tolerance rather than serious

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[117] Cheng Hirata, "Free, Indentured, Enslaved," 13; Coolidge, *Chinese Immigration,* 420; Lloyd, *Lights and Shades in San Francisco*, 143; Reverend Loomis testimony in Special Committee on Chinese Immigration, *Chinese Immigration: a Social, Moral, and Political Effect, Report to the California State Senate,* Appendix to the Journals, Cal. Legis., 22d Sess., vol 3, Sacramento, 1878 [hereafter *California State Senate Committee Report*], 120; "Memorial of the Six Chinese Companies to President Grant" (1874), as quoted in Lloyd, *Lights and Shades in San Francisco*, 289.

[118] English translation by Mary Teresa Corea in *¡Viva California! Seven Accounts of Life in Early California*, ed. Michael & Mary Burgess (The Borgo Press, 2006), 134. Original text from Alexandre Holinski, La *Californie et Les Routes Interocéaniques* (Bruxelles: Meline, 1853), 119. Holinski claimed one woman in the case was Ah Toy, also known as Atoy, famously known as the first Chinese prostitute in the United States. According to Holinski, she had a reputation for physical beauty and for having intercourse with white men, which was a loss of status in the eyes of most Chinese men at the time. Regardless of whether this particular case involved Ah Toy, she appeared regularly in court to defend her rights to live and work in San Francisco. For more an Ah Toy, see: Jacqueline Baker Barnhart, *The Fair but Frail: Prostitution in San Francisco 1849-1900* (Reno: University of Nevada Press, 1986), 46; Benson Tong, *Unsubmissive Women*, 6-7; Williams, *History of the San Francisco Committee of Vigilance of 1851*, 319.

concern for the equal rights of women of different nationalities.[119] Critics also noticed unequal police tolerance in the 1854 Ordinance 546, "to Suppress Houses of Ill Fame Within City Limits," which struck "Chinese" from the title to appear fair despite being selectively enforced more harshly in Chinese neighborhoods. One newspaper suggested the cause of unequal enforcement to be self-serving, that officers' "*pleasures* and *interests* would be interfered with" if forced to arrest their white sweethearts.[120] Historians also believe that during a small window within the 1850s, some Chinese prostitutes successfully managed their own earnings and sometimes became madams themselves, such as the famed Ah Toy, who regularly defended her rights and small fortune in local courts.[121] In this first decade of sexual policing,

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[119] Mary Teresa Corea, "Translator's Introduction" in *¡Viva California!* 119. A Polish-Lithuanian immigrant enamored with American democracy, Holinski considered early California's vigilance committees, especially the wealthy and highly educated San Francisco committee, to be the ultimate expression of *vox populi* and justified their use of corporal punishment as a way to "avenge crime by imitating it." *¡Viva California!,* 140-141.

[120] Emphasis in original. As quoted in Yung, *Unbound Feet,* 32 and Tong, *Unsubmissive Women,* 112. More on the ordinance in McClain, *In Search of Equality*, 307 n54.

[121] Cheng Hirata also refers to the decade as the "period of free competition." The decline in economic mobility into the later 19th century likely stemmed from the combination of a more organized and commercial vice industry and heavier policing, which often pushed women to find protection even in exploitative pimp or trafficking relationships. Ah Toy and other property-owning women often fought for their autonomy in court while simultaneously paying off police to stay in business. Barnhart, *Fair But Frail,* 47; Yong Chen, *Chinese San Francisco, 1850-1943: A Trans-Pacific Community* (Palo Alto: Stanford University Press, 2000), 79; Cheng Hirata, "Free, Indentured, Enslaved," 8; Tong 6-12; Yung, *Unbound Feet,* 33.

police heard from vocal critics and supporters of their efforts. Sexual policing required shifting public perception away from tolerance of prostitution as a necessary or practical policy toward concern for the ill effects of sex commerce.

By the 1860s, the growing population of prostitutes overwhelmed San Francisco's police and lawmakers, encouraging them to focus on reducing the visible symptoms of prostitution rather than trying to detain or prosecute offending women en masse. Regulating the location of brothels and cribs, requiring screens over windows and doors that might reveal a woman seeking clients, and driving Chinese prostitutes from mixed-race neighborhoods avoided some of the discrimination controversy of the previous decade by reframing policing as a "clean up" for urban development.[122] This policing marked almost every Chinese woman found on the ground floor of a building a prostitute and dismissed other labor, like sewing, as a front for illegal activity.[123] This series of spatial ordinances and policing did not meaningfully reduce prostitution. Instead, sex commerce moved out of storefronts and into alleyways and basements, and tongs offered to protect women police harassment for high prices.[124] These tongs became experts in keeping ahead of the

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[122] Chan, "Exclusion of Chinese Women," in *Entry Denied: Exclusion and the Chinese Community in America, 1882-1943,* Sucheng Chan, ed. (Philadelphia, PA: Temple University Press, 1991), 98; Shah, *Contagious Divides*, 81.

[123] Shah, *Contagious Divides,* 83. Shah argues that the varied apartment styles and living arrangements found by police and census enumerators also served as their evidence that Chinese families lived outside a nuclear family ideal and that even the most respectable women were probably partaking in some activities beyond American mores.

[124] Shah, *Contagious Divides,* 81.

law and keeping women out of jail through bribes, paying their bail, and working within larger criminal networks.[125] Urban sweeps also forced women to migrate to more rural, isolated spaces for prostitution, especially inland mining camps.[126] The police power model that prioritized the "common good" by serving the interests of more elite white San Franciscans likely exacerbated other forms of exploitation and trafficking for women dependent on tongs to evade the police.[127] Such stopgaps in the 1860s suggest police knew the limits to their power and resources. More extreme measures required more public support and collaboration. Only by convincing the public of Chinese prostitution as a crisis could the coalitional state begin its work.

Worsening economic and social conditions in the city and nationwide contributed to some of the most extreme anti-Chinese policing measures in the period of 1868-1877. The economic depression of the early 1870s amplified the existing narrative against Chinese residents as job competitors and reports of violence toward Chinese workers increased across the West.[128] In San Francisco, new immigrants

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[125] Cheng Hirata, "Free, Indentured, Enslaved," 12; Richard Dillon, *Hatchet Men: The Story of the Tong Wars in San Francisco* (New York: Coward-McCann, 1962), 154; for more on Tong activities, see n 170.

[126] Smith, *Freedom's Frontier*, 204.

[127] Tong, *Unsubmissive Women,* 120, 158.

[128] Karen J. Leong, "'A Distinct and Antagonistic Race': Constructions of Chinese Manhood in the Exclusionist Debates, 1869-1878" in *Across the Great Divide: Cultures of Manhood in the American West* (New York: Routledge, 2001), 136; Peggy Pascoe, *Relations of Rescue: the Search for Female Moral Authority in the American West, 1874-1939* (Oxford University Press, 1993), 15; Yucheng Qin, *Diplomacy of Nationalism: The Six Companies and China's Policy Toward Exclusion* (Honolulu: University of Hawai'i Press, 2009), 59. B.E. Lloyd

could expect verbal harassment or projectiles thrown at them even as they exited passenger ships and first walked to Chinatown.[129] Next to such hostile white residents, police and the coalitional state appeared as peacekeepers and centrists compared to some of the more extreme calls for mass exclusion and deportation from San Francisco.[130]

Two events in 1876-1877 closed this chapter of local policing. In 1876, a State Senate Committee hearing on Chinese immigration fixated on Chinese prostitutes but declared the latest sweep, as well as the Page Act, successful in concealing most Chinese gambling and prostitution.[131] Then, in 1877, a new Committee of Vigilance briefly formed to quell an anti-Chinese riot in San Francisco, the last time a vigilance committee took hold in San Francisco.[132] These two events coincided with a turn

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dismissed the labor competition line as an excuse used by lazy workers who could outperform Chinese workers if they tried. Lloyd, *Lights and Shades in San Francisco*, 214. The long history of this violence and its acceleration in the 1870s appears in a file of newspaper clippings submitted for the Joint Special Committee Congressional Investigation by B.S. Brooks, "Appendix A," Appendix *to the Opening Statement and Brief of B.S. Brooks, on the Chinese Question* (San Francisco: Women's co-operative printing union, 1877).

[129] Brooks, *Appendix to the Opening Statement and Brief,* 33.

[130] Willard B. Farwell, *The Chinese at Home and Abroad, together with The Report of the Special Committee of the Board of Supervisors of San Francisco, on the Condition of the Chinese Quarter of that City* (San Francisco: A.L Bancroft, 1885), 12.

[131] Special Committee on Chinese Immigration, *Chinese Immigration: a Social, Moral, and Political Effect, Report to the California State Senate,* Appendix to the Journals, Cal. Legis., 22d Sess., vol 3, Sacramento, 1878 [hereafter *California State Senate Committee Report*].

[132] Philip J. Ethington, "Vigilantes and the Police: The Creation of a Professional Police Bureaucracy in San Francisco, 1847-1900", *Journal of Social History,* Vol. 21, No. 2

away from targeting Chinese prostitutes specifically in favor of general Chinese exclusion plans, which passed off much of the project to federal entities rather than municipal police and their citizen collaborators.

The 1870 census provided another justification for increased police aggression against Chinese women by affirming the popular narrative that nearly every Chinese woman in the city was a prostitute. A common adage circulated that out of 2000 Chinese women residents, less than 100 were first wives and therefore considered respectable.[133] Historian George Peffer discredits that claim for multiple reasons, suggesting that observers and census-takers probably witnessed a numeric increase in Chinese prostitution on par with the population rather than a drastic increase in the proportion of prostitutes to general population.[134] Census takers with little to no understanding of Chinese language or culture also did not interact with women directly when counting them, making grand assumptions about their work and marital status that added up to a highly inflated number of prostitutes. Amidst growing public hostility toward Chinese residents in the 1870s, citizen groups took bolder steps to extract women from sex commerce and either convert them to respectability or return

(Winter, 1987), pp. 197-227, 207. Ethington identified the vigilantes' orderly response to the riot as an early example of professional riot policing methods.

[133] Gibson, *Chinese in America*, 134 Supple testimony, *California State Senate Committee Report,* 145; More conservative demographic estimates can be found in Lee Ming Hown testimony, *California State Senate Committee Report,* 135; Chen, *Chinese San Francisco,* 76, 82; Peffer, *If They Don't Bring Their Women Here,* 121.

[134] Peffer, *If They Don't Bring Their Women Here,* 87-100.

them to China. The Presbyterian Chinese Mission Home and Methodist Mission Home opened in 1873 and 1874, respectively, to grow the Chinese Christian community and harbor women exiting prostitution. Missionaries also collaborated with the Six Companies and local police to intercept smuggled girls and return them to China.[135] Though these methods of "rescue" contained a coercive edge, they appeared relatively benevolent in part because of the extremely negative public opinions held toward Chinese women, almost everyone else, who saw Chinese immigrants as innately racially inferior, without possibilities for redemption.[136] Volatile public opinion meant private agencies relied on local police for legitimacy and protection while they offered their resources to manage unruly or unpopular groups.

The Six Companies organized by Chinese merchants served as a vital piece of the coalitional state, though their quasi-state authority remained conditional. When their actions as lobbyists, diplomats, judges, reformers, or peacekeepers served a perceived common good beyond the Chinese community, many white San

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[135] Brooks, *Appendix to the Opening Statement and Brief,* 16, 23; Lloyd, *Lights and Shades in San Francisco*, 289; Qin, *Diplomacy of Nationalism,* 48.

[136] Lorna Logan, *Ventures in Mission: the Cameron House Story* (Wilson Creek, WA: Crawford Hobby Print Shop, 1976), 13; Pascoe, *Relations of Rescue,* 15. Historiography which includes the home continues to portray it as doing more good in the Chinese community than harm. The latest popular press history of the mission's work is from Julia Flynn Siler, *The White Devil's Daughters: the Women who Fought Slavery in San Francisco's Chinatown* (New York: Alfred A. Knopf, 2019).

Franciscans celebrated their work.[137] But when the Six Companies acted as an institutional alternative to traditional U.S. courts and policing, sometimes forming vigilance committees to police internally their community, other residents derided them for forming "secret tribunals" or living apart from American society.[138] The Six Companies considered these tasks to be within their purview as advocates of the U.S. Chinese community, sometimes acting as diplomats or state actors in place of Qing officials.[139] Advocacy often meant peacekeeping within the Chinese community by funding additional police services and deportations.[140] Some leaders also supported

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[137] For different roles of the Six Companies, see Qin, *Diplomacy of Nationalism*, 2, 8, 36. One example of celebrating respectable Chinese residents came from an early parade in the city that included a contingent of "China Boys" led by Norman Asing–the same man who fought to deport the Chinese women in this chapter's opening. Qin, *Diplomacy of Nationalism*, 32.

[138] Brooks, *Appendix to the Opening Statement and Brief,* 2, 136; Lem Shaum testimony, *California State Senate Committee Report,* 205. Qin, *Diplomacy of Nationalism*, 30 says these arbitrations were usually over business disputes and that if the two parties could not reach a consensus, they would go to U.S. courts. At times, the Six Companies denied the existence of these alternative courts: *Memorial of the Six Chinese Companies: An Address to the Senate and House of Representatives of the United States* (San Francisco, 1877), 12.

[139] Qin, *Diplomacy of Nationalism*, 2, 8. Qin argued that the Six Companies assumed the role of state, especially in foreign diplomacy and instructed the Qin state in how to act as a modern nation-state. He identifies them as one of the world's first INGOs (international non-government organization).

[140] Qin, *Diplomacy of Nationalism*, 49, 83. There is an added irony to paying for private policing while fighting unfair taxation such as the 1862 Police Tax levied on all Chinese residents of California. *Huigian* members (members of the company) were required to pay dues that privately paid for police services, mostly from freelance "specials" officers, see n 162.

character or class-based immigrant restriction measures as long as carried out in a "friendly way."[141]

The Six Companies most explicitly aligned with missionary and police objectives when dealing with Chinese prostitutes. The group purchased return fares to China for all women who mission homes or judges wanted to deport and offered full financial backing to Reverend Gibson if he could devise a more systematic method to return all prostitutes to China.[142] In one instance, the Companies awarded an officer with a gold badge worth $100 as a gesture of gratitude for helping to return twenty women to China.[143] The Six Companies also supported initiatives such as morality certificates issued in Hong Kong and the Page Act to prevent the immigration of prostitutes.[144] Chinese prostitutes were not among those the Six Companies felt obligated to advocate for, perhaps because they considered these women a liability to the image of Chinese immigrants as industrious, contributing members of society

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[141] *California State Senate Committee Report,* 204. The Six Companies also participated in controlling emigration, as by the 1870s Chinese immigrants also needed approval from the Six Companies or U.S. missionaries to migrate. Gibson testimony, *California State Senate Committee Report*, 91. One Chinese Christian, Lem Shaum, advocated for restricting immigration from China until more immigrants converted to Christianity. He deemed the Chinese government as incapable of modest regulation due to "a revolution happening in every province." Testimony of Lem Shaum, *California State Senate Committee Report,* 203.

[142] Qin, *Diplomacy of Nationalism*, 83; For cases of deportation/repatriation, see: Brooks, *Appendix to the Opening Statement and Brief,* 22, 29, 60; Dillon, *Hatchet Men,* 44; Peffer, *If They Don't Bring Their Women Here,* 77; Tong, *Unsubmissive Women,* 68-69.

[143] Brooks, *Appendix to the Opening Statement and Brief,* 16.

[144] McClain, *In Search of Equality,* 56; Qin, *Diplomacy of Nationalism,* 83.

which the Six Companies saw as essential to acceptance in the United States.[145] However, the policy recommendations of the Six Companies did not represent Chinese opinion, and it's likely that many Chinese men benefited from the availability of paid sex or cared more about other social ills.[146] The category of "prostitute" was so legally nebulous that it put all Chinese women at-risk, even women engaged in other forms of labor like sewing or middle-and upper-class women who might be wives or concubines to merchants themselves.[147] The Six Companies identified corruptible state agents like police and judges as the primary reason Chinese prostitution existed at such rates in the first place, so their support for increased policing proved short-sighted.[148] Working within the coalitional state gave

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[145] Gibson, *Chinese in America,* 157. According to a scene in Gibson's text, a president of one of the Six Companies approached this subject in a meeting with San Francisco Mayor Brandt, saying: "Yes, yes; Chinese prostitution is bad. What do you think of German prostitutes, French prostitutes, Spanish prostitutes, and American prostitutes? Do you think them very good?" Alternatively, Cheng Hirata suggested the Six Companies targeted prostitution to weaken the tong-controlled vice industry, which competed economically with their own shops and undercut their power within the community. Cheng Hirata, "Free, Indentured, Enslaved," 26-27.

[146] Chen, *Chinese San Francisco,* 79, 87. Chinese-language sources from San Francisco suggest many community members considered opium a bigger concern than prostitution.

[147] Abrams, "Polygamy, Prostitution, and the Federalization of Immigration Law," 653 describes Chinese system a continuum of status influenced by sexual role rather than dichotomous wife or prostitute. See also Peffer, *If They Don't Bring Their Women Here*, 8.

[148] Ira Miller Condit, *The Chinaman as We See Him, and Fifty Years of Work for Him* (Chicago: F.H. Revell Company, 1900), 149; Memorial of the Six Companies to President

the Six Companies limited power to make critiques of the state and alter the system when they continued police power measures toward less desirable residents.

While the Six Companies offered financial resources and internal community policing to the coalitional state, missionaries positioned themselves as the intellectual and spiritual glue of the partnership. Methodist and Presbyterian mission homes which opened in 1873 and 1874 served as a flexible detention space for women apprehended by judges, police, or the Six Companies because city jails were ill-equipped to house women.[149] Although other rescue homes like the Magdalen Asylum existed for wayward women in San Francisco, a separate home could accommodate Chinese women's different diet and language preferences and potentially isolate Chinese women notoriously targeted by former procurers or vigilantes.[150] These homes portrayed themselves as places of refuge, salvation, and

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Grant, quoted in Lloyd, *Lights and Shades of San Francisco*, 288; Qin, *Diplomacy of Nationalism,* 83.

[149] Brooks, *Appendix to the Opening Statement and Brief,* 29; Dillon, *Hatchet Men,* 160; Reverend Loomis testimony, *California State Senate Committee Report*, 120; On jails: Dillon, *Hatchet Men,* 157; Lloyd, *Lights and Shades in San Francisco,* 135, 139; Coolidge, *Chinese Immigration*, 261. Coolidge pointed out an irony to the cubic air ordinance selectively enforced in Chinatown, which required all lodging to provide 500 cubic feet of air per resident. Those who broke the ordinance could be sent to jail, which was overcrowded to the point of having 100 cubic feet per inmate. Women found in these housing conditions were more often sent to mission homes.

[150] Brooks, *Appendix to the Opening Statement and Brief,* 29. Brooks cited a case of the Six Companies intercepting suspected prostitutes at the docks entering San Francisco and bringing the women to the Magdalen Asylum. See also: Gibson, *Chinese in America,* 136; Lloyd, *Lights and Shades of San Francisco*, 283; Tong, *Unsubmissive Women,* 177. Tong

preparation for Christian marriage, but they were also spaces for cultural re-education. The homes offered one of the most viable routes out of prostitution, especially useful to women seeking a husband or to leave an abusive situation.[151] Yet many women grated at the western discipline of the homes.[152] Missionary records often noted disagreements over food, waking hours, and prayer expectations.[153] These stories emphasized how women negotiated and sometimes conceded to white American expectations, without recognizing the carceral dimensions of their living arrangements.[154] Uncooperative women most likely faced deportation or life on the street.

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suggests the Magdalen Asylum was seldom used by Chinese women due to its location in a white neighborhood most were unfamiliar with. For more on threats to Chinese mission homes, probably over-dramatized by missionary authors, see: Condit, *The Chinese As We See Them,* 144; Logan, *Ventures in Mission,*11; Siler, *The White Devil's Daughters,* 7.

[151] Pascoe, *Relations of Rescue,* 75, 159.

[152] Cheng Hirata, "Free, Indentured, Enslaved," 28; Yung, *Unbound Feet,* 35-39.

[153] Lorna Logan described the first generation of "girls" in the home as undisciplined, unhappy, and confrontational. These issues were apparently solved by compromises like allowing residents to cook Chinese food and drink tea instead of coffee. Logan, *Ventures in Mission,* 11. Gibson emphasized women's options and claimed to respect whether the women wanted to live in the home or return to China, but it is hard to say whether Gibson followed their preferences when Gibson himself created most of the records on the topic. However, his monograph includes several stories of rebellion, refusal, or escape that suggest some women did not find the home a haven. When women were resistant to the mission home, he believed it was due to confusion because they thought they were being resold to someone new. Gibson, *Chinese in America,* 150.

[154] Pascoe *Relations of Rescue,* 80. Words like detention, inmate, and deportation were commonly used at the time. The words carried less negative and carceral connotations than

Missionaries found conversion across Chinatown a slow enterprise, but the homes offered them a captive audience and police support. Mission homes invited leaders to make material and urgent intervention into what they saw as a "heathen" and utterly unequal Chinese gender system.[155] The homes also provided missionaries with an opportunity to observe and craft opinions about Chinese women, which would prove essential to showing "expertise" to other state actors.[156] Starting in 1879, these homes operated mostly under the leadership of white women, who appointed themselves the guardians of all women they saw as exploited by men.[157] But in the

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they do now, in part because they were not seen as state-mandated actions, although they often were.

[155] Gibson, *Chinese in America,* 201 on the urgency of Methodist missionary work: "...no missionary work among a heathen people which should ignore or neglect the women of the population, could expect permanent prosperity. That to neglect the women in the ministrations of the Gospel to the Chinese would only tend to strengthen them in their heathen ideas that women have no souls and no personal rights in themselves, outside the will of their parents, husbands, or masters." The tone of his book on the Chinese in America was much more critical of Chinese culture than he voiced in public spaces like newspapers and hearings, where he often defended the rights and respectability of Chinese immigrants. This suggests a performative aspect to his benevolence when it positioned him as an unparalleled expert voice.

[156] The mission for Chinese in California was housed under the board of foreign missions until the 1920s, as missionaries considered the Chinese in California to be fundamentally foreign in their own backyard and an opportunity to test their international conversion methods. Wesley Woo, "Chinese Protestants in the San Francisco Bay Area," in *Entry Denied*, 213.

[157] Logan, *Ventures in Mission,* 11; Peggy Pascoe, *Relations of Rescue,* xxi, 37; Yung, *Unbound Feet,* 36. Pascoe named this impulse "female moral authority," driven less by a

earliest stages, enigmatic male figureheads like Otis Gibson and Ira Condit built reputations as experts on San Francisco's Chinese community and arbiters of which Chinese practices were immutable or assimilable. Reverend Gibson blurred lines of financial, state, and private interests by serving as a liaison with the Six Companies, expert witness in legal cases and the State Senate Committee hearing, and a landlord of a large apartment building for Chinese residents in his mission to prove that Chinese residents of San Francisco could be accepted as Christianized members of the community.[158] By serving in so many roles and positioning themselves as defenders of the Chinese, these missionaries held incredible influence on local policies. For missionaries, sexual policing corresponded with a moral code as a proper response to improper sex.

Heroic local police populate the stories of Six Companies' interventions and mission home rescues, but in most instances the police proved inconsistent allies in the coalition for sexual policing. In the latter half of the nineteenth century, police

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desire for social control than by a moral ideology that fought to elevate women's status through domesticity which white women taught to non-middle class, non-white women (often involuntarily). In the Chinese Mission Home, this meant condemning men as the exploiters of prostitution while also treating respectable marriage as the ultimate goal for most women. The Presbyterian Missionary publication of the time reflected this perception of women's solidarity in its title: *Woman's Work for Woman*. Yung argued that missionary women turned Chinese women in the homes against Chinese culture and that their negative views of Chinese men fueled anti-Chinese politics even as the missionaries themselves opposed Chinese Exclusion.

[158] *California State Senate Committee Report,* 90 (as testifier), 118 (as landlord); Qin, *Diplomacy of Nationalism,* 45.

forces across the country and especially San Francisco fought for increased legitimacy through professionalization.[159] Restructuring employment and reducing the motivations for corruption helped improve this professionalism, but police also sought to show their efficiency through highly visible policing projects. Chinese prostitution appeared to be such a campaign for local police: a social practice seemingly disruptive to public order, easily racialized, with many available methods of punishment and detention. Yet officers and their citizen collaborators failed to anticipate the degree to which police officers stood to gain from allowing criminalized prostitution to continue. Some police officers and other city officials profited from tolerating illicit spaces like brothels and gambling dens, especially as criminalization increased the potential for extortion.[160] Besides regularly paid

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[159] Ethington, "Vigilantes and the Police," 198. Ethington borrows Eric Monkkonen's description of this process as a transition from "class control to crime control" over the second half of the nineteenth century. The municipal response to both crime and internal issues was to add more officers and increase arrests, with little critique of how other external forces or policing methods themselves might have contributed to conditions in Chinatown. Yearly municipal reports for San Francisco boasted that San Francisco employed more police, with higher arrest records, than most other major cities. *San Francisco Municipal Reports, published by the order of the Board of Supervisors* (San Francisco: Spaulding and Barto, Printers, 1870-1900 annually), California State Archives. See also Clark testimony, *California State Senate Committee Report,* 135. Ethington, "Vigilantes and the Police," 213 argues these high arrest records were somewhat inflated by including arrests by special officers.

[160] Testimonies of Ah You, Thomas Kennedy, and county District Attorney Charles T Jones, *California State Senate Committee Report*, 140, 188; B. S. Brooks, *Appendix to the Opening Statement and Brief*, 17 reported a case in which a special police officer was arrested and held

officers, the San Francisco Police Department appointed "specials" to patrol Chinatown, paid only through the donations of residents grateful for protection and sometimes acting as personal bodyguards to elite Chinese merchants.[161] Many Chinese residents regarded this police force as a positive solution, suggesting they too saw crime as easily discernible rather than selectively constructed by police.[162] Special officers followed a similar appointment process to other officers, but seldom

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at a high $1000 bail for aiding a Chinese man in kidnapping a woman and transferring her to a house of prostitution.

[161] Semi-professional "specials" were not unique to San Francisco in the nineteenth century but their concentration in Chinatown reflects the city's racialized formulation of crime and low-budget efforts to make changes. In 1876, one officer reported to the State Senate Committee: "While I believe San Francisco to be the best governed city in the world, to enforce the ordinances in the Chinese quarter would require a police force so large as to bankrupt the city." McKenzie testimony, *California State Senate Committee Report,* 155. See also 114, 258. A short time later in 1879, the specials were abolished from the force. Ethington, "Vigilantes and the Police," 225 n 89. For more on "specials" in Chinatown, see Coolidge, *Chinese Immigration,* 260; Peffer, *If They Let Their Women Come Here,* 93.

[162] Perhaps the specials' fee structure made residents feel more in control, like they could refuse payment if they believed an officer acted unfairly. Residents may have also felt these officers were more objective as members of the community than regular municipal officers, although testimony from special police in the 1877 State Senate Committee investigation does not read as especially sympathetic toward the Chinese community. It is also worth considering Mary Roberts Coolidge's point that Chinese residents were taxed the most because they had a reputation for actually paying what they owed: "It must not be overlooked that the Chinese were taxed not nearly because they were the most objectionable and the most submissive of all foreigners, but because they always had money and the state was always hard up." Coolidge, *Chinese Immigration,* 80. Despite this, Chinese residents protested the 1862 Police Tax as discriminatory. Qin, *Diplomacy of Nationalism,* 47.

reported their pay. In the 1876 state senate investigation into Chinatown, an officer refused to state his income or any estimate for his coworkers, though he painted his job as a noble civil service rather than a profitable enterprise.[163] Sometimes, officers clearly extracted their pay by force from those vulnerable to arrest, including prostitutes.[164] For these officers, clean-ups and reduced crime meant a serious loss of legitimate and extorted income.[165] Accusations against corrupt officers singled them out as outliers, but the very structure of policing in San Francisco protected corruption by discouraging oversight and not allowing Chinese testimony in court.[166] Most of the alleged benefits for police and government officials to uphold the law were altruistic and long-term, as opposed to the immediate temptations of sharing profits with a vibrant vice district.

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[163] McKenzie testimony, *California State Senate Committee Report,* 156. Coolidge, *Chinese Immigration,* 417 said special officers were paid much better than regular cops and many wanted to quit the regular force for these jobs.

[164] Tong, *Unsubmissive Women,* 104.

[165] Testimony of local officer Andrew McKenzie, *California State Senate Committee Report,* 156.

[166] Lloyd, *Lights and Shades in San Francisco*, 141. Lloyd believed police corruption to be inherent to the job: "Police departments are proverbially corrupt; especially is this true in the early history of thriving cities. So unlimited is the authority with which they are invested, that, if they be so disposed, they can violate their trust and abuse their privileges to such an extent as to utterly disarm the law and bind the hands of justice." The 1868 *Brady* decision upheld Chinese testimony as inadmissible in court. see McClain, *In Search of Equality,* 34; Brooks, *Appendix to the Opening Statement and Brief,* 3 described a crime only witnessed by Chinese women and therefore delayed in search of a white witness.

The piecemeal approach of the coalitional state to remove, intimidate, detain, or convert Chinese women before 1875 did not meaningfully eradicate prostitution or protect women from exploitative situations.[167] American misunderstandings of Chinese cultural traditions and language exacerbated barriers to reporting and fostered the "secrecy" of illicit activities.[168] When women returned to prostitution or crime continued, the coalitional state found two scapegoats: local courts and disreputable Chinese men. Although courts were a formal part of the local state, judges often acted out of step with the rest of the coalition. According to frustrated missionaries, police, and community members, tong members and procurers used a variety of loopholes to outmaneuver (often apathetic or corrupt) judges.[169] These

[167] The question of success is often one of periodization and vantage point: speaking from 1876-1877, local police chiefs regarded their latest sweeps as successful even if rank and file officers were less optimistic. From the 1880 census, it appeared that Chinese prostitution had gone down. But even if the number of Chinese prostitutes reduced (which is really impossible to know based on the flaws in census-taking practice), the conditions under which women worked worsened under more criminalization. The continued work of the Chinese Mission Home suggests that supply never dried up and by the 1890s Chinese prostitution rose again. Chen, *Chinese San Francisco*, 106-108; Cheng Hirata, "Free, Indentured, Enslaved," 25; Tong, *Unsubmissive Women,* 48, 116, 119, 122; Yung, *Unbound Feet,* 41, 45. The 1877 State senate report concurred that sweeps were temporary, and that gambling and prostitution could easily continue underground. McKinzie testimony, *California State Senate Committee Report,* 154.

[168] Coolidge, *Chinese Immigration,* 408. Coolidge believed this ignorant policing led to tong wars between rival groups, which remained a US phenomenon that did not occur in China.

[169] *California State Senate Committee Report,* 181. Police officer Charles O'Neill testified that courts could not determine which Chinese litigants told the truth due to cultural

tricks included paying exorbitant bails, accusing women of pettier crimes like larceny to avoid their detection for other crimes, and using Habeas Corpus to fight women's detention in mission homes or while awaiting deportation.[170] Claims that local courts

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differences, causing them to believe false accusations made against women. Gibson, *The Chinese in America,* 209 outlined several examples of Habeas Corpus abused by "shrewd celestials." Lloyd wrote, "The only remedy for this evil [prostitution], and also for the evil of Chinese gambling, lies, so far as we can see, in an honest and impartial administration of municipal government, in all its details, even including the Police Department. If officers would refuse bribes, then unprincipled chinamen could no longer purchase immunity from the punishment of their crimes." Lloyd, *Lights and Shades in San Francisco*, 289.

[170] Many police and court records destroyed in 1906 earthquake and fire, making it difficult to verify these claims. See Ethingon, "Vigilantes and the Police," 220 n3. In other published reports on arrests, women's arrests were not quantified by race but there do not seem to be long sentences for larceny or prostitution, so it is difficult to verify whether Chinese women were often charged with petty crimes. See *San Francisco Municipal Reports*, California State Archives. For more on the alleged tricks employed by Tongs, see: Police Officer Jackson testimony, *California State Senate Committee Report,* 208; Dillon, *Hatchet Men,* 154; Tong, *Unsubmissive Women,* 67, 120-122, 147; Logan, *Ventures in Mission*, 12. Logan used the example of the case of Ah Tsun, who was smuggled into the US dressed as a man's son. She sought refuge at the mission home but the family she had migrated with her had her arrested for theft and tried to pay her bail, though she succeeded in remaining in the mission home. For more on bail schemes and an organized criminal network, see *California State Senate Committee Report,* 20-24, 98, 120, 165, 173 and Condit, *The Chinaman as We See Him,* 144. Over the years, conspiracies about trafficking networks grew even more elaborate, such as Reverend Condit's chapter on the P.P.A., or Procurers' Protection Agency. He wrote, "It is organized for the sole purpose of importing Chinese slave girls. Its special work is the raising of money to meet the expenses of fighting in our courts, eluding the vigilance of honest customs officers, and doing all that is necessary for carrying on this nefarious traffic." This historian has found no other mention of this particular agency.

sided with the Chinese underclass paralleled larger patterns in Chinese cases, where even vocally anti-Chinese justices felt compelled by law to rule fairly in favor of Chinese litigants.[171] The coalitional state likely saw issues of due process and civil rights as threats to their own treatment of women, which operated flexibly through state and non-state institutions. Alternatively, a judge sympathetic to mission homes could make their project easier, as when one judge more often granted missionaries legal guardianship over immigrant women while his wife served as the president of the Occidental Board that managed the Presbyterian Chinese Mission Home.[172] Critiques of the justice system and other parties out of step with the coalitional state redirected blame over the continuing criminal enterprises in Chinatown.

Through discourse with competing and cooperating institutions, the coalitional state constructed a lasting, monolithic archetype of the Chinese prostitute to aid in more rapid policing. These inevitably contradictory and illogical archetypes quickly spread amongst a public eager to racialize and dehumanize foreign bodies. The archetype of the Chinese prostitute rested on three fundamental assumptions: that Chinese women carried diseases that endangered white families; that Chinese women were mostly enslaved and unaware of their position, therefore needing an outside liberator; and Chinese women, prostitute or respectable, could make Chinese

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[171] Chan, "Exclusion of Chinese Women," 102-103; McClain, *In Search of Equality,* 4; Lucy Salyer, *Laws Harsh as Tigers: Chinese Immigrants and the Shaping of Modern Immigration Law* (Durham: University of North Carolina Press, 1995), xv.

[172] Siler, *The White Devil's Daughters,* 52.

settlement more permanent through their reproductive labor and thus encroach on white, middle-class homogeny. All three narratives misconstrued Chinese cultural practices to enforce American superiority. These ideas, especially about gendered, racialized enslavement, also captured national attention and abolitionist imagination in a way rote policing of prostitution never had. The archetype of an enslaved and degraded Chinese prostitute moved President Grant to call for legislation to end the "evil practice" in his 1874 State of the Union address, a tacit endorsement of more extreme sexual policing and immigration restriction.[173] Reducing women's complex backgrounds and reasons for working in sex commerce into one trope of disease and enslavement made legislative solutions seem more possible despite the coalitional state's lackluster record of policing prostitution.

Associating Chinese prostitution with more virulent venereal diseases centered consequences to the white community in the need for sexual policing and invited the "expertise" of the burgeoning public health field to the coalitional state. Concerns about prostitution spreading venereal disease were not new or specific to Chinese women, but the pervasive associations between disease and non-white bodies

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[173] Grant's speech stated, "In a worse form does this [involuntary labor] apply to Chinese women. Hardly a perceptible percentage of them perform any honorable labor, but they are brought for shameful purposes, to the disgrace of the communities were settled and to the great demoralization of the youth of those localities. If this evil practice can be legislated against, it will be my pleasure as well as duty to enforce any regulation to secure so desirable an end." President Ulysses Grant, "State of the Union," December 7, 1874. http://www.let.rug.nl/usa/presidents/ulysses-simpson-grant/state-of-the-union-1874.php, Accessed 6 May 2019.

helped to racialize Chinese women as especially threatening to white men and the wives they might spread disease to.[174] Police and public health worker testimony often claimed that they caught Chinese women engaging in sex with boys as young as five or ten years old. Dr. J.C. Shorb, a member of the San Francisco Board of Health, testified:

> "[T]he presence of Chinese women here has made prostitution excessively cheap, and it has given these boys an opportunity to gratify themselves at a very slight cost. They get syphilis and gonorrhea cheaper in that way than any way I know of. Now and then these boys have a 'windfall,' and go among white girls and distribute these diseases very generously."[175]

This doctor's description established that Chinese women as inflictors of disease, not victims, and treated them as controllers of the economic market behind prostitution rather than some of the most vulnerable participants.[176] Outspoken public health officials saw themselves as responsible for protecting a common good composed only of white citizens, with much less compassion toward Chinese residents than the Six Companies, Christian missionaries, or even local judges and police showed.[177] Yet

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[174] Chen, *Chinese San Francisco,* 86; Shah, *Contagious Divides,* 78.

[175] Schorb testimony, *California State Senate Committee Report,* 171-172. See also testimonies of Supple, 146, and Gibbs, 153; Shah, *Contagious Divides,* 86. The Chinese Six Companies refuted this depiction and highlighted testimony from the Joint Special Congressional Committee, which blamed boys' venereal diseases on reckless behavior rather than Chinese women. See *Memorial of the Six Chinese Companies: An Address to the Senate and House of Representatives of the United States*, 28.

[176] Chinese women were sometimes called "mercenary prostitutes," so aggressive that men and boys were powerless to resist them. Shah, *Contagious Divides,* 87.

[177] Another example of this detachment from Chinese residents and community members came from the Bureau of Health, in charge of reporting on monthly deaths in the city. They

their systematic, often dehumanized visions of reform did not always gain support: In 1871, San Francisco public health officials briefly suggested the regulation of prostitution through regular medical examinations and licensing, a system gaining popularity in some American cities and especially Europe.[178] Christian groups protested this proposal as an endorsement of prostitution and it quickly faded from possibility in San Francisco's Chinatown. The coalitional state maintained local control amidst an international discourse on disease regulation.

Many white Americans also circulated the claim that Chinese prostitutes worked against their will as sex slaves. To them, prostitution served not as a foil to respectable Chinese womanhood, but as the most representative example of a Chinese gender system that victimized all women.[179] One British consular agent explained that this system considered Chinese women as property rather than equal spouses, saying,

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reported Chinese deaths separately, often without listing a verified cause of death but implying that most circumstances of death were suspicious and violent. See for example the table IV, page 415 in the 1875-1876 fiscal year report in *San Francisco Municipal Reports,* California State Archives.

[178] Gibson, *The Chinese in America,* 157; Shah, *Contagious Divides,* 85. For a broader overview of America's relationship to international debates on regulation see, David J. Pivar, *Purity and Hygiene: Women, Prostitution, and the "American Plan," 1900-1930* (Westport: Greenwood Press, 2002) and *Purity Crusade: Sexual Morality and Social Control, 1868-1900* (Westport: Greenwood Press, 1973).

[179] Smith, *Freedom's Frontier,* 163.

"You cannot buy a man; but you can buy a woman."[180] Others suggested Chinese women were incapable of seeing themselves as anything other than property.[181] The depiction of middle class Chinese wives, the most "free," cloistered in upstairs apartments, failed to consider how American hostility and lack of reputable economic opportunities for women discouraged their engagement with the non-Chinese community.[182] The American critics of Chinese gender oppression seldom saw parallels to American gender inequality.[183] Missionaries often imported stories of infanticide, polygamy, and women's social isolation from missionary work in China to promote the urgency of their work, although these stories fueled the belief that Chinese women were unassimilable more often than it promoted their conversion and

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[180] Fraser testimony, *California State Senate Committee Report,* 151. Femicide was also commonly used as evidence of this inequality. See Loomis testimony, *California State Senate Committee Report,*121.

[181] *California State Senate Committee Report,* 158. David Louderback, a judge, spoke in detail about this: "In cases I have investigated, parties have been convicted for dealing in this Chinese slavery–buying and selling women for purposes of prostitution. The women probably never realize that they are free agents but act as though they were slaves." For more on women's alleged complicity in their captivity, see Smith, *Freedom's Frontier,* 144. A lot of contemporary scholarship on Chinese immigrant prostitutes builds more nuanced arguments around this basic premise that women were more or less enslaved; Cheng Hirata, "Free, Indentured, Enslaved," 4; Tong, *Unsubmissive Women,* xii; Yung, *Unbound Feet,* 20, 27.

[182] Peffer, *If They Don't Bring Their Women Here,* 26; Yung, *Unbound Feet,* 20.

[183] Gibson, *Chinese in America,* 133 included an interesting comparison between footbinding and Western women's corsets, which Chinese women claimed were more damaging to women's health.

acceptance.[184] Even critics of prostitution delineated Chinese from white prostitution with especially dramatic depictions of bondage, ignorance, and degradation at the hands of Chinese men, whereas the Victorian fallen woman trope painted white prostitutes as individual victims of poverty or dire circumstance.[185] Emphasizing Chinese women's lack of awareness or agency further empowered members of the coalitional state to step in as legal and spiritual guardians.

Although members of the coalitional state put much emphasis on Chinese women's captivity, evidence suggests that many women, at least in the 1870s, knowingly entered prostitution. Reverend Gibson translated contracts in which women agreed to a certain number of years of work for passage to the United States, which he argued were proof of slave-like conditions.[186] These contracts made usually false offerings of economic mobility, as loopholes in the contracts kept women

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[184] Condit, *The Chinaman as We See Him,* 150; Gibson, *Chinese in America,* 127, 131, 201.

[185] Lloyd, *Lights and Shades in San Francisco,* 256-259, emphasized the forced nature for both Chinese & white women in poverty. Lloyd referred to white women as "fallen sisters" but likened Chinese women to African slaves. Evans, *Á La California,* 274 wrote: "These women are intellectually only children and are more to be pitied and less condemned than the fallen of their sex of any other race." These hint at the future white slavery panic in which most prostitutes of all races were treated as girls coerced into the work rather than adults with volition.

[186] One critic complained the contracts were written "with as much precision and straight-forwardness as we might use in apprenticing a girl to a milliner." from John H. Boalt, "Chinese Question" in *California State Senate Committee Report,* 258; Police Officer Supple testimony, *California State Senate Committee Report,* 145; Cheng Hirata, "Free, Indentured, Enslaved," 9. For English translation of contracts, see: Gibson, *Chinese in America,* 139-140; Peffer, *If They Don't Bring Their Women Here,* appendix, 115-117.

employed for longer based on the likely occurrences of illness or pregnancy.[187] Yet, these contracts suggest at least some knowledge of the ensuing work, if not outright consent.[188] Chinese testimony from the 1876 State Senate Committee investigation suggested this awareness as well.[189] Contracting the labor of daughters was not uncommon in China, and women likely considered their contracts a demonstration of

[187] Cheng Hirata, "Free, Indentured, Enslaved," 15. Cheng Hirata criticized these contracts as making the system of prostitution more brutal for Chinese women than slavery because they gave false hope.

[188] Labor contracts were hotly contested during the Reconstruction period, as some considered contracts to be the epitome of free labor while others saw contracts as enslaving. Amy Dru Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (New York: Cambridge University Press, 1998), x, 219.

[189] Chen, *Chinese San Francisco,* 84. Yong Chen's careful analysis of Chinese perspectives in San Francisco revises common narratives of sexual bondage that historians have accepted in the absence of other narratives. For example, Chen argues the state senate committee misrepresented the testimony of Ah You. Though he was often cited as saying that he had never heard of a woman being sold, Chinese newspapers reported that his statement was more accurately translated as "he has never heard of any woman being forcefully sold into prostitution against her will". For other testimony from Chinese men, see *California State Senate Committee Report,* 136, 165. Lee Ming Hown, president of the Sam Yup Company, said at least some women "owned themselves" or were aware of the circumstances they entered. Wong Ben, another Chinese man, testified to the ill treatment of prostitutes and named several police and Chinese procurers who kept the business running, a decision that he said would endanger his life. His testimony emphasized brutality but not necessarily women's ignorance of the work. Historians' speculations concerning motivation and prior knowledge are necessarily limited because records rarely include Chinese women's own words or perspectives.

filial piety even if the work was difficult or undesirable.[190] Similar contracts dictated the work of *mui tsais*, domestic laborers (often children) who sometimes traveled to the United States disguised as the family members rather than servants of more elite Chinese migrants.[191] Missionaries and the Six Companies generated stories of kidnapping and coercion that justified their interventions into brothels, but abduction into prostitution correlated with greater criminalization of the market and restrictive immigration laws increased the black market value of prostitution.[192] Chinese families most likely did not see the sale of daughters as the best scenario, financial or otherwise, but a contract offered them an opportunity to negotiate a potentially more secure future for the family unit.[193] Despite migrating women claiming wages and

[190]Cheng Hirata, "Free, Indentured, Enslaved," 5, 6; Tong, *Unsubmissive Women,* 40-42.

[191] Yung, *Unbound Fee*t, 37.

[192] Secondary sources on Chinese women's captivity in later years often gets cited in relation to the 1870s, despite a very different legal and cultural context in both China and the United States. The oft-cited story of Wong Ah So from the 1920s, while an invaluable first-hand account, should not be read as representative for this earlier period. Pascoe, *Relations of Rescue,* 95; Tong, *Unsubmissive Women,* 42; Yung, *Unbound Feet*, 59.

[193] Abrams "Polygamy, Prostitution, and the Federalization of Immigration Law," 655; Gail Hershatter, *Dangerous Pleasures: Prostitution and Modernity in twentieth-century Shanghai* (Berkeley: University of California Press, 1999), 182; Johanna S. Ransmeier, *Sold People: Traffickers and Family Life in North China* (Cambridge, Massachusetts: Harvard University Press, 2017), 2, 8; Tong, *Unsubmissive Women,* 40-42. Ransmeier's concept of "transactional families" helps shift the assumption that to be sold was synonymous with slavery: "With the exception of childbirth, arrivals and departures from a household involved the exchange of money (or goods) and mediation by an intermediary or broker. The rituals

marketable skills, the coalitional state refused to see Chinese women as economic contributors of family units who might support themselves in California or send remittances back to China.[194] It was also likely that some women found themselves alone in the United States, perhaps widowed or otherwise abandoned. Prostitution paid better than most other jobs available to women and could often overlap with them. Many women sewed piecework or made buttonholes, but both tasks would not have prevented prostitution. Short-term or part-time prostitution confounded census-takers and immigration agents used to seeing prostitutes as a distinct class.[195] American depictions of forced Chinese prostitution seldom accounted for the economic and social barriers that might have kept women in the trade longer than they wanted: they were often poor, illiterate, and in a tight-knit community that would make disappearing difficult.[196] Many women rightfully distrusted aid offered by a

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around the transition of a woman from one household to another established important status distinctions between wife, concubine, and slave girl." 2.

[194] Despite frequent claims to migrate for economic gain, there were very few viable employment opportunities for Chinese women in San Francisco and only those married to the most successful merchants could hope to not work for wages. Most Chinese laboring men were paid abysmally with the insulting claim that they did not need equal wages to white men because they survived on a diet of rice. Leong, *"A Distinct and Antagonistic Race,"* 144; Yung, *Unbound Feet,* 26.

[195] Supple testimony, *California State Senate Committee Report,* 146; Cheng Hirata, "Free, Indentured, Enslaved," 18; Tong, *Unsubmissive Women,* 75, 163.

[196] Some women worked the trade until a man agreed to marry them, sometimes by paying off a woman's contract or aiding her escape in unfree situations but this came with considerable risk to both woman and suitor. Chen, *Chinese San Francisco,* 80; Pascoe, *Relations of Rescue,* 95.

state that also criminalized them.[197] When women spoke up for themselves in a mission home or in court, coalition partners often politicized and altered their words to serve their own goals.

By circulating the archetype of a diseased, enslaved woman with local and national audiences, the coalitional state collapsed Chinese women into two very flat categories in order to more easily police them: the criminal prostitute and the small minority of "respectable" wives. By codifying distinct characteristics of the two groups, agents of the coalitional state believed they could apprehend "lewd" women in the city or attempting to enter the country. California lawmakers likely did not care so much about the accuracy of this categorization, anyway; enough Californians considered all Chinese women to be problematic residents because of their gender and ability to reproduce children with birthright citizenship that an exclusion law which reduced rates of women's migration at all had popular support.[198] Legislators

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[197] Gibson, *Chinese in America,* 145.

[198] Even the relatively liberal conversion work of missionaries reduced the social reproduction of Chinese culture and immigrant family formation in the United States. For more on fears about the potential reproduction and assimilability of Chinese women or lack thereof, see: Abrams "Polygamy, Prostitution, and the Federalization of Immigration Law," 662; Leong, *"A Distinct and Antagonistic Race,"* 134; "queer domesticity" in Shah, *Contagious Divides,* 78; Aristide R. Zolberg, *A Nation By Design: Immigration Policy in the Fashioning of America* (Cambridge: Harvard University Press, 2006), 182. For primary sources see: Charles Wolcott Brooks testimony, *California State Senate Committee Report,*102; Farwell, *The Chinese at Home and Abroad, together with The Report of the Special Committee of the Board of Supervisors of San Francisco*, 12; Lloyd, *Lights and Shades in San Francisco,* 219. Lloyd wrote: "Although, as a race, the Chinese are

first attempted such an exclusion in 1870 with Act 592, "To prevent the kidnaping and importation of Mongolian, Chinese and Japanese females for criminal or demoralizing purposes."[199] Language about "lewd and debauched women" regardless of volition appeared in 1874.[200] In keeping with traditional police powers applied to immigration, this law paired with several that excluded the infirm, former convicts, and those deemed poor enough to be "likely to become a public charge," all groups that were increasingly regarded as unassimilable Chinese who did not deserve domestic charity.[201] This bold new attempt at exclusion followed a familiar pattern of legal overreaching. California lawmakers in the Reconstruction period had a reputation for writing ambitious laws. It expected to be overturned in courts, but which allowed a small window for intense action against the Chinese until legal challenges ensued.[202] Although some of these exclusion categories could apply to

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characterized for their love of domestic life, few family circles have been formed among them in San Francisco. Woman, the important link in the sacred chain, is not here; or if she is here, she is in that infamous pursuit that is the great destroyer of homes." A decade later, even after Chinese Exclusion laws were in effect, Farwell recommended repealing birthright citizenship for those of Chinese descent.

[199] Act of Mar. 18, 1870, Ch. 230, 1870 Cal. Stat. 330.

[200] Abrams, "Polygamy, Prostitution, and the Federalization of Immigration Law," 675-677. The law also included restrictions on contract laborers. Even before the law was expanded to cover any "lewd and debauched" Chinese woman, the category of "kidnapped" women was difficult to define: if a woman were kidnapped, she might truly believe herself to be of good character, but the burden of proof was on her to demonstrate this.

[201] Abrams, "Polygamy, Prostitution, and the Federalization of Immigration Law," 675.

[202] Coolidge, *Chinese Immigration,* 264; Smith, *Freedom's Frontier,* 214.

immigrants of any nationality, immigration officials most often applied them to Chinese entrants.[203]

The key legal challenge to this early exclusion law came from an unexpected party in 1874. On August 24th, California Immigration Agent Rudolph Piotrowski boarded a steamer from China searching for "passengers [who were] lunatic, idiotic, deaf, dumb, blind, crippled or infirm... or a lewd or debauched woman."[204] He claimed to interview eighty-nine women and determine twenty-two to be "lewd or debauched." The twenty-two women were held on the ship, not even permitted to meet the husbands awaiting them at the docks after a hard month of travel. Piotrowski ordered the shipmaster to pay a bond to vouch for the women's moral character or return them to China. An hour before the ship would have sail them back to China, local merchant Ah Lung hired lawyer Leander Quint to file a Habeas Corpus suit, which prevented immediate deportation as the women awaited trial in the local jail.[205]

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[203] Gerstle, *Liberty and Coercion,* 93. This could be considered a form of surrogacy, which refers to legislation meant to accomplish an unstated goal otherwise prevented by constitutional constraints. In this case, these exclusions served to exclude Chinese immigrants even though they were labeled traditional police power exclusions.

[204] "In the matter of Ah Loo for a writ of Habeas Corpus," *Ah Fook* case file (1874), California State Archives, Sacramento (hereafter CSA).

[205] Chan, "The Exclusion of Chinese Women," 101-103. Without documentary evidence of motivation available, Chan infers that if Ah Lung was a prominent businessman as he proclaimed, he may have wanted to fight the discriminatory nature of the law–which points to one of the challenges of elite Chinese involvement in the coalitional state. If he was a procurer, as was rumored, he would have financial motivation to overturn the exclusion and perhaps profit off these particular women. The Pacific Mail Steamship Company wanted to

The ensuing trial traveled from the Fourth District Court of San Francisco, then heard as *ex parte Ah Fook* (1874) in the California Supreme Court, *in re: Ah Fong* (1874) in the U.S. District Court of Northern California, and finally *Chy Lung v Freeman* (1876) in the U.S. Supreme Court.[206] Judges considered testimony from state immigration official Piotrowski, local police, Chinese merchants, missionaries, and most of the twenty-two women themselves to determine: were these women rightfully ordered deported as lewd? How was Piotrowski so sure? Should individual states have such broad regulatory authority? Although other scholars have evaluated the legal ramifications of *Chy Lung v. Freeman* at a federal level, the case also documents local state power in action.[207] The case depicted California's exclusion

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fight exclusion laws such as this because freer migration meant more ticket sales and high bonds for "moral character" were a further burden.

[206] Unless citing a specific argument made *in re: Ah Fong* or *Chy Lung v Freeman*, this dissertation will default to the shorthand *Ah Fook* because the transcript cited originated from the state supreme court file, *Ex Parte Ah Fook* (1874), California State Archives, Sacramento. 22 litigants offered many different name options for the case with no remaining evidence for why certain women were named plaintiffs. The media usually referred to the case as "the case of the twenty-two Chinese maidens" or "Celestial maidens."

[207] The most thorough treatment of this case can be found in Kerry Abrams, "Polygamy, Prostitution, and the Federalization of Immigration Law," 677-689; Chan, "The Exclusion of Chinese Women, 98-103; McClain, *In Search of Equality,* 55-63. Abrams reads the case as a battleground over conflicting customs of marriage and monogamy, while Chen considers the case as the beginning of a long pattern of targeting Chinese women with exclusion and McClain views the case in the context of civil rights alongside other Chinese immigrant cases from the century. The case also appears briefly in a more social historical context in Smith, *Freedom's Frontier,* 206; Tong, *Unsubmissive Women,* 61.

attempt as the culmination of the coalitional state's sexual policing efforts, but the testimony also revealed the ruptures within the alliance as witnesses tried and failed to reach a consensus about the archetype of the Chinese prostitute or how to control her.

Women's recorded participation in this case reveals their understanding and wholehearted rejection of the state inspection process. Their testimony is only available in its English translation, but the translation and preservation of their sometimes biting commentary suggests the force of their critique.[208] Multiple women complained of their treatment as criminals and their time spent in jail, cut off from contacting family members or husbands.[209] When questioned about letters of instruction received from their husbands, which they burned after reading, several women stated it was perfectly reasonable to destroy a letter after reading its contents.[210] Women also rebuffed questions that implied they did not migrate freely; some stated economic motivations for coming, while others said they simply came

[208] These women's testimony should not be read as their honest opinions, considering the high stakes of the situation, which may have motivated them to lie or misrepresent for the sake of self-preservation. The records only include the English translations, from an interpreter not of their choosing. Even taking these limitations into account, the degree to which these women criticized the process they were subjected to and asserted their perceived right to migrate are significant and unparalleled in other documents of the time.

[209] Lou Ying testimony, 30; Ah Lin testimony, 33, Ah Fook case, CSA.

[210] Di He testimony, 31; Ah Lin testimony, 33; Yuen Hu testimony, 89; Su May testimony, 90; Fong Noy, 129, Ah Fook case, CSA.

Ah Lin testimony, 32; Ah Fook testimony, 85; Ah Keo testimony, 92, Ah Fook case, CSA.

because they wanted to.[211] These assertions frustrated the examiner and judge, who stopped further questioning of the women because their testimony was too similar, implying they rehearsed their stories as alibis.[212] Some women improvised statements that protested their mistreatment. Ah Fook responded to the minutiae of her questioning (note, translation in third person): "She [Ah Fook] says now you are foolish. She says she has been here several months [living previously in San Francisco] but she could not remember who kept the baker's store. She said if you were doing right you would not ask her so many questions, that she went home with a good intention and she brought her sister here with a good intention."[213] When asked to calm down, Ah Fook and the other women filled the courtroom with loud crying until the judge called for a recess removed them from the proceedings. The *Daily Alta* called her "obstinate and saucy" for this act.[214] It likely surprised readers to learn that Chinese women could act in defiance rather than passively accepting any fate - a cornerstone of the archetypal Chinese prostitute. At several other times, coordinated

[211] Ah Lin testimony, 32; Ah Fook testimony, 85; Ah Keo testimony, 92, Ah Fook case, CSA.

[212] From the attorney general: "I am willing to admit that the rest of these people will go on the stand and that they will testify that they left China and that they are married or that they came here for the purposes of getting married - that they will swear to that fact." At that, the judge agreed to stop questioning the remaining women. Ah Keo testimony, 94, Ah Fook case, CSA.

[213] From the transcript: "[Here the proceedings of the court were interrupted by the noisy demonstrations of the Chinese]," Ah Fook testimony, 87, Ah Fook case, CSA.

[214] Chan, "Entry Denied," 100; Gibson, *Chinese in America,* 149. Gibson described Ah Fook and her sister as "indignant innocents" for their behavior on the stand.

"wailing" disrupted proceedings, especially as women were transported to various additional venues, such as the county jail or the courtroom lobby on the first morning of the trial.[215] The explosive emotional displays employed by these women used traditions of Chinese womanhood to their advantage, displaying respectability even if it went unrecognized by Americans in the room. By using a diversity of tactics, women also demonstrated an understanding of limits to the existing American justice system, for even flawless performances on the stand could cause deportation when the court's criteria for lewdness constantly fluctuated.

The women who testified emphasizes their proper character and behavior to emphasize the arbitrary nature of the state's accusations of lewdness. As the story of their inspection unfolded in court, state immigration agent Piotrowski's actions appeared less and less sound. He argued it was within his powers to exercise his judgement for "the welfare of the community."[216] For all that Piotrowski defended his role as protector of the community, it surfaced in questioning that he did not vet all women aboard the ship with the same rigor, granting a request by women traveling

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[215] Gibson, *Chinese in America,* 147, 151.

[216] Piotrowski claimed, "I have no intentions of stopping (inaudible) When I am Commissioner of Emigration, I believe my duty is to stop anything that is dangerous to the welfair [sic] of the community + of course I believe I do my duty. I did the best I could. I made a very careful examination. I am not a lawyer, and I did the best I could. I made an examination of these people + according to my judgement they were perfectly improper to come into this community." Further testimony questioned his procedures for notetaking and translating during the landing process. Piotrowski testimony, Transcript of Fourth District Court Hearing, 16, Ah Fook case, CSA.

with their families that they be considered separately from these twenty-two women who had traveled alone.[217] In response, Quint, the lawyer representing the twenty-two women, summed up Piotrowski's metric for women's indiscretion, not as being lewd but simply childless and unaccompanied.[218] Piotrowski's system raised concerns in the courtroom, though his actions remained within the purview of police power. In federal courts, the state immigration agent faced more scrutiny, as Justice Fields challenged the agent's potential financial incentives. When declaring a woman lewd, the state agent could demand a bond from the ship captain - of which he received twenty percent - or force the shipmaster to take her back to China.[219] Fields wrote, "it is hardly possible to conceive a statute more skillfully framed, to place in the hands of a single man the power to prevent entirely vessels engaged in a foreign trade, say with China, from carrying passengers, or to compel them to submit to systematic extortion

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[217]Piotrowski testimony, 18, Ah Fook case, CSA. At several points in the transcript, crewmembers and the ship's captain reported seeing no inappropriate behavior from the women aboard. Piotrowski admitted to ignoring their observations.

[218] "Quint: And those that didn't have children, you concluded that they were improper persons to live here? Piotrowski: yessir. Q: That was the reason you refused to let these people land? A: that is one of the reasons. There are a great many others. Q: That is the misfortune, that a great many women are afflicted with, isn't it? A: That I don't know. I am not a doctor. Q: What was the chief reason that prevented your allowing them to land wasn't it: that they came here by themselves, + didn't have any children." Piotrowski testimony, 19-20 Ah Fook case, CSA.

[219] Chy Lung v. Freeman, 92 U.S. 275, 278 (1875). This was not the first or last time such an accusation of abuses using morality clauses would be made. See Hong Kong consular controversy in Peffer, *If They Don't Bring Their Women Here,* 43-53.

of the grossest kind."[220] The lack of bureaucratic order to inspection and the potential for financial abuse showed the immense power available to state immigration agents with minor oversight. Such laxity made the arbitrary process of determining lewdness even more absurd.

The state agent's arbitrary inspection process also interpreted women's bodies to distinguish alleged respectability. Officials questioned women about their marital status, work experience, and childhood memories if claiming to have been born in the United States but distrusted their answers. Visually, reading the body and clothing offered an alternative way to analyze women. This inspection began in Hong Kong, where British and American consular officials worked together to develop additional levels of observation as a form of remote control.[221] This included an interview with the consul to obtain a morality certificate necessary for women to purchase a ticket. After this interview, women who appeared respectable received a stamp on the arm, which they then had to present during a second interview before the ship's departure days later, allegedly to prevent impersonators.[222]

Such a process rendered the physical body a tool for state categorization and reduced women's complex identities to a literal stamp of approval or moral rejection. Existing records do not consider whether someone might change their clothes to impersonate a more respectable woman. Remote control allowed the coalitional state

[220] Chy Lung v. Freeman, 92 U.S. 275, 278 (1875).

[221] Peffer, *If They Don't Bring Their Women Here,* 44; Tong, *Unsubmissive Women,* 50.

[222] Freeman testimony, 21, Ah Fook case, CSA.

to outsource some of the bureaucratic labor of regulation and invited Chinese, British, and U.S. Consulate partners, as well as steamship operators, to help shape the inspection criteria and make regulation a truly global project.[223] Yet, these other collaborators brought their own motivations and local controversies into the project without the same moralizing urgency, which usually resulted in more women passing through the barriers.[224] Nor did Chinese women passively accept remote control; many complained about or refused physical examinations, concurrent with Chinese women's resistance to compulsory vaginal examinations under the British Contagious

[223] McClain, *In Search of Equality,* 307 n 61; Vincente Tang, "Chinese Women Immigrants and the Two-Edged Sword of Habeas Corpus" in *The Chinese American Experience: Papers from the Second National Conference on Chinese American Studies,* ed. By Genny Lim (San Francisco: Chinese Historical Society of America and the Chinese Culture Foundation of San Francisco, 1984), 49. Secretary of State Seward hoped to outsource the process of categorizing moral or immoral, free or unfree Chinese migrants to Chinese officials who he believed could better read signals which eluded American immigration officials. On American Consuls and corruption around women's morality certificates, see Peffer, *If They Don't Bring Their Women Here,* chapter 4.

[224] Elizabeth Sinn, *Pacific Crossing: California Gold, Chinese Migration, and the Making of Hong Kong* (Hong Kong: Hong Kong University Press, 2013), 236, 247; Zolberg, *A Nation by Design,* 189. Sinn argues that British colonial authorities did not debar potential prostitutes from immigrating in earnest because many supported regulated prostitution as a better alternative to homosexuality and believed most Chinese immigrants were better off fleeing unrest in China. When the Tung Wah Committee, formed of local Chinese elites, attempted to reform the certification process for immigration, they also chose selective enforcement to protect the migration of mui tsai, many of whom worked for elite families.

Disease Acts.[225] While officials attempted to treat tangible bodies as legible evidence of moral character, inconsistent interpretations by disparate parties and women's own resistance to invasive forms of observation challenged this method of measuring morality.

Flawed visual readings of women's bodies continued to serve as evidence for their criminalization in the *Ah Fook* case as witnesses suggested various clothing marked a prostitute. Potentially damning articles included robes with yellow embellishments, a relatively sizeable amount of any embellishment, variegated silk accents, or wider sleeves.[226] When Reverend Gibson suggested wider sleeves could conceal suspect clothing, Quint asked four of the women to stick out their arms so he,

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[225] Joseph Edmondson, *An Enquiry into the Causes of the Great Sanitary Failure of the State Regulation of Social Vice,* (Westminster: The British, Continental, and General Federation for the Abolition of State Regulation of Vice, 1897), 8. In a section titled "Even the Heathen Cannot be Coerced," Edmondson wrote that authorities told him, "the objection of the Chinese prostitutes to submit to the [Contagious Disease Acts] examination was so intense that it could be inflicted only on *the lowest class,* found solely in brothels for Europeans" and thus most enforcement efforts were abandoned. See also Philippa Levine, *Prostitution, Race, and Politics: Policing Venereal Disease in the British Empire* (New York and London: Routledge, 2003) 94, 107.

[226] Condit testimony, 66; Fong Noy [Chinese dressmaker] testimony, 123; Gibson testimony, 55-60, Ah Fook case, CSA. A passenger on the ship, Chung Fung testified to overhearing the following exchange: "On the steamer someone said to them 'what makes you dress + look so nice? + she said 'of course, if we are prostitutes, we are dressed nice.'" 118, Ah Fook case, CSA. An inspector of the Six Companies, Chu Pin, said dress details such as sleeve length likely denoted age rather than respectability, as girls 10-12 years old would wear different styles of robes, 135, Ah Fook case, CSA.

Gibson, and the judge could look up their sleeves for these colorful inner garments.[227] Again, officials treated women's bodies as literal manifestations of their sexual character. But disagreements about the specific codes of dress indicated that Chinese merchants, missionaries, and other state agents did not share a uniform opinion about who qualified as lewd and debauched, even as they shared a confidence that appearance denoted sexual character. In contrast, the court did not take an interest in observations of behavior made on the ship, where captain and crew reported no difference in actions between these women and others.[228] Quint questioned whether it was possible that a lewd woman could mask her identity for an extended period: "If a woman was particularly lewd, with that number of males on board, do you think she would not exhibit some signs of it? Did you ever know of an instance where there was a woman that was really lewd that didn't show some signs of it?" Ship captain Freeman gave no answer to this question.[229] As the women's attorney, Quint wanted to emphasize the exemplary behavior reported by the ship's crew, but he also put weight on the idea that lewd women could be distinguished with thorough

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[227] Gibson testimony, 60, Ah Fook case, CSA. Gibson also described the scene in his book, *Chinese in America,* 150-151. There he wrote, "that the women present wore garments which disguised their true character." In revealing their bright clothing underneath modest robes, Gibson collapsed clothing and moral character into a single identity.

[228] Freeman testimony, 24, Ah Fook case, CSA. This case is one of many in which private shipping companies fought state encroachment into their business practices, which may have influenced a desire to not report misbehavior on principle. McClain, *In Search of Equality,* 57.

[229] Freeman testimony, 25, Ah Fook case, CSA.

surveillance. In theory, any state agent could quickly decode a woman's dress, whereas surveilling behavior took time and resources.

The contradictions and disagreements in the *Ah Fook* testimony between members of the coalitional state revealed the tenuousness of their alliance. Although missionaries and the Six Companies supported morality certificates and preempting Chinese prostitution through some exclusionary measures, the case of *ex parte Ah Fook* forced private institutions to reevaluate their relationship to regulatory state power. Citizen groups often supported sexual policing to justify the continued migration and rights of other more "respectable" Chinese, but the enforcement of the California statutes suggested how arbitrarily exclusion laws could be enforced with little recourse. Powerful local experts, who spoke with confidence on other platforms, hesitated on the stand. Reverend Gibson opened his testimony with, "I would know courtesans in China as I would know the courtesans on Dupont Street" and described the clothing of guilty parties before demurring, "I don't claim to be an expert on anything."[230] Officer Gaylor Woodruff, a police officer on the Chinatown beat, declined to condemn the twenty-two women. Instead, he spoke about Chinese families he observed, including women who he did not believe to be prostitutes and suggested that at least some of the twenty-two women were indeed coming to live in legitimate partnerships, whether they were monogamous American-style

[230] Gibson testimony, 55, Ah Fook case, CSA.

marriages.[231] Woodruff also doubted the significance of women's dress and his commentary based on regular street surveillance of Chinatown appeared incongruous with even the basic premises for detection offered by others.[232] The lack of consensus about how to identify a prostitute, or what should be done with these particular women, signals a deeper weakness to the coalitional state built on differing resources and overlapping goals: when the goals of one party changes, other institutions must adapt or lose influence. When one party faced scrutiny, as with state immigration control facing federal courts, the citizen groups gained by distancing themselves rather than aligning with institutional practices, they did not invent or condone. Maintaining distance between collaborators also weakened the coalitional state's agility and collective strength.

The *Chy Lung* decision handed down by the Supreme Court ended an era of state immigration control without rebuking the local state practices of sexual policing, effectively keeping the concept of exclusion while revising its enforcers. Justice Miller wrote the decision, overturning the California law as unconstitutional and thus allowing the women to remain in San Francisco, where they were already living after paying bond. The court took issue with the California law's immigrant bond system, which singled out certain people–paupers, the infirm, convicted criminals, lewd

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[231] Woodruff testimony, 82, Ah Fook case, CSA. The officer would not give a hard number to how many Chinese marriages he knew to have marriage certificates but said the only marriage he could be sure was official was his own.

[232] Woodruff testimony, 74, Ah Fook case, CSA. Woodruff said all women "dress for the occasion" of various holidays, including "feeding the dead" several times a year.

women–but financially motivated immigration agents to use these labels extensively.[233] It did not condemn the singling out of these categories for exclusion so much as who did the categorizing, and with what motivation.[234] Although the federal district court decision of *in re: Ah Fong* considered the Fourteenth Amendment, the Supreme Court did not engage with questions of civil liberties or differences in treatment of Chinese immigrants compared to other nationalities.[235] The small passage in the decision which mentioned women accused of lewdness at all did not defend those who were unfairly accused or punished for a crime not yet committed. Instead, Justice Miller defended the right of reformed women to immigrate: "The woman whose error has been repaired by a happy marriage and many children, and whose loving husband brings her with his wealth to a new home, may be told she must pay a round sum before she can land, because it is alleged that she was debauched by her husband before marriage."[236] This defense offered little future protection for Chinese women, considering common American views toward Chinese

[233] Chy Lung v. Freeman, 92 U.S. 275, 278 (1875).

[234] Neuman, *Strangers to the Constitution,* 48.

[235] In in re: Ah Fong, Fields applied the Fourteenth Amendment to his decision by arguing that the law unfairly imposed upon some immigrants but not others. The law had not identified a racial category specifically, but Fields considered it to violate equal protections by only affecting those immigrating by ship rather than other modes of travel. In theory, a blanket exclusion of immigrant prostitutes of all races, from all modes of entry would have been more constitutionally-sound. McClain, *In Search of Equality,* 61; Abrams, "Polygamy, Prostitution, and the Federalization of Immigration Law," 643, 703.

[236] Chy Lung v. Freeman, 92 U.S. 275, 281 (1875).

marriages as seldom "happy" or equal. If the twenty-two women of *Chy Lung* represented any trends, many women who arrived to meet their husbands were young and childless because they had mostly lived apart from their husbands until that point. Miller's decision reinforced the idea that improper women attempting to immigrate could be detected, with only the small number of "repaired" women worth admitting. While the decision did not explicitly endorse sexuality-based exclusion, the lack of condemnation made future judicial challenges seem less likely.

Even before the final *Chy Lung* decision came in 1876, the Page Act federalized sexuality-based exclusion as modeled by the California law. Representative Horace Page (R-CA) turned the constitutional challenge to California law into an opportunity rather than a rebuke. Page's frequently called for Chinese exclusion laws, which violated the 1868 Burlingame Treaty.[237] His 1875 proposal gained traction by targeting "coolie laborers" not protected by the treaty and women "imported for the purposes of prostitution," relying on Reconstruction abolitionist energy to see immigration control as emancipatory rather than limiting.[238] The law's phrasing recast women from active immigrants, albeit with potentially lewd character, to "imported," without agency or deserving of the same rights afforded to other immigrants. The law offered Congress an entry point to Chinese exclusion by another

[237] Peffer, *If They Don't Bring Their Women Here,* 35.

[238] Peffer, *If They Don't Bring Their Women Here,* 36; 1875 Page Law *(An act supplementary to the acts in relation to immigration)* Sess. II, Chap. 141; 18 Stat. 477. 43rd Congress, March 3, 1875.

name, even calling it a "supplementary act" to imply its cohesion with existing laws even though it assigned federal officials a new authority to exclude.[239] Like its California predecessor, the Page Act also continued to rely on elements of remote control, which added to the improvisational and inconsistent procedures developed for enforcement. To Horace Page and other lawmakers, the question of *who* enforced Chinese exclusion appeared less important than it happens in any capacity. The *Chy Lung* decision published later omitted the law, which served as tacit approval.[240] The law relied heavily on the groundwork laid by the California law for how to identify prostitutes. Testimony from *Ah Fook* instructed federal officials on the elements of appearance, memory, and marriage validity that defined a woman's legitimacy for entry. Historians disagree about the success of the Page Act, either to reduce prostitution or reduce the entry of Chinese women overall.[241] But even as a steppingstone to future laws, it set important precedents and sanctioned the critical move from state to federal immigration control. Courts affirmed more often than

[239] Peffer, *If They Don't Bring Their Women Here,* 37.

[240] Abrams, "Polygamy, Prostitution, and the Federalization of Immigration Law," 703.

[241] Chan, "Exclusion of Chinese Women," 105; Cheng Hirata, "Free, Indentured, Enslaved," 10; Coolidge, *Chinese Immigration,* 419; Peffer, If They Don't Bring Their Women Here, 55; Tong, *Unsubmissive Women*, 47. While older historiography from Cheng Hirata and Coolidge considered the law to be mostly ineffective and Tong argued that efficacy varied under terms of different consuls, Peffer's more in-depth study of the law's impact on overall rates of Chinese women's immigration has challenged more contemporary historians to reconsider the law's significance.

limited federal power to regulate immigration, even as new federal agencies improvised new processes through practice rather than intelligent design.

Although the coalitional state lost immigration control powers to the Page Act, many of its voices remained in the conversation of controlling immigrant women's sexuality beyond the policies established at ports of entry. Citizen groups continued to emphasize the moral urgency of guiding Chinese women in the United States, although their concerns lost public enthusiasm as more Californians organized for race-based exclusions.[242] The archetype of the dangerous Chinese prostitute periodically resurfaced in city and state reports, most notably the 1876 California State Senate committee report entitled *Chinese Immigration: a Social, Moral, and Political Effect.* Over nearly four hundred pages, local law enforcement, immigration officers, missionaries, and others made the unsurprising case that Chinese immigrants had a negative effect on California, specifically because of prostitution and other criminal activities considered endemic to San Francisco's Chinatown. Mary Coolidge later estimated, "On the morals of Chinese women, the committee interrogated twenty-one witnesses at length, devoting about one-fifth of the testimony to a class which made up at most, only one-fifteenth of the Chinese immigrants."[243] Congress appointed its own investigation a few months later to publish a more balanced–

[242] Chan, "Exclusion of Chinese Women," 108; Peffer, *If They Don't Bring Their Women Here,* 38 associates this shifting strategy from moral to race-based exclusion with the political ascendance of the Workingman's Party.

[243] Coolidge, *Chinese Immigration,* 87.

although still ultimately disapproving–report on the same topic.[244] The Chinese Six Companies spoke out against these findings, in stark contrast to their support of state action against prostitutes.[245]Although historians often cite these reports as evidence of anti-Chinese racism, they did more than capture ideas about racial difference from the time.[246] The California report made visible the interconnections and conflicts between various groups in Chinatown, showing how some police officers worked well with citizen groups while others grated at political differences.[247] The report revealed bonds and opinions not previously visible to many in the public. The testimony also allowed coalition members to boast of success beyond what they could show in reality, as when police officers boasted a recent successful sweep against Chinese prostitutes and gamblers and Giles Gray of San Francisco customs declared the Page

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[244] 44th Congress, Second Session, Report No. 689, *Report of the Joint Special Committee to Investigate Chinese Immigration* (Washington: Government Printing Office, 1877). Mary Coolidge was among those to note the farce of the proceedings, and its unfortunate impact on subsequent studies and exclusion laws. Coolidge, *Chinese Immigration,* 93.

[245] *Memorial of the Six Chinese Companies: An Address to the Senate and House of Representatives of the United States*, 1.

[246] Abrams, "Polygamy, Prostitution, and the Federalization of Immigration Law," 707; McClain, *In Search of Equality,* 63.

[247] Coolidge, *Chinese Immigration,* 94. By Coolidge's estimation, state senators distorted honest testimony and privileged the often-uninformed perspectives of police in order to bolster an anti-Chinese position. While Coolidge considered this a rejection of missionaries with lived experience with the Chinese (as she herself had missionary aspirations), the fact that police were called to comment on Chinese religious and business culture, while missionaries often spoke about crime and morality, suggests the messy cultural and institutional boundaries between agencies under the coalitional state.

Act almost superfluous because existing methods of remote control through Hong Kong were already so strict as to cut women's migration by ninety percent.[248] *Chinese Immigration: a Social, Moral, and Political Effect* could have the last word on much of how policing worked in Chinatown, without proving a single arrest or policy victory or considering the experiences of Chinese women.

Surveying the first twenty-five years of sexual policing of Chinese women in the United States, from 1851 to 1877, the power of the coalitional state proved far from absolute. The two cases that bookend this period, from the two unnamed women whom the Committee of Vigilance chose not to deport to *Chy Lung*, in which twenty-two women fought their exclusion and won as the first Chinese litigants heard in the Supreme Court, serve as important exceptions to the rule that sexuality provided a policeable category through which to target those of a particular race, gender, and nationality. Yet when individual women won their cases, their victories meant momentary tolerance. While the coalitional state failed in these cases to carry out the expulsion they envisioned, the groups inserted themselves nearly everywhere, physically and discursively criminalizing women for what they looked like rather than what they did. Other cities and state entities accepted sexual policing as an uncontroversial practice and would adapt this model to fit their political needs. The

[248] Duffield quoted in "Report," *California State Senate Committee Report*, 4; Address by Hon. Edwin R. Meade, "The Chinese Question," in *California State Senate Committee Report,* 294; Gray testimony, *California State Senate Committee Report,* 219; Chen, "Exclusion of Chinese Women," 106.

model, forged in error and coincidence rather than coordinated strategy, solidified into three clear steps: build coalitions between public authority and private resources; collapse targeted individuals into a singular foreign and threatening archetype; then go above and beyond existing legal conventions to discipline the targeted bodies. The cruel subjectivity of sexual policing made it a unique tool for controlling immigrant women, forged in the coalitional state's erratic campaign against the Chinese women of nineteenth-century San Francisco.

CHAPTER THREE

"The Final Word": Administrative Discretion and Interrogating Sexual Nonconformity in Federal Entry Control, 1875-1903

In the winter of 1890, Mok Jow Yee arrived at the Port of San Francisco, planning to reunite with her husband.[249] Instead, immigration officials denied Yee admission to the United States on the suspicion that she intended to practice prostitution. Immigration officials offered no evidence to support their charge, nor did the law obligate them to share such information with the accused. Yee appealed her debarment. Over the next six months, Yee endured an exhaustive investigation, confined first on the *Oceanic* and then at the Chinese Mission Home in San Francisco. Through a series of interrogations, immigration officials attempted to portray Yee as dishonest and capable of shrouding her identity as a prostitute. Yee resisted these efforts, often correcting the English translation of her testimony. When asked how she would react if her husband sold her to a brothel, Yee declared that she would report her husband to the police for such a crime. Her fiery responses only made the interrogators more suspicious that procurers had coached her. Yee asserted:

[249] Case 9127, page 12, Admiralty Case Files 1851-1934, U.S. District Court Northern District of California, RG 21: Records of District Courts of the United States (hereafter Admiralty Case Files), National Archives and Records Administration - San Bruno (hereafter NARA-San Bruno).

"I only speak what I know myself. You do not suppose I am telling you a lie, do you?" Indeed, immigration officials constructed the entire entry process on the assumption that women like Yee lied about their identity. Exercising their discretionary power, officials deported Yee.

Women such as Mok Jow Yee complicated state efforts to identify and bar them as alleged prostitutes. Federal immigration officials treated sexual immorality as a state concern to address by invasively evaluating and debarring migrating women at national borders. A range of observation and interrogation methods developed first in San Francisco, then New York, reflecting the priority placed on controlling women's sexuality from the start of federally coordinated immigration regulation. Sexual policing, which used state policing tools to make alleged sexual character visible and therefore punishable, required flexible methods. Broad administrative discretion allowed officials to thwart prostitution ad hoc at entry points without formalizing their procedures and shielded them from critique or external review. While Chinese women in San Francisco faced lewd sexual questioning that undercut their marriages and traditions, European women in New York navigated a more physically invasive medical examination system alongside the Board of Special Inquiry tribunals.[250]

[250] For this chapter, women immigrants passing through Ellis Island are most often noted as European rather than a particular nationality. Although many unofficial sources reference Jewish women as overrepresented within sex commerce, it is difficult to see a correlation to exclusion rates, especially because official documents did not consistently denote Jewishness because of debates on whether to qualify it as a nationality or faith. Subsequent chapters

Officials used administrative discretion to admit European women at comparatively higher rates than Asians, in part because of racialized assumptions about white women as docile and sexually vulnerable rather than sexually threatening. Yet observation, interrogation, and detention acted to intimidate and censure those admitted as well as those excluded at borders. Besides debarment, border entry controls encouraged the collection of surveillance material for future coordination between immigration stations. However, with more power and bureaucratic structure under federal immigration control than with previous state-by-state efforts, late-nineteenth century policing often failed to exclude potential prostitutes at entry successfully. Sexually nonconforming women repeatedly resisted these entry controls in explicit and illicit ways, from speaking back to officials as Mok Jow Yee did to simply passing through the system successfully while pregnant, unwed, poor, or going on to work as a prostitute.

This chapter identifies sexual policing as a central project of federal immigration bureaucracy as it developed, haltingly and reactively, at entry points in San Francisco and New York between 1875 and 1903. In preceding decades, states individually regulated immigration and provided the first foundations for excluding and deporting non-citizens.[251] Chinese Exclusion laws marked a turning point for

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discuss how public discourse on international white slavery perpetuated a distinctly anti-Semitic Jewish prostitute archetype less recognizable in entry control policies.

[251] Hidetaka Hirota, *Expelling the Poor: Atlantic Seaboard States and the Nineteenth-Century Origins of American Immigration Policy* (New York: Oxford University Press, 2017); Kunal

federal immigration control by modeling the boundaries of possibility for aggressive regulation and inspiring legislators to renew and expand categories for exclusion perpetually.[252] This development included the more widely known 1882 Exclusion Act and the 1875 Page Act, which specifically targeted Chinese contract laborers and women "imported" for prostitution, mostly applied to Chinese women.[253] The Immigration Acts of 1891 and 1903 increased the number of excludable categories for non-Chinese immigrants, including the ill-defined "likely to become a public charge" because Chinese Exclusion procedures made entry control and deportation

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Parker, *Making Foreigners: Immigration and Citizenship Law in America, 1600-2000* (New York: Cambridge University Press, 2015), 25.

[252] Erika Lee and Judy Yung, *Angel Island: Immigrant Gateway to America* (New York: Oxford University, 2010), 24; Eithne Luibhéid, *Entry Denied: Controlling Sexuality at the Border* (Minneapolis: University of Minnesota Press, 2002), xii; Anna Pegler-Gordon, *In Sight of America: Photography and the Development of U.S. Immigration Policy* (Berkeley: University of California Press, 2009), 3; Lucy Salyer, *Laws Harsh as Tigers: Chinese Immigrants and the Shaping of Modern Immigration Law,* (Durham: University of North Carolina Press, 1995), xvii; Aristide R. Zolberg, *A Nation By Design: Immigration Policy in the Fashioning of America* (Cambridge: Harvard University Press, 2006), 436.

[253] 1875 Page Law *(An act supplementary to the acts in relation to immigration)* Sess. II, Chap. 141; 18 Stat. 477. 43rd Congress, March 3, 1875; discussed in Kerry Abrams, "Polygamy, Prostitution, and the Federalization of Immigration Law," *Columbia Law Review* 105, No. 3 (2005): 647; George Anthony Peffer, *If They Don't Bring Their Women Here: Chinese Female Immigration before Exclusion,* (Champaign-Urbana, IL: University of Illinois Press, 1999); Vincent J. Cannato, *American Passage: The History of Ellis Island* (New York: HarperCollins, 2009), 42.

administratively plausible.[254] Yet immigrants' legal challenges also shaped these new federal immigration laws, opposing the nativist or restrictionist factions who historians sometimes portray as an all-powerful political force of the time.[255] Even as immigrant cases stretched and renegotiated immigration policies, the landmark ruling in *Chae Chan Ping* (1889) established Congress' plenary power over immigration laws and limited the efficacy of individual legal challenges to growing restrictions.[256]

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[254] Despite the clear inspiration for other restrictive immigration legislation, Chinese immigrants were processed by different agents than other immigrants until 1900. "Chinese Inspectors" appointed under U.S. Customs regulated Chinese immigrants at U.S. ports and immigration stations. Both U.S. Customs and the Bureau of Immigration answered to the Secretary of the Treasury. Although the motivations for this divided system are unclear, it was likely informed by assumptions that issues around Chinese immigration were adequately addressed by Exclusion laws and that the entry of European immigrants generated a fundamentally different set of challenges. Salyer, *Laws Harsh as Tigers,* 32. Customs agents notoriously approached immigrants as objects of commerce rather than people. Peter Andreas, *Smuggler Nation: How Illicit Trade Made America* (New York: Oxford University Press, 2014), 215. Customs agents also often spoke out of turn, claiming absolute power to exclude until courts overturned their decisions in appeals. Christian Fritz, "A Nineteenth Century "Habeas Corpus Mill": The Chinese before the Federal Courts in California," *The American Journal of Legal History* 32, 4 (1988), 366.

[255] Charles M. McClain, *In Search of Equality: the Chinese Struggle Against Discrimination in Nineteenth Century America* (Berkeley: University of California Press, 1996); Salyer, *Laws Harsh as Tigers*, xiv.

[256] Gerald Neuman, *Strangers to the Constitution* (Princeton: Princeton University Press, 1996), 118; Chae Chan Ping v. United States, 130 U.S. 581 (1889). Chae Chan Ping left San Francisco to visit China before 1882, but the Chinese Exclusion Law passed in his absence. Immigration officials rejected his reentry certificate and courts upheld Exclusion Laws as part of Congress' plenary power over immigration.

This decision also shifted immigration from a matter of international commerce as reiterated in *Chy Lung* (1876) to a matter of national security justified by, in Gerald Neuman's description, "unenumerated, or even extraconstitutional, power inherent in nationhood."[257] Invoking sovereignty and protection encouraged immigration officials to develop sweeping policies that violated many immigrants' sense of rights, especially at entry points.

Rather than delivering efficiency, plenary power invited further disagreement between legislative, judicial, and administrative methods of managing the messy immigration process. These logistical conflicts, along with continuing challenges from immigrants themselves, prevented plenary power's potential omniscient power. The Supreme Court's decisions in *Chy Lung* and *Henderson* in 1876 affirmed immigration control as a federal responsibility because of the commerce clause, which placed all matters regarding foreign commerce in Congress' purview.[258] Yet Supreme Court decisions were not the place to design a new government agency. Even with congressional enthusiasm for more restrictive immigration laws and

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[257] Neuman, *Strangers to the Constitution,* 122. In Chy Lung v. Freeman, alongside other cases in 1876, affirmed immigration control as a federal responsibility due to the commerce clause, which placed all matters regarding foreign commerce in Congress' purview. Chy Lung v. Freeman, 92 U.S. 275 (1875), Henderson et al. v. Mayor of New York, 92 U.S. 259 (1875). See Hirota, *Expelling the Poor*, 184; McClain, *In Search of Equality,* 62; Neuman, *Strangers to the Constitution*, 48.

[258] Chy Lung v. Freeman, 92 U.S. 275 (1875), Henderson et al. v. Mayor of New York, 92 U.S. 259 (1875). See Hirota, *Expelling the Poor,* 184; McClain, *In Search of Equality,* 62; Neuman, *Strangers to the Constitution*, 48.

judicial sanctions to take on more authority, the subsequent immigration laws lacked a cohesive bureaucratic blueprint or the resources to enforce them.[259] The 1875 Page Act is instructive of this shortsightedness. The first section of the law ostensibly excluded Chinese and Japanese women suspected of being "imported" for immoral purposes by requiring morality certificates issued by American consuls at women's ports of departure (mostly Hong Kong).[260] Accusations of corruption plagued this exercise in remote control and further convoluted the process of interrogation and inspection used by Customs officials in San Francisco to gauge women's morality.[261]

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[259] Hirota, *Expelling the Poor,* 186; Neuman, *Strangers to the Constitution*, 122; Zolberg, *A Nation by Design,* 189-190. Individual states faced a choice between competing with other states for immigrants because of head tax revenue and wanting to keep immigrant populations in their state low. The decision in Henderson emphasized that an international process such as immigration, "ought to be the subject of a uniform system or plan." In the absence of clear legislation moving forward from these decisions, state commissioners were expected to continue their inspections while steamship companies were no longer obligated to pay fees until lawmakers reworked head money as a federal tax collected by state employees. See Hirota, *Expelling the Poor,* 198.

[260] Abrams, "Polygamy, Prostitution, and the Federalization of Immigration Law,", 696. Peffer, *If They Don't Bring Their Women Here,* 36. Peffer framed the Page Act as motivated by Representative Horace Page's more extreme goals for Chinese Exclusion, but carefully worded to respect the existing Burlingame Treaty until it could be renegotiated.

[261] Peffer, *If They Don't Bring Their Women Here,* 44-56. With a careful examination of three successive Consuls in Hong Kong, Peffer complicated the existing narrative of David Bailey as a harsh enforcer of the Page Act motivated by personal profit, arguing that accusations made against him were political and not deeply substantiated. All three administrators faced a complicated relationship between the task at hand - denying migration certificates to women they deemed immoral - and profiting, both legitimately and through standard small bribes, by

Historians regard the Page Act as successful to the extent that it deterred many Chinese women from attempting to migrate at all, but its procedures did not fulfill its stated goal to isolate prostitutes and their procurers.[262] Section three of the Page Act further criminalized the importation of prostitutes, while section five of the law banned all women immigrating or imported "for immoral purposes," not just Asian women.[263] These hinged on inspection at arrival by state immigration agents because federal agencies had not yet appointed inspectors to regulate Chinese immigration.[264]

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letting women travel to the United States. Women traveling to work as prostitutes would be in better positions to pay this extortion. Corruption was thus built into the structure of the policy rather than the result of individuals lacking integrity. Agents in San Francisco who were suspicious of certain women's mortality certificates may have landed them to avoid outward criticism of the Hong Kong Consul's work.

[262] Abrams, "Polygamy, Prostitution, and the Federalization of Immigration Law," 698; Lucie Cheng Hirata, "Free, Indentured, Enslaved: Chinese Prostitutes in Nineteenth-Century America," *Signs* 5, No. 1 (1979): 10; Peffer, *If They Don't Bring Their Women Here,* xi; Judy Yung, *Unbound Feet: A Social History of Chinese Women in San Francisco* (Berkeley: University of California Press, 1995), 32. For more on the interrogation process used by U.S. agents and its impact on migrating women, see Luibhéid, *Entry Denied,* 42.

[263] Page Law (1875); Abrams, "Polygamy, Prostitution, and the Federalization of Immigration Law," 697.

[264] Cannato, *American Passage,* 42. When agents at Castle Gardens continually requested more staff and resources to enforce the Page Act and other 1875 Immigration Act clauses, the New York Board of Commissioners considered closing it down in the absence of Congressional support.

As a result of expecting agents with little centralized training or information to evaluate immoral purpose, few non-Asian women were excluded under the act.[265]

For the period of transitionary immigration control begun by 1875 Page Act until the Bureau of Immigration's federal formation in 1891, legislators relied on local state agents and existing local frameworks to work for the federal state. In doing so, the federal state took an improvisational approach to immigration bureaucracy– not unlike San Francisco in preceding decades–but with a more unilateral sense of authority.[266] This approach often caused tension between those writing the laws and

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[265] Cannato, *American Passage,* 42. It is difficult to ascertain the exact numbers of women excluded under the Page Act because until 1891, different ports of immigration were managed by state leadership without a singular method of recording entries, exclusions, and deportations. More data is available about Chinese women immigrating to San Francisco. Sucheng Chan reported that in the third quarter of 1875 shortly after the law went into effect, 161 Chinese women entered San Francisco without issue. In the following four quarters, these numbers dropped to 44, 15, 24, and 32. Chan, *Entry Denied,* 107. This means fewer women were admitted in one year than in a single quarter of the year prior to the Page Act.

[266] Gary Gerstle's improvisational framework is most appropriate for the pre-plenary power period of shared state-federal immigration control from 1875 to 1889. Improvisational in this chapter connotes adaptability rather than haphazard administrative procedures. The flexibility allowed by plenary power offered an opportunity for intentional experiments with procedure without deep judicial or other external review. Gary Gerstle, *Liberty and Coercion: The Paradox of American Government from the Founding to the Present* (Princeton, NJ: Princeton University Press, 2015), 94. Paul Kramer refers to an "ad hoc" pattern of immigration control in this period, influenced by unforeseen conditions and global events that overpowered any cohesive intentional administrative design. Paul A. Kramer, "The Geopolitics of Mobility: Immigration Policy and American Global Power in the Long Twentieth Century," *The American Historical Review,* 123, Issue 2 (April 2018), 404.

those expected to enact them, including local immigration inspectors, private steamship companies, and foreign governments pressured to comply with new regulations affecting their emigrants.[267] State agents frequently wrote to the Commissioner-General of Immigration and to each other to clarify new orders.[268] Increased discourse across stations could have resulted in more cohesion, but it also exposed the effects of local conditions on the practicality of certain regulatory procedures. When the Commissioner of Immigration for the Port of Philadelphia expressed concerns about consistency and chain of command under the new federal Bureau of Immigration in 1891, lawmakers assured him that his station could operate

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[267] On contracting with state boards and tensions between Washington and local enforcers: Hirota, *Expelling the Poor,* 192; Victor Safford, *Immigration Problems; Personal Experiences of an Official* (New York: Dodd, Mead, and Company, 1925), 206. Even when immigration control became an undeniable executive branch responsibility, Congress often clashed with presidents who sought to maintain friendlier international relations threatened by intense restrictions. Donna Gabaccia, *Foreign Relations: American Immigration in Global Perspective* (Princeton: Princeton University Press, 2012), 16. On the role of foreign governments in upholding U.S. immigration laws, see Kramer, "The Geopolitics of Mobility," 394; Safford, *Immigration Problems,* 250. Safford warned that better enforcement of exclusion laws needed to come from bureaucratic reform, rather than relying on work done, "out of our sight, somewhere in foreign countries."

[268] Entries on March 12, March 21, March 31, 1891, *Daily Reports of Inspectors, 1888-1893,* Box 4, Folder 1891, Records of the Immigration and Naturalization Service Bureau of Immigration, Philadelphia Field Office, Record Group 85, National Archives and Records Administration, Philadelphia (Hereafter NARA-PHL). Chinese Exclusion Laws also generated clarifying questions when the laws were applied "on the ground," see Kitty Calavita, "Collisions at the Intersection of Gender, Race, and Class: Enforcing the Chinese Exclusion Laws," *Law & Society Review 40(2)* (2006), 261.

as usual because they designed the more centralized structure to manage corruption and disorganization in New York with minimal disruption elsewhere.[269] The Pennsylvania State Board of Charities continued to manage aspects of the port's immigration control, and a pattern echoed at other immigration stations.[270] Immigration stations along the U.S.-Mexico border also criticized new directives from Washington that kept staff numbers low and failed to comprehend the fluidity of the border, resulting in Chinese men crossing the border in violation of Chinese Exclusion Laws.[271] Any centralized system would struggle to accommodate regional

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[269] Entry on March 12, 1891, *Daily Reports of Inspectors*, NARA-PHL.

[270] Public Charities letterhead continued to appear in Philadelphia's immigration records at least through 1900, suggesting their collaboration continued well beyond the establishment of the federal Bureau of Immigration. See also Circular, Commonwealth of Pennsylvania Department of Public Charities, March 15, 1883, folder "Miscellaneous Papers E164", *Administrative Papers, 1882-1898,* RG 85, NARA-PHL. For more on state charity operations for Boston's immigration and state contracts for federal enforcement in general, see Hirota, *Expelling the Poor,* 201.

[271] Julian Lim, *Porous Borders: Multiracial Migrations and the Law in the US-Mexico Borderlands* (Chapel Hill: UNC Press, 2017), 97, 102, 109. Chinese men most often crossed with Mexican guides who were not a target for immigration inspection, sometimes disguising themselves as Mexican. In other cases, they simply swam or walked through areas unpatrolled by agents. Lim also argues that immigration agents were not the first federal presence in the area, as U.S. military projects to displace or confine native peoples in the southwest already operated for several decades. Enforcement along the U.S.-Canada border also proved contentious, with the Canadian government at times treating Chinese immigrants who would cross into the U.S. illegally as a source of easy head tax revenue for themselves. Frustrated U.S. agents in the Pacific Northwest saw U.S. lawmakers at fault due to ignorance of their regional conditions. Andreas, *Smuggler Nation,* 216. Complaints about inadequate

differences, but regional politics often drove imbalanced leadership appointments and resource allocations in the late nineteenth century.[272] Beyond administrative controversies, other local conditions such as tolerance of prostitution, or varied relationships between local police and prostitution, colored how immigration inspectors might have interpreted the commands of the Page Act and subsequent morality-based exclusions.[273] Therefore, existing local structures and interests

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staffing and resources were endemic in this period. Amada Armenta, *Protect, Serve, Deport: The Rise of Policing as Immigration Enforcement* (Berkeley: University of California Press, 2017), 21.

[272] Erika Lee described this period of immigration administration as particularly "vulnerable to local politics," a trend confronted by civil service reforms in the Bureau of Immigration and other federal agencies beginning in 1900-1910. Erika Lee, *At America's Gates: Chinese Immigration during the Exclusion Era, 1882-1943,* (Durham, University of North Carolina Press, 2003), 69. One specific example of local politics bleeding into federal policy came from the appointment of anti-immigrant labor leader Terence Powderly to Commissioner-General of the Bureau of Immigration. From there he more stringently reinterpreted Chinese Exclusion laws and was often under fire for appointing underqualified or controversial friends to positions of power, even after immigration inspectors began taking the civil service exam in 1896. Cannato, *American Passage,* 110; Salyer, *Laws Harsh as Tigers*, 102; Vincente Tang, "Chinese Women Immigrants and the Two-Edged Sword of Habeas Corpus" in *The Chinese American Experience: Papers from the Second National Conference on Chinese American Studies,* ed. By Genny Lim (San Francisco: Chinese Historical Society of America and the Chinese Culture Foundation of San Francisco, 1984), 51.

[273] For example, a complex system for prostitution developed in New York City, protected by Tammany Hall leadership which profited from the illicit business. Immigration laws barring prostitutes clearly went underenforced, contributing to concentrations of "vice" in immigrant tenement neighborhoods. Committee of Fifteen, *The Social Evil: With Special Reference to Conditions Existing in the City of New York* (New York: The Knickerbocker

influenced and often tempered the potential forms burgeoning federal immigration control could take.

The piecemeal construction of immigration bureaucracy created a regime of sexual policing centered on entry control. Many of the developments in the late nineteenth and turn of the century affected more than just immigrant women suspected of prostitution, but the ambiguities and weaknesses of the early federal period of control especially fostered methods of assigning sexual value to women entrants. Rapidly changing policies that confused immigration officials were even more difficult for immigrants to follow, and many found themselves in legal limbo.[274]

Press, 1902), v; Elizabeth Alice Clement, *Love for Sale: Courting, Treating, and Prostitution in New York City, 1900-1945* (Chapel Hill: University of North Carolina Press, 2006), 78.

[274] As discussed later in this chapter, Chinese women in particular faced challenges because Exclusion laws primarily addressed male immigration and status categories which applied only to them. Different administrative leadership could also result in years of strict or "liberal" enforcement with drastically different rates of entry. See Calavita, "Collisions at the Intersection of Gender, Race, and Class," 261; Sucheng Chan, "Exclusion of Chinese Women," in *Entry Denied: Exclusion and the Chinese Community in America, 1882-1943,* Sucheng Chan, ed. (Philadelphia, PA: Temple University Press, 1991), 132. As with many other immigrant communities, Chinese immigrants in the United States commonly practiced circular migration or returned to China from the United States for long stretches of time. When entry became more difficult, Chinese women stayed in the United States out of fear of not being able to reenter, opposite of the intention of Exclusion laws. Yong Chen, *Chinese San Francisco, 1850-1943: A Trans-Pacific Community* (Palo Alto: Stanford University Press, 2000), 102; Adam McKeown, *Chinese Migrant Networks and Cultural Change: Peru, Chicago, and Hawaii 1900-1936, (*Chicago: University of Chicago Press, 2001), 8; Peffer, *If They Don't Bring Their Women Here,* 26.

This chapter employs the term sexual nonconformity to encompass officials' accusations of prostitution, intent to prostitute in the future, unwed pregnancy, and other sexual indiscretion that was punished by open-ended debarment policies in contrast to subsequent policies of deportation that more effectively isolated prostitutes as a group. As the most loosely defined exclusionary category, "likely to become a public charge," or LPC became the most practical way to police sexuality at entry without the label of prostitution.[275] There is irony in applying this to women who might participate in sex commerce, as they were often more financially stable than other women workers and least likely to seek public assistance.[276] But as Diedre Moloney points out, the LPC label required very little evidence because it predicted a future condition and was, therefore, applied more frequently than debarment for

[275] Officials also commonly applied LPC to people who "looked" impoverished or who appeared less than able-bodied. See Douglas Baynton, *Defectives in the Land: Disability and Immigration in the Age of Eugenics* (Chicago: University of Chicago Press, 2016), 20; Martha Gardner, *The Qualities of a Citizen: Women, Immigration, and Citizenship, 1870-1965* (Princeton, Princeton University Press, 2009), 95. Susan Schweik argued that increased policing of "undesirable" immigrants ran parallel to increased use of "ugly laws" by local police. Although police and immigration officials often did not see eye to eye, these broad laws against disability were invoked what those at entry points "failed to detect." Susan M. Schweik, *The Ugly Laws: Disability in Public* (New York: NYU Press, 2009), 168.

[276] Prostitution commonly paid better than other common employment opportunities for women such as factory or private domestic work. Inspectors' ignorance of the viable job market for working immigrant women likely came from abstract ideas about gendered dependence with little connection to observable reality. Baynton, *Defectives in the Land,* 82; Gardner, *Qualities of a Citizen*, 66.

prostitution specifically.[277] Incomplete records also likely conceal sexually coercive moments and off-the-record pressures applied to immigrant women officials perceived to be sexually nonconforming or vulnerable.[278] Immigration officials further intended the entry process to inform immigrants about American values and assimilation so that even women who successfully passed through learned about the role of sexual conformity in their national belonging.[279] Early efforts at debarment and exclusion required a great deal of administrative discretion so that immigration officials could apply general laws to dynamic, unique cases. The Immigration Act of 1891 formed the federal Bureau of Immigration with this need for absolute authority at entry in mind. Almost immediately, the federal appeal of Nishimura Ekiu tested the limits of the Bureau's new methods of determining sexual character.

When Nishimura Ekiu arrived at the Port of San Francisco on a steamer from Japan in May 1891, she became one of the first immigrants to challenge the full scope of federal immigration authority. When entering a year prior, Mok Jow Yee faced a rigorous screening protocol established by Chinese Exclusion Laws. As a Japanese national, Ekiu instead faced a more nebulous process still being constructed by the

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[277] Cannato, *American Passage,* 195; Gardner, *The Qualities of a Citizen*, 91; Diedre Moloney, *National Insecurities: Immigrants and U.S. Immigration Policy since 1882,* (Durham: University of North Carolina Press, 2012), 32.

[278] Examples of vaginal examinations by medical officers and cases of harassment by immigration inspectors can be found in Cannato, *American Passage,* 265.

[279] Gardner, *The Qualities of a Citizen,* 8; Luibhéid, *Entry Denied*, 3; Moloney, *National Insecurities,* 30.

fledgling Bureau of Immigration. Although the Immigration Act of 1891 established the Bureau in March, ports of entry had not fully transitioned from state management, and the federal Bureau only appointed a Commissioner of Immigration for San Francisco the day after Ekiu's arrival.[280] When the steamship *Belgic* arrived from Japan, the acting inspector sent Ekiu and five other Japanese women to the Chinese Methodist Home for detention while he sought further guidance from the new Commissioner about how to classify and debar them.[281] Officials speculated that

[280] In 1882, federal immigration law debarred "any person unable to take care of himself or herself without becoming a public charge. Immigration Act of 1882, 22 Stat. 214 (1882). In 1891, the term changed to "likely to become a public charge" and included any immigrant living as a public charge within a year of entry, now deportable. The law also established the federal Bureau of Immigration, medical inspections at entry, and expanded categories for exclusion to include "idiots, insane persons, paupers or persons likely to become a public charge, persons suffering from a loathsome or a dangerous contagious disease, persons who have been convicted of a felony or other infamous crime...". *An Act in Amendment to the Various Acts Relative to Immigration and the Importation of Aliens under Contract or Agreement to Perform Labor,* 26 Stat. 1084 (1891). As further evidence of how recently the laws had changed, Ekiu's original form for debarment was a form for the 1885 Immigration Act, with certain fields crossed out or revised by hand to reflect the 1891 law. Ekiu v. U.S., Folder 14867, Box 2490, *U.S. Supreme Court: Appellate Case Files,* Record Group 267, National Archives and Records Administration, Washington, D.C. (Hereafter *Ekiu,* NARA-DC), p. 29.

[281] Ekiu v. United States 142 U.S. 661 (1892) (Hereafter *Ekiu*, 142 U.S.). On the recent appointment of new officials, see Mowry brief, published in *United States Reports, Volume 142, Cases Adjudged in the Supreme Court at October Term, 1891,* JC Bancroft Davis (reporter) (New York and Albany: Banks & Brothers Law Publishers, 1892) at 657; Opinion of the Court at 663. See also *Ekiu,* 142 U.S. at 651.

because Ekiu arrived with only $22 to her name and instructions to meet her husband at a hotel, she was "likely to become a public charge."[282] These factors might not have been grounds for exclusion at another port or if Ekiu had been European, but the inspector called Ekiu "an immoral person" and claimed the hotel might be connected to a local Japanese-owned house of prostitution.[283] Administrative discretion empowered the inspector as the sole determinant of what constituted as facts, making any further investigation into her husband or their hotel meeting point optional.[284] As elastic as LPC was, it was not the only label inspectors could use. Officials detained and debarred two of the other women on the *Belgic* for being ignorant of their destination and "unable to give satisfactory statements about themselves." Another pair were barred as contract laborers because they had already arranged to meet an

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[282] *Ekiu,* NARA-DC, 29. According to Ekiu, the $22 in her possession came from the sale of her furniture in Japan rather than earned income, which may have contributed to the belief that she would not be able to support herself in the future. "Likely to become a public charge," or LPC became the most expedient way to police sexuality without the label of prostitution because it was so loosely defined. LPC was also commonly applied to people who "looked'' impoverished or who appeared less than able-bodied. See Baynton, *Defectives in the Land,* 20; Gardner, *The Qualities of a Citizen,* 95. Susan Schweik argued that increased policing of "undesirable" immigrants ran parallel to increased use of "ugly laws" by local police, which punished what went undetected at entry points. Schweik, *The Ugly Laws,* 168.

[283] *Ekiu*, NARA-DC, 56; On potential racial dimensions of LPC in Ekiu and other Japanese immigration cases, see Kevin R. Johnson, *The Huddled Masses Myth: Immigration and Civil Rights* (Philadelphia: Temple University Press, 2004), 95.

[284] *Ekiu,* 142 U.S. at 660. For more on the case's influence on subsequent fact-finding practices, see Salyer, *Laws Harsh as Tigers,* 31.

employer in Utah.[285] Exclusion laws implied that officials sorted immigrants into various stable categories, but the inspector seemed to stretch various categories to fit immigrants he viewed as undesirable. The LPC label, more commonly associated with East Coast ports, also suggests federal practices emerging from previously local patterns.[286]

The material evidence used against Ekiu did not include one important detail: incrimination by her own words. The inspector appeared to decide on her character without an interrogation. When Ekiu's husband filed a writ of *habeas corpus,* their lawyer claimed the wrong officers evaluated Ekiu out of turn and denied her a chance to give testimony, violating her due process rights.[287] The lawyer called an "arbitrary and irregular" decision to debar offered a prime case to test administrative discretion

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[285] *Ekiu*, NARA-DC, 25.

[286] Hirota*, Expelling the Poor,* 68; Parker, *Making Foreigners*, 25. When states like New York previously operationalized the category, it was more often about the image of saving state resources rather than systematically punishing every prospective pauper. Under a federal immigration bureau, officials deemed more systematic "sifting" of undesirable immigrants more possible.

[287] *Ekiu,* 142 U.S. at 663; Original habeas corpus filing form in Ekiu v. U.S., NARA DC, 52. Ekiu's case may have been evaluated more harshly because of her husband's use of habeas corpus, which by this point was considered a common ruse used by fraudulent husband/procurers in Chinese prostitution cases. See Esther Baldwin, *Must the Chinese go? An examination of the Chinese question* (New York: H.B. Elkins Press, 1890), 17; Tang, "Chinese Women Immigrants and the Two-Edged Sword of Habeas Corpus," 49. As Japanese picture brides immigrated more in the 1890s and early 20th century, their marriages fell under more state scrutiny in line with inspectors' distrust of Chinese marriage contracts.

now that a federal bureau ran immigration control.[288] When Ekiu's case traveled to the Supreme Court, the court upheld her debarment, not by reviewing her treatment, but by accepting immigration officials' decision as to the final word in most entry cases. The *Ekiu* decision considered judicial review of entry appeals to incur on the Bureau of Immigration's decision-making power and placed "final and conclusive" authority with inspectors, station commissioners, and the Secretary of the Treasury instead.[289] Exempting immigration control from standard judicial review expanded the recent plenary power doctrine by encouraging administrators to interpret immigration legislation and build procedures to enforce exclusion categories as they saw fit.[290] Whereas previous cases like *Chy Lung* (1876) had asserted Congressional authority over immigration laws through the Commerce clause, plenary power

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[288] *Ekiu,*142 U.S. at 658.

[289] Quote from *Ekiu*, NARA-DC, 13. Inspector authority described in *Ekiu*, 142 U.S. at 660.

[290] *Ekiu*, NARA-DC, 58; Hiroshi Motomora, "Immigration Law after a Century of Plenary Power: Phantom Constitutional Norms and Statutory Interpretation," *The Yale Law Journal* 100, 3 (1990), 552; Salyer, *Laws Harsh as Tigers,* 31. Subsequent cases like Yamataya v. Fisher (also known as the Japanese Immigrant case) further enshrined the Bureau's claim to administrative competency. Torrie Hester, ""Protection, Not Punishment": Legislative and Judicial Formation of U.S. Deportation Policy, 1882–1904," *Journal of American Ethnic History* 30, no. 1 (2010), 24. On the denial of due process in this and subsequent immigration cases, see: McClain, *In Search of Equality,* 197, 216; Motomora, "Immigration Law after a Century of Plenary Power," 552; Salyer, *Laws Harsh as Tigers,* 30. According to McClain, Although the Chae Chan Ping decision already established immigrant residency as a revokable privilege rather than a right, because Ekiu was excluded as a first-time entrant, immigrants with previous residency continued to request different status and treatment from immigration inspectors in subsequent cases.

regarded control over immigration as an issue of sovereignty.[291] And while *Chy Lung* (1876) had chastised the state of California for limiting immigration in ways that may have caused diplomatic conflicts, the plenary power doctrine confidently privileged federal desires over international considerations concerning the effects of restrictive laws.[292] To disrespect or challenge immigration laws–and after *Ekiu*, daily procedures–became a challenge to the strength and validity of the nation-state.[293]

Ekiu demonstrates how courts answered questions of sovereignty and the United States' "self-preservation" through the policing of allegedly immoral women's bodies. The police power logic of local governance that condoned the punishment and expulsion of sexually nonconforming women in the preceding decades informed the legal justification for federal entry controls. Whereas police power justified

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[291] Motomora, "Immigration Law after a Century of Plenary Power", 552. The Chae Chan Ping case first named plenary power for immigration but was not absolute. Because the case concerned Chinese Exclusion Laws, it was unclear until Ekiu v. U.S. whether plenary power would apply to non-Chinese immigrants as well. Not only was Ekiu a first-time applicant for entry, but her case also involved the new Bureau of Immigration that did not yet exist in 1889 at the time of Chae Chan Ping. Ekiu's case was one of several prominent Japanese immigrant cases at the turn of the century. As Chinese immigration became more difficult under the Exclusion Laws, Japanese immigration increased until U.S. lawmakers built different limitations such as the 1906 Gentleman's Agreement.

[292] Ekiu, 142 U.S. at 659; Neuman, *Strangers to the Constitution,* 122.

[293] Neuman, *Strangers to the Constitution*, 119; Kramer, "The Geopolitics of Mobility," 405. According to Kramer, "Despite the best efforts of border patrols and nativist public figures, and much to their frustration, this sovereignty would always be at best partial and contingent, coming into being and coming undone, pushed by transnational capital, by other governments, and by the counter-geographies of humanity on the move."

interventions to protect the perceived common good at a local, possibly state-wide community level, plenary power expanded this community to be nationwide, a political state first, and a collection of people secondarily. Even as plenary power put more authority than ever in federal hands, the federal state continued to rely on the alliances built under a police power form of control. Inspectors sent Ekiu and her peers to the Methodist Home because they claimed the steamer was not a "proper" place to detain them. It is unclear if proper meant socially appropriate or simply that the ship needed to leave port soon. Though the home stood in Chinatown and not near the docks, the women were not considered "landed" on U.S. soil as long as they remained there.[294] This arrangement treated Asian women, immigrants as anomalous and requiring exemptions from a standard procedure, which could further complicate their understanding of the status and legal rights. Mission homes offered a convenient resource to state agents while inserting local missionaries into the regime of immigration control. While plenary power gave the federal state full authority, the Bureau did not commit full resources to operate independently from existing resources and routines.

In the decade following the *Ekiu* decision, inspectors could have used administrative discretion to unilaterally exclude women without testimony, as the inspector had done with Ekiu. Instead, collecting immigrant testimony, often in a question-and-answer interrogation format, became a key element of the entry process

[294] Ekiu, 142 U.S. at 661.

for immigrant women. The Bureau of Immigration acted on a bureaucratic impulse to collect detailed biographic information from immigrants, often without a clear purpose. Many of these records have been destroyed by the state or by a natural disaster, complicating efforts to compare across sites with incomplete collections.[295] What remains of the ballooning paper trail depicts an agency continuing to adapt and question its methods, often gathering information throughout an interrogation that officials referenced later even when they landed the immigrant for the time being. The interrogation took place in several contexts because of distinct agencies for regulating Chinese and non-Chinese immigration. Chinese immigrants in San Francisco came before Chinese Inspectors and their interpreters, appointed by U.S. Customs, then appealed to higher immigration officers, the district attorney, or other government examiners. Non-Chinese immigrants came under the purview of the Bureau of Immigration. Those arriving at Ellis Island walked "the line" of medical

[295] The vast archives of the Bureau of Immigration in RG 85 include only a fraction of the total case files generated during this period. Angel Island and Ellis Island each experienced their own record-destroying fires, Ellis Island most famously in 1897 and Angel Island in 1940. On Ellis Island: Cannato, *American Passage,* 108; Victor Safford, *Immigration Problems; Personal Experiences of an Official* (New York: Dodd, Mead, and Company, 1925), 215. On Angel Island: Lee and Yung, *Angel Island,* 17. The Immigration and Naturalization Service also destroyed many records in the 1950s and 1960s, including Board of Special Inquiry transcripts for Ellis Island which might have illuminated more about what exact questions were asked of immigrating women. More Board of Special Inquiry records have been preserved for the port of Philadelphia, although the differences in volume between the two ports and Philadelphia's reputation as a laxer entry point limit their usefulness as a substitute.

examiners and inspectors who marked suspicious immigrants with codes in chalk on their clothing.[296] For medical, financial, or personal reasons, immigrants marked for further evaluation were questioned by a Board of Special Inquiry (BSI) with four Bureau of Immigration or other community members.[297] Administrative discretion meant officials could ask questions as they saw fit and interpret responses to fit their intent to exclude or admit, with little chance of external review. Inspectors sometimes sought previous cases for guidance but were not expected to replicate previous decisions by judicial standards.[298] The absence of judicial standards meant inspectors improvised entry practices that varied from one official to another. Pressure from local politicians or bad press often provoked even greater variation in entry decisions

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[296] Treasury Department, Bureau of Public Health and Marine Hospital Service, *Book of Instructions for the Medical Inspection of Immigrants* (Washington: Government Printing Office, 1903) 5; Fitzhugh Mullan, *Plagues and Politics: The Story of the United States Public Health Service* (New York: Basic Books, 1989), 45.

[297] Pegler-Gordon, *In Sight of America,* 105. The Immigration Act of 1891 designated the Marine-Hospital Service (later Public Health Service) to aid in the immigrant screening process. Pegler-Gordon argued that by 1892, visual medical inspection formed the core of immigration policy at Ellis Island.

[298] This chapter utilizes Records of the INS, Immigration Arrival Investigation Case Files, 1884-1944, ARC 296445, RG 85, National Archives and Records Administration, San Bruno, CA (hereafter IAIC, NARA-San Bruno). Lew See and two children, November 1885, File 2584, Box 2, IAIC, NARA San Bruno. The inspector wrote, "The evidence in this case is such as I have been instructed to accept in similar cases and I hereby approve this application subject to the approval of the Collector."

from year to year.[299] Officials promoted this discretion as personalized and compassionate.[300] Sometimes entrants benefited, as inspectors afraid of controversial appeals opted to admit ambiguous cases.[301] Yet this unpredictability also confused many immigrants who could never fully grasp the unspoken rules.[302]

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[299] Lee, *At America's Gates,* 55. Erika Lee wrote at length about John Wise, collector of customs for San Francisco from 1892 to 1898. His history as an anti-Chinese activist influenced his time as collector, where he often enforced Exclusion laws more strictly than his superiors or courts did.

[300] Philip Cowen, *Memories of an American Jew* (New York: The International Press, 1931), 149. Cowen's time working in the immigration service convinced him that inspectors and Boards of Special Inquiry showed consistent compassion and understanding, contradicting accusations of discrimination and cruelty.

[301] Some women under investigation were more favorably admitted after a recommendation from King Owyang, Chinese Consul to the United States. In several files, notes appear: "From this evidence shown me I believe they [immigrating Chinese women] are respectable. You can do what you can to land them. Yours truly, King Owyang." See Chung Ah Kum, Lew Shung Tung, Lew Gum Ho, October 1889, File 9258/16, 17, 18, Box 14, IAIC, NARA San Bruno. In another file, a woman was admitted seemingly to convenience officials who wanted to avoid a trip to the dry dock. Chun Soo, January 1896, File 9504/84, Box 30, IAIC, NARA San Bruno.

[302] Testimony from Low May Choy reflects this confusion, and that officers may have misled immigrants about who was eligible for entry: "Schell: Did you know if you were born here in SF you would be allowed to land? LMC: I did not know. My husband wrote me a letter to come. I do not know about that. I do not know that if you are not born here, you are not allowed to land. I was born here and afterwards I went to China. I married in China and lived in China so many years, I do not know what the law is in San Francisco." February 1890, File 9272/20, Box 17, IAIC, NARA San Bruno.

Administrative discretion especially aided in sexualized questioning, much of which could have escaped precise recording. Controversial or illicit comments that placed inspectors in a bad light could be obscured by the individual official or selectively ignored by the higher administration. Inspectors also relied on translators who held great power over what to record in transcripts.[303] Older translation practices summarized in the third person rather than transcribing statements word-for-word appeared in the 1880s and 1890s, making exact question and answer dialogue difficult to deduce. When possible, this chapter has included longer excerpts of the original transcripts in the footnotes to preserve the alternating dialogue and exact language of sexual policing. However, these exact quotes are not unadulterated "women's voices." Interrogation is inherently speculative and constructed, and in

[303] The most prominent interpreter in San Francisco during this period was Carlton Rickards, one of very few white Chinese interpreters. Many women referenced his role in their processing and aboard the steamer when they first arrived. Because so many women were illiterate, he had to verbally confirm their understanding of the proceedings and move their hands to make an X in place of a signature (see n 315). Rickards was not literate in Chinese characters and only able to translate spoken word. Perhaps in part because of this, interrogation transcripts record only the translated English and no Chinese text, making it impossible to verify the accuracy of any translations. Immigration officials praised Rickards' work and implored U.S. Customs to hire more white interpreters because Chinese men were less trusted under suspicions that they might be helping other Chinese immigrants pass successfully. At one point officials investigated and disciplined Rickards for accepting bribes from immigrants he translated for, although he continued to find translation work for the Immigration Service in other regions in later years. Lee, *At America's Gates*, 62. Lee claims he was fired for this work in 1899, but his name continues to appear on documents in the early twentieth century.

these cases, often translated, so available records are not pure representations of immigrant women's perspectives or experiences. Some women relied on what Martha Gardner calls "calculated misrepresentations" to pass through entry controls.[304] Those involved in illicit activity were often the best prepared to lie through interrogations, while interrogators more likely entrapped women who had not practiced their testimony.[305] While many valuable transcripts and paper records depict frank discussions of sex and even lewd questioning, the archive is incomplete by design.

Through interrogation, inspectors and BSI members cultivated questioning practices that attempted to discern characteristics which they could not easily observe, including sexual propriety. Officials encouraged inspectors to ask whatever questions they deemed appropriate in context rather than following a set script.[306] This heightened improvisation placed further pressure on immigrants such as Mok Jow Yee, whose interrogation opened this chapter because they could not rehearse to

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[304] Gardner, *Qualities of a Citizen,* 7.

[305] From the Annual Report of the Secretary of the Treasury for 1891, as quoted in Harlan Unrau, *Ellis Island - Statue of Liberty National Monument Historic Resource Study* (Denver: U.S. Department of the Interior, National Park Service, 1984), 29. "In the worst and most important classes of cases, to wit, criminals, ex-convicts, polygamists, and illegally "assisted" immigrants, the law supplies almost no means of ascertaining the facts. The personal statements of such immigrants obviously have little value as evidence, and it is only by accident that any other source of information is open to the inspection officers at the port arrival."

[306] *Annual Report of the Commissioner-General of Immigration to the Secretary of Labor, 1901-1902* (Washington, D.C.: Government Printing Office, 1903), 17.

prepare and might inadvertently incriminate themselves.[307] Interrogations assumed a level of state intrusion into immigrants' intimate pasts, sometimes offending immigrants who did not expect to have their respectability challenged.[308] Inspectors and BSI members did not always refer to their work as interrogation, and many historians opt for more neutral terminology like inspection, observation, and interview to describe the entry process.[309] Yet interrogation more precisely connotes a presumption of guilt and the active effort to uncover hidden truths rather than simply observing visible facts.[310] Immigration officials seeking out sexually nonconforming

[307] Interrogation especially intended to challenge Chinese immigrants based on stereotypes about Chinese duplicity and foreignness. George F. Seward, *Chinese Immigration, in its Social and Economic Aspects* (New York: Charles Scribner and Sons, 1881), 266. Seward, U.S. diplomat to China wrote in 1881: "However this may be, there is the further difficulty that even an experienced officer, and one acquainted with the Chinese language and the practices of the Chinese people, cannot say with certainty whether a given applicant does or does not belong to the prostitute class. He may have his opinions; he may be able to ferret out facts, but after all he can only reach approximately satisfactory results." He went on to advocate for stronger collaboration between Chinese and American agents to fortify a multi-step exclusion process.

[308] Cannato, *American Passage,* 265.

[309] Gardner, *Qualities of a Citizen*, 7; Pegler-Gordon, *In Sight of America*, 7. Douglas Baynton historicizes the word "selection" and its significance to disability to describe the exclusion process. Baynton, *Defectives in the Land*, 11.

[310] Immigrants also critiqued the facade that entry decisions relied on alleged facts about individuals rather than external factors like fluctuating economic conditions that impacted the enforcement of immigration laws. "Memorandum in re Petition against Alleged Unjust Exclusion of Immigrants," File 52600/13, page 4, Accession #001739-005-0484, Series A: Subject Correspondence Files, Part 3: Ellis Island, 1900-1933, NARA- DC (hereafter EI3).

women expected such women to be deceitful and believed that their true nature would need to be extracted by force, usually through interrogation and sometimes by medical examination. Lengthy investigations and cross-examinations of various parties associated with suspect women also positioned immigration officials as experts tasked with piecing together a cohesive view of a woman's sexual nature. Hyper detailed questioning, forceful extraction, and the assumed causality of "facts" formed what Foucault considered a secular-scientific form of confession utilized by state agents to construct and criminalize non-normative sexualities.[311] Many charges focused on future potential indiscretions, such as *likely to become a public charge, immoral purpose,* and *intent to prostitute,* which further constructed an archetype of immoral characteristics which need not align with tangible evidence of events. Thus, interrogations incriminated women not necessarily for sexual behavior but for their responses to sexualized questioning as they correlated to the construction of potential deviance.

For immigration officials at the Port of San Francisco, interrogation offered a flexible supplement to an immigration process primarily designed to exclude Chinese men. Even the language on stamps and preprinted forms for Chinese immigrants defaulted to male pronouns, which officials often crossed out and edited by hand for

[311] Michel Foucault, *The History of Sexuality, Vol. 1: An Introduction* (Vintage Books, 1978), 65.

the thousands of women who attempted to immigrate. [312] Women required a male sponsor to immigrate, either as a merchant's wife, daughter, or returning U.S.-born citizen, although they could not speak to this sponsor upon arrival.[313] Officials assumed most entrants to be lying unless they could prove their identity beyond a doubt, often with white witnesses and documentation in a time before birth certificates.[314] Chinese women were at a further disadvantage because so many were

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[312] It is difficult to determine how many women attempted to enter the U.S. each year, especially as some case files do not denote final landing or debarment. For tables on the number of Chinese women admitted by years 1853-1975, See appendix in Judy Yung, *Unbound Feet: A Social History of Chinese Women in San Francisco* (Berkeley: University of California Press, 1995), 294-295, although this number reflects entry rather than all immigrants attempting entry. Between 1875 and 1882, a total of 1670 Chinese women were admitted, for an annual average of 209. After the 1882 Exclusion Law, admissions dropped dramatically: between 1882 and 1903, only 926 women total were admitted (with 1892-1895 rates missing), for an annual average of 54 admitted and great variance from year to year; 2 women were admitted in 1887, while 315 entered in 1890, the same year that Mok Jow Yee and so many others were turned away. We can assume that at least several thousand attempted to enter between 1875 and 1903 based on the sampling of nearly 600 case files used for this study.

[313] File 9559/ 614&615, IAIC, NARA-San Bruno. Fong Yuen Lin stated, "Since I came back [to San Francisco] my father came down to see me on this vessel, but white people prevented us from talking." (December 1896). See also Dorothee Schneider, *Crossing Borders: Migration and Citizenship in the Twentieth-Century United States* (Cambridge: Harvard University Press, 2011), 107.

[314] Calavita, "Collisions at the Intersection of Gender, Race, and Class," 270; Lee and Yung, *Angel Island*, 79; Lee, *At America's Gates,* 90. Officials struggled to verify identity more and more over the years as "paper sons" and paper daughters used merchant exemptions and false paperwork to immigrate illegally. Lee argues that the reliance on such complicated

illiterate and much less likely to have the business contacts or white acquaintances inspectors sought.[315] When questioning Lee Yow Kam about where her reentry certificate came from, she explained: "My father got them for us. Chinese girls are not so smart as white girls, and we do not know so much about those things."[316] Officers designed entry controls primarily with male merchants and laborers in mind, but when forced to react to different realities for women immigrants, they reinforced women's dependence on men.

Considering the limitations to proving identity through documentation, interrogation offered a way for inspectors to verify–or challenge–women's ties to the United States. Many women attempting entry by the 1880s claimed to have been born in the United States and traveled back to China in adolescence, but if port bookkeepers could not verify their travel history, inspectors questioned women about their childhood memories of San Francisco.[317] These women were asked to describe

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paperwork actually fostered, rather than prevented such fraudulent entry. Lee, *At America's Gates*, 180. Officials also put increasing energy into photographic identification, which was also commonly tampered with. See Pegler-Gordon, *In Sight of America,* 69. In some records, inspectors sought verification of an applicant's U.S. birth from the midwife who delivered them decades before. Yung Yuk Sin, January 1896, File 9504/80, IAIC, NARA-San Bruno.

[315] Illiterate women who were unable to give a signature on their documents instead marked an x, described by Chin Jone Ho in her habeas corpus hearing. Case 9119, Admiralty Case Files, NARA-San Bruno. Many case files from this time include such signatures.

[316] Lee Yow Kam, July 1902, File 9560/725, 727, 728, Box 34, IAIC, NARA San Bruno.

[317] In Mok Jow Yee's habeas corpus proceedings, a Chinese Inspector admitted that departure logs for the port were of limited use because of discrepancies in American spellings of Chinese names. Page 120, Case 9127, Admiralty Case Files, NARA-San Bruno.

how much snow San Francisco got in the winter (at this time, an inch or two in some years), which direction the streetcars ran, and whether certain streets were hilly or flat–all difficult questions to remember from the age of four or five.[318] One woman explained that she, like many young Chinese girls, was not allowed to leave home or even look out the window very often.[319] In Mok Jow Yee's habeas corpus case, the questioning probed even further. The interrogator asked, "Can you remember anything from the time you were one year old?" Yee described her first childhood memory: a procession of white people in July, which her father took her to when she

Figure 1

Mok Jow Yee, 1890.
Image Courtesy of National Archives and Records Administration–San Bruno

[318] See for example Liu Ah Ken, File December 1887/55; Leong Gu Heong, File 4-25-89/160, IAIC, NARA-San Bruno.

[319] Chue Ngon Ling, File December 1887/8, IAIC, NARA-San Bruno.
"CNL: I never saw a streetcar. I know that it snows in San Francisco but my mother or father would never let me go out in the street.
Q: Could you not see on the windowsill how deep the snow was and did you never get a handful of snow?
CNL: my mother and father would never let me look out of the window, how can I tell how high it was."

was six or seven years old.[320] By asking such obscure questions and often the same set of questions, officials invited the sort of rehearsed answers they most feared. Contradicting one's own story meant exclusion, the same penalty as for lying or impersonating. Over the years, officials denied more women entry based on accusations of "coaching," when the very structure of these interrogations encouraged coaching and punished those who entered the process without rehearsal.[321] To be more effective, questions needed to be more varied, but Chinese inspectors struggled to create a more spontaneous investigative process. Sexualized questioning appeared more consistently after 1890 and challenged women who might have prepared a more standard script for entrance. Officials' priorities shifted from verifying claimed status to understanding deceitfulness as proof of licentiousness.

Inspectors used sexualized questioning to establish a woman's knowledge of sex, which they alternately interpreted as a sign of marital legitimacy or immorality. Questions about pregnancies, consummating the marriage, and sharing beds with husbands were common.[322] The Chinese press in the United States complained that officials asked Chinese women lewd questions which they "would not dare to

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[320] Mok Jow Yee, Case 9127, Admiralty Case Files, NARA-San Bruno.

[321] Salyer, *Laws Harsh as Tigers,* 61. In later decades courts ruled these interrogation standards for Chinese women to be needlessly and deliberately confusing. Gardner, *Qualities of A Citizen,* 54, n14.

[322] Most of these questions were recorded in interrogations when immigrants did not have a right to counsel. While a lawyer, judge, and perhaps other immigration officials were present during habeas corpus examinations, "immigration investigation" interrogations could include only the applicant, Chinese inspector, and translator.

mention in the hearing of American ladies."[323] Inspectors believed that some women traveled to "counterfeit husbands" who procured them for prostitution and therefore used questions about spousal intimacy to confirm that American standards consummated marriages.[324] Women faced a catch–22: to appear respectable one must disclose a modest sexual history, often with a husband they had spent little time with previously. Women who lacked children, taken as material proof of marital sex, faced exchanges like this:

> "Examiner Schell: *what is the reason you never had any babies?*
> Quan Ling Moy: My husband only staid[sic] with me in China a few months, and he has been in China a short time, how can I have any babies?
> Schell: *did you not sleep with him during the time he was there?*
> QLM: Yes sir. He did sleep with me, but that is no sign that I should have babies.
> Schell: *What do you do to prevent having babies?*
> QLM: You cannot help having children if you are going to have them."[325]

[323] Ng Poon Chew, *Treatment of the Exempted Classes of Chinese In the United States* (San Francisco: 1908), 10.

[324] "Counterfeit husband" referenced on page 65, habeas corpus Case 9121 (Bok Goon How), Admiralty Case Files, NARA-San Bruno. As wives were more heavily scrutinized at entry points, more young women traveled as daughters of merchants or citizens in order to marry in the United States, yet another adaptation of transnational marriage practices to account for shifting entry practices. Case files of immigrating daughters seeking to marry in the U.S.: Mah Kum Choy, February 1896, File 9507/24; Jew Yow Lan, Aug 1896, File 9540/35; Yuen Tan Fong, August 1896, File 9540/38, IAIC, NARA-San Bruno.

[325] Quan Ling Moy, January 1890, File 9270/66, IAIC, NARA-San Bruno.

Schell's questions about pregnancy referred to the common belief that women who knew how to prevent pregnancy were likely prostitutes.[326] Historians believe abortifacients were more commonly known and less stigmatized in 19th century China, so women might have had knowledge they did not wish to disclose to officials.[327] But when Quan Ling Moy stated she could not control being pregnant, she also asserted that some aspects of life could not be explained away–something that immigration officials would perpetually struggle to account for in their decision-making.

Prostitution was not the only sexual practice that inspectors treated as nonconforming. Their questions about marriage and conception failed to account for differences between Chinese and American marriages and transnational family formation. Spouses commonly lived apart for extended periods, especially under Chinese Exclusion laws that restricted travel.[328] Many wives stayed behind in China to care for their in-laws, a service considered a higher priority than spousal intimacy

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[326] Additional questions about pregnancy in Fong Gum Lean, February 1890, File 9273/409, IAIC, NARA-San Bruno. On American prostitutes, contraceptives, and abortion, see Ruth Rosen, *The Lost Sisterhood: Prostitution in America, 1900-1918* (Baltimore, MD: Johns Hopkins University Press, 1982) 99.

[327] Gail Hershatter, *Dangerous Pleasures: Prostitution and Modernity in Twentieth-Century Shanghai* (Berkeley: University of California Press, 1997), 175; Matthew Sommer, "Abortion in Late Imperial China: Routine Birth Control or Crisis Intervention?" *Late Imperial China*, 312 (2010), 97-165.

[328] Chan, "Exclusion of Chinese Women," 115; McKeown, *Chinese Migrant Networks and Cultural Change,* 14; Schneider, *Crossing Borders,* 107.

or reproduction.[329] While interrogators showed little patience for Chinese customs that differed from American ones, they sometimes feigned cultural knowledge to trap women. One inspector repeatedly asked a woman, "the first wife never leaves China, does she?" after identifying herself as the first wife.[330] In Quan Ling Moy's testimony, agents were suspicious that she said she did not know her husband's name for their first month of marriage because she knew him as "boss."[331] Moy's lawyer and the translator clarified to inspectors that she used the word "see tow," which they explained as "the head of the family, or head of a store, or the head of an association... the head of anything, controlling." Immigration officials treated the gendered hierarchy of Chinese marriages as anti-American and urged Chinese women to discredit their culture. When women resisted disparaging comments, agents regarded them as unassimilable and therefore more excludable. Thus, prostitution was not the only form of sexual nonconformity officials excluded in practice.

Agents also used sexualized questioning to approximate the degree to which they believed a woman was coerced or consented to prostitution. This flawed practice led officials to imbed nefarious meaning into many practical aspects of immigration. One piece of evidence commonly cited as evidence of intent to work as a prostitute was a woman's contact with other women on the journey. Women who admitted to

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[329] Yung, *Unbound Feet,* 20. Feb 1890, Mah Choy Yook, February 1890, File 9272/19, IAIC, NARA San Bruno.

[330] Low May Choy, February 1890, File 9272/20, IAIC, NARA-San Bruno.

[331] Page 19, Quan Ling Moy testimony, Case 9120, Admiralty Case Files, NARA-San Bruno.

speaking to others on the ship were accused of receiving coaching by a procurer or madam, thereby complicit in their own trafficking. Inspectors blurred the line between coaching and conversation, although most women prepared for intense interrogations out of necessity. Steamships were segregated by gender, so even women traveling with male family members most often interacted with other women on the journey.[332] When Mah Ah Wah accused six other women on her steamer of being imported to a house of prostitution run by her own godmother, the six accused women filed habeas corpus and recounted different alleged conversations on the ship.[333] Bok Goon How claimed she only talked to the others about her seasickness, then later said, "on board the vessel, I could not be so particular. When they [other

[332] Ah Ying, November 1904, File 10030-5758, Box 104, IAIC, NARA San Bruno. "I lived with my husband in China, but on the steamer coming over he was with the men, and I was with the women; we had separate quarters; we couldn't do otherwise; but in China we lived together."

[333] According to Mah Ah Wah's story, she was traveling to San Francisco to receive medical care because her godparents offered to find her better care than she had access to in China. She did not know her godmother ran a house of prostitution until other women on the ship told her this, women who she claims were traveling to work at said brothel. When she was detained at the Mission Home, she refused bail that had been paid for her and told matrons that she did not want to be released to her godparents due to their associations. See page 81, Case 9120 (Bok Goon How), Box 465, Admiralty Case Files 1851-1934, U.S. District Court Northern District of California, RG 21, NARA San Bruno. The lawyer representing the accused women claimed that Mah Ah Wah wanted to be returned to China and informed on the other women in order to have company for the journey back. Page 90, Case 9127 (Mok Jow Yee), Box 465, Admiralty Case Files 1851-1934, U.S. District Court Northern District of California, RG 21, NARA San Bruno.

women] would come into my room, I could not say, 'get out of here, you prostitute.' That would not do."[334] Mah Ah Wah claimed the other women talked to her because she could read; Mok Jow Yee interrupted Mah Ah Wah's proceedings to call her a liar in Chinese.[335] Rather than tease out reality from hearsay, officials deported all women, including Mah Ah Wah, the informant.

Immigration inspectors were not the only ones to discredit Chinese marriages or treat Chinese women's migrations as primarily coerced. Immigration officials often detained suspect women for days to weeks at the Chinese Mission Home, where matrons instigated informal sexualized questioning. In Fong Gum Lean's interrogation following a few weeks at the home, she stated, "I was told in China I was coming here to be married. When I came here, I found out–I was told in the mission that I was brought over here to be a prostitute."[336] The Mission Home told Lean that she was being duped by a fake husband and encouraged her to accept deportation as a chance to return home. Rather than serving as an impartial detention space for women awaiting investigation, Mission Homes proactively interacted with women in ways that could alter the subsequent interrogations. They also discouraged interactions between detained women as coaching, reading nefarious intent into

[334] Page 70, Case 9121, Box 465, Admiralty Case Files 1851-1934, U.S. District Court Northern District of California, RG 21, NARA San Bruno.

[335] Page 115, Case 9127, Box 465, Admiralty Case Files 1851-1934, U.S. District Court Northern District of California, RG 21, NARA San Bruno.

[336] Fong Gum Lean [also spelled Fong Kim Lean and Fong Gum Nean], February 1890, File 9273/409, IAIC, NARA-San Bruno.

interactions between women who were likely scared and confused by the proceedings and may have been seeking consolation.[337] Immigration officials accepted any evidence, even coerced statements made during detention or off the record at the Mission Home, to flexibly justify their decisions to admit or debar. For their part, missionaries considered debarment a form of benevolent aid to women being trafficked against their will rather than punitive exclusion.

Inspectors and missionaries eagerly read coercion and trafficking into women's migrations, making it difficult for women to defend their agency or follow their customs of respectability. By 1890 a question such as, "If your husband should ask you to go into a house of prostitution, would you go?" became an interrogation standard. Women constructed various responses that stressed their husbands' virtue or claimed that they would disobey husbands who demanded such a thing.[338] Questions such as, "You expect to do anything your husband tells you, don't you?" led women to reject vocally the stereotype of mindless obedience being projected onto them. [339] Interrogators, in turn, blamed this confidence on coaching or a criminal plan. Mok Jow Yee's testimony alluded to the sacrifices made when migrating and her own choice in the matter:

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[337] Page 108, Case 9121 (Bok Goon How), Admiralty Case Files, NARA-San Bruno.

[338] Chin Gook Kai [Chun Ah Gwi], January 1890, File 9270/65; Quan Ling Moy, January 1890, File 9270/66; Bak Yoon How, January 1890, File 9270/68; IAIC, NARA-San Bruno.

[339] Question asked of Fong Gum Lean, February 1890, File 9273/409, IAIC, NARA-San Bruno.

> Schell: *You did not want to leave China to come to San Francisco, did you?*
> MJY: Why did I not want to come. If I did not want to come, I would not have come. If I did not want to have come, I would not have gone on board the steamer and got as seasick as I did and all that trouble for nothing. If my husband tells me to do anything, I will do it if it is right. If it is not right, I will not do it. [340]

There was no ideal answer to these questions. In most cases, agents had already determined they could and would debar an applicant, regardless of the response extracted. Mok Jow Yee's outspokenness disrupted the interrogator's routine questions but did not lead to a favorable outcome.

> Examiner Schell: *Who told you you could have your husband arrested if he wanted you to do that?*
> Mok Jow Yee: Well, I know that nobody can force me to be a prostitute. I know I can have him arrested.
> Schell: *Who told you that?*
> MJY: Do you not suppose that I know that?
> Schell: *Somebody must have told you that. How do you know that?*
> MJY: Do you suppose my parents would allow him to put me in a house of prostitution?
> Schell: *How do you know you could have your husband arrested?*
> MJY: I say so myself. No one told me so…. I only speak what I know myself. You do not suppose I am telling you a lie, do you?

Yee's assertions of her right to police protection are a somewhat incredible claim considering how San Francisco's police force harassed and punished Chinese prostitutes in this period.[341] Nor did inspectors seem to regard police protection as a

[340] Case 9127 (Mok Jow Yee), Admiralty Case Files, NARA-San Bruno.

[341] See Chapter 2 of this dissertation, "Seeing Lewdness: Crafting an Archetype for Exclusion through Local Policing of San Francisco's Chinese Women, 1851-1877."

viable resource available to trafficked women. Still, officials did not suggest any other recourse that might be available to women in the face of trafficking, further demonstrating that entry controls prioritized the punitive exclusion of women over a reduction of forced trafficking.

Yee's demand for protection brought to light an unresolved flaw in the logic of exclusion: entry controls singled out suspicious women and potential importers for debarment but separate from a structure for punishing procurers already in the country or working from a distance. For all the administrative concern for "counterfeit husbands," officials seldom charged men already in San Francisco with any crime, even if their wives failed the entrance examination. Administrative discretion remained mostly limited to the immigrant entry process, a process most easily navigated by procurers or those from the commercial sex industry who had money and knowledge, but most women applicants experienced it as an arbitrary obstacle. In subsequent years entry questioning about prior knowledge of prostitution intensified but never resolved the limitations of entry sexual policing. As more immigrants besides the Chinese entering San Francisco faced entry controls, officials in New York designed their procedures to isolate suspicious women to exclude. These inspectors employed sexualized questioning differently but still faced similarly irreconcilable contradictions. As in San Francisco, officials in New York created inconsistent and confusing criteria to measure women's sexual respectability. Such practices punished sexual indiscretions at random rather than systematically address the migrations of prostitutes and procurers.

At Ellis Island, Chief Inspector John Lederhilger led the way in arbitrary and aggressive sexual questioning. In 1902, a new Commissioner of Immigration for New York fired him for what the *New York Times* reported as "brutality toward female immigrants," including accepting bribes and breaking protocol.[342] Lederhilger earned a reputation among his fellow inspectors as a "serial groper" who ostensibly detained women longer than necessary to extort bribes and sexual favors from them.[343] Lederhilger did more than abuse his power through physical acts; he also used sexualized questioning. When a government investigation opened regarding these accusations, an interpreter testified that he stopped working with Lederhilger after being expected to interpret such lewd questions as, "who fucked her on board the ship?"[344] One woman committed suicide in detention after Lederhilger interrogated her as a suspected procuress.[345] Both immigration officials and the investigating committee sought to portray Lederhilger as a singularly "brutal man" who could not help his behavior, but his actions signal women's particular vulnerabilities in the larger system of administrative discretion. Records of Lederhilger's violations are

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[342] "Ellis Island Investigation: Chief Lederhilger Suspended -- Recommended for his Removal on Previous Charges was Pigeonholed," Jul 12, 1902; ProQuest Historical Newspapers: *The New York Times,* p 14.

[343] Ronald H. Bayor, *Encountering Ellis Island: How European Immigrants Entered America* (Baltimore: Johns Hopkins Press, 2014), 113; Cannato, *American Passage,* 117; Andrew Urban, *Brokering Servitude: Migration and the Politics of Domestic Labor during the Long Nineteenth Century* (New York: NYU Press, 2017), 167.

[344] Cannato, *American Passage,* 117.

[345] Cannato, *American Passage,* 117.

likely incomplete because his closest ally, Assistant Commissioner for New York Edward McSweeney, faced serious charges of corruption that included hiding a personal stash of records to evade inspection.[346] Lederhilger and McSweeney were among a string of inspectors accused of singling out immigrants for bribes or unwarranted procedures.[347] Although the investigating committee recommended firing Lederhilger in 1900, they refrained from publishing their report, and the Secretary of the Treasury dismissed his charges. It took another two years of leaks to

[346] McSweeney claimed that he knew these records so well that it was easier for him to access them through an organizing system of his own design, rather than be bogged down by bureaucracy. McSweeney Hearings, May 7-8, 1903, File 52707, Accession # 001739-006-0567, EI3. On privately stored documents and McSweeney's alleged memory recall for previous cases in case of LPC deportation, see page 67 of transcript. On McSweeney's claim to hold files to aid new Commissioner Williams or a presidential investigation into problems in the Immigration Service, see "Comments on the Explanation of Mr. McSweeney," page 11. Investigators deemed that, "the official matters were collected, not for his assistance as Assistant Commissioner, but for personal reasons. Against every employee against whom he had a personal dislike every particle of evidence of errors or mistakes was carefully filed for future use…" (9). Although McSweeney claimed to have taken only copies, at least 3000 documents were deemed to be originals. One of the most contentious pieces of his personal collection was a lewd photo he confiscated and supposedly lost from "the Eloy girls," two women who were nearly debarred for passing the photo around their steamship on the journey (20). His righteous indignation in their case amidst underhanded activities suggests that Lederhilger was not the only one abusing immigrant women's sexual vulnerabilities.

[347]When the Bureau of Immigration's annual report referenced the McSweeney investigation and claims of corruption, it called the mistakes "a natural part of human agency" which exist in every bureau of government. *Annual Report of the Commissioner-General of Immigration, 1901-1902,* 17.

the press and a new Commissioner at Ellis Island, William Williams, to fire Lederhilger. Officials told the *New York Times* that they delayed termination because his job experience across many departments made him too valuable.[348] Lederhilger's record of sexualized questioning and the few barriers stopping him–save for the lone interpreter who declined to translate his lewd comments–indicate tolerance or even encouragement that sexual policing be aggressively applied to women at random.

At Ellis Island, individual inspectors had unparalleled access to thousands of immigrants processed every day, but this greater volume of daily arrivals also required expedited systems to categorize them. Officials did not consider intensive investigation and interrogation of each immigrant as viable or necessary, as officials in San Francisco had implemented toward Chinese immigrants on the West Coast. Instead, inspectors developed visual-based inspections to process immigrants quickly they deemed financially stable and able-bodied enough to land.[349] Those not approved

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[348] "Ellis Island Investigation: Chief Lederhilger Suspended -- Recommended for his Removal on Previous Charges was Pigeonholed," Jul 12, 1902; ProQuest Historical Newspapers: *The New York Times,* p 14. A year later, his name reappeared as the byline in an article about immigration restriction, which listed him as "former chief of the Registry Division." John Lederhilger, "Keeping Criminals Out of New York," *Broadway Magazine* (October 1903), p. 50-52. Williams fired him as part of an effort to "clean house" of many officials accused of corruption, the task for which President Roosevelt expressly appointed him for. Cannato, *American Passage,* 140.

[349] On disability and visual inspection: Baynton, *Defectives in the Land*, 6. On photography and the visual culture of inspection: Pegler-Gordon, *In Sight of America,* 7. Amy Fairchild argues the visual inspections instructed immigrants in their industrial value while also prioritizing the entry of those deemed useful to the workforce. Amy Fairchild, *Science at the*

by visual and cursory medical inspections, as well as women without a chaperone or family member to pick them up after processing, went on to the Board of Special Inquiry.[350] In the words of one official, this panel served as a "quasi-judicial tribunal" who acted as if they held "the power of life" over vulnerable immigrants.[351] The officials and community members appointed to the board shared administrative discretion instead of a singular inspector, but entry required a unanimous yes vote from all four members.[352] Despite the vocal presence of restrictionists, boards landed most cases, and rates of debarment at Ellis Island hovered between 0.5% and 1% during the 1890s.[353] When facing the board rather than a single probing inspector,

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Borders: Immigrant Medical Inspection and the Shaping of the Modern Industrial Labor Force (Baltimore: Johns Hopkins Press, 2003).

[350] Edward Corsi, *In the Shadow of Liberty: The Chronicle of Ellis Island* (New York: MacMillan, 1935), 75; Unrau, *Ellis Island - Statue of Liberty,* 27; Urban, *Brokering Servitude,* 143, 168.

[351] Cowen, *Memories of an American Jew,* 145, 246. For more on the board operating as "policeman, prosecutor, and judge" blended into one, see Salyer, *Laws Harsh as Tigers,* 141.

[352] Baynton, *Defectives in the Land,* 33. Without a unanimous vote, the Commissioner of Immigration for that port could make a final decision or send the case along to the Commissioner-General or Secretary of the Treasury. When the Commissioner-General of Immigration or Secretary of the Treasury (later Secretary of Labor) ruled differently than the Board of Special Inquiry, it was because they held wider discretionary powers and not necessarily because of disagreement with the board's ruling. See William Williams, "The Organization and Some of its Work," 36, excerpted in Unrau, *Ellis Island - Statue of Liberty,* appendix L.

[353] Cannato, *American Passage,* 104. Reported restriction rates do not reflect the additional barriers enforced by steamship companies, who did not sell tickets to those they deemed ill,

European women at Ellis Island developed different strategies to negotiate entry and resist sexualized questioning.

Whereas officials in San Francisco believed Chinese women traveled by force specifically for prostitution, women arriving at Ellis Island were vaguely evaluated and held suspect for lacking strong morals. Officials believed weak moral character made them more sexually vulnerable to prostitution after arrival or simply poor candidates for assimilation. These vague concerns and conceptions of moral character generated more diffuse and obscure questioning. Because only fragments remain of Board of Special Inquiry records for Ellis Island, it is difficult to discern the exact practice of sexualized questioning.[354] Even without precise evidence of what questions board members asked, women's sexual morality faced heavy scrutiny through official and unofficial questioning and medical examinations. As with Chinese women immigrating to San Francisco, women entering Ellis Island had their poverty, sexual histories, and personal relationships evaluated to measure their physical and moral health. With access to a more nuanced and personable system than Chinese Inspectors in San Francisco, European women at Ellis Island developed very different strategies to negotiate entry and reject sexualized questioning.

Many European women who arrived at Ellis Island visibly pregnant and unmarried faced sexual questioning from the Board of Special Inquiry, medical

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LPC, or otherwise inadmissible. The very existence of categories for debarment dissuaded immigrants who feared they might not pass through. Urban, *Brokering Servitude,* 138.

[354] See note 46 for more on fires and the destruction of immigration buildings and records.

officers, steamship operators, and inspectors. Pregnant applicants reminded officials that women's sexual pasts could be complicated, especially in transnational relationships.[355] In theory, pregnant women should not have arrived on Ellis Island at all, as steamship operators were not supposed to sell a ticket to a pregnant woman and would be financially liable for her return passage if she were debarred.[356] European steamship companies only reluctantly served as the first line of inspection and exclusion for immigrants and could do little to prevent passengers who concealed early pregnancy or became pregnant during the trip.[357] Medical officers verified pregnancy through vaginal examinations and sent women to the Board of Special

[355] In contrast, officials often scrutinized Chinese women for being married without children, and records seldom denote a Chinese woman's pregnancy or mention a medical examination. It is possible that simply fewer Chinese women traveled while pregnant. Because most women married in China and resided with their in-laws for several years before migrating, the chances of conception were lower unless their husband visited. If a woman became pregnant, it's more likely she would have stayed in China with family to give birth. Women who applied to enter the United States with young children were admitted more regularly than childless married women. There is more evidence of a medical inspection for Chinese women in later years after the opening of Angel Island in 1910. Lee and Yung*, Angel Island*, 35.

[356] Immigration Service, *Report of the immigration investigating commission to the Honorable the Secretary of the Treasury* (Washington: Government Printing Office, 1895), 23.

[357] Anne-Emanuelle Birn, "Six Seconds Per Eyelid: The Medical Inspection of Immigrants at Ellis Island," *Dynamis* 17 (1997), 312; Urban, *Brokering Servitude,* 138. On women impregnated on the journey, see John Mann, "Comedies and Tragedies at Ellis Island," unpublished manuscript (1914), page 39, file 53371/74, Accession # 001739-012-0384, EI3.

Inquiry if not automatically debarred as LPC.[358] These exams demonstrate that doctors had intimate access to at least some women's bodies. Other fleeting references to exams to confirm virginity or diagnose venereal disease suggest that sexualized questioning accompanied more invasive bodily methods of determining sexual activity.[359] Despite extramarital pregnancy being a common and tangible metric to declare LPC, pregnant women faced the board and so given at least an opportunity to make a case for their landing. With the proper performance, women could absolve the stigma of their illicit pregnancy and be landed.

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[358] *Annual Report of the Commissioner-General of Immigration to the Secretary of the Treasury, 1895-1896* (Washington, D.C.: Government Printing Office, 1896), 26. "Those suffering from venereal diseases and, as far as possible, all immoral or pregnant unmarried women are also refused a landing in the United States." A few years later, the Commissioner-General claimed physicians did the vital work of protecting citizens from "gross immorality." *Annual Report of the Commissioner-General of Immigration to the Secretary of the Treasury, 1897-1898* (Washington, D.C.: Government Printing Office, 1898), 41.

[359] On lack of privacy and strip searches: Bayor, *Encountering Ellis Island,* 48; Mann, "Comedies and Tragedies at Ellis Island," file 53371/74, 13. At times matrons were asked to chaperone women's examinations, as in one surgeon's request for a woman assistant for a hernia exam. Surgeon M.J. White to Commissioner John Rodgers, Philadelphia, July 12, 1899. Letters and Telegrams Received Concerning Status and Treatment of Immigrants, 1892-1903, Box 5, folder 2, NARA-PHL. Some women refused to submit to vaginal examinations, and in at least one case the exam was canceled when the immigrant argued it would damage her purity. Cannato, *American Passage,* 265. The Public Health Service hired its first female doctor in 1913, see: Bayor, *Encountering Ellis Island,* 48. In 1903 Commissioner Williams briefly implemented nude genital examinations of all unmarried men but ended the program when an examination of 3,427 immigrants only revealed 5 cases of venereal disease and much more embarrassment. Unrau, *Ellis Island - Statue of Liberty,* 586.

Pregnant women most often negotiated their landing from the Board of Special Inquiry by aligning themselves with a man, preferably a husband who could provide material support. This turned Ellis Island into a veritable wedding mill, as women felt pressured to marry men who would take them, even if the man were not the child's biological father.[360] While immigration agents constantly delegitimized Asian marriages like Mok Jow Yee and Nishimura Ekiu in San Francisco, the ceremonies at Ellis Island offered a facade of instant assimilation into American middle-class values and whiteness, even when the marriages were coerced.[361]

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[360] The case of Annie Jaufman is representative. Her 1904 deportation from Philadelphia was cancelled when a man came forward, agreeing to marry her, adopt her child, and pay her hospital bills. Commissioner Rogers to Commissioner-General of Immigration, Letters Sent to the Port of Philadelphia, 1904-1912, box 1, RG 85, NARA-PHL. See other examples in Bayor, *Encountering Ellis Island,* 63; Schneider, *Crossing Borders,* 86; Excerpt from Fiorello LaGuardia in Unrau, *Ellis Island - Statue of Liberty,* 250. Other more personalized marriage ceremonies were suggested but not adopted. When missionaries wanted to escort couples who were compelled to marry at the Island to a chapel for a more respectable religious ceremony, officials countered that immigrants could too easily escape. A missionary insisted that the Commissioner of Immigration could grant him authority to hold immigrants as his charges until the marriage was completed, but Commissioner Philbin argued that no police officer would recognize such authority and the plan was declared well-meaning but impractical. *Staats Zeitung* investigation, 1903, File 52727/2, "notebook 2," page 184-189, Accession # 001739-007-0417, EI3.

[361] Boards of Special Inquiry also exercised great discretion to reject marriages or other sponsorships they deemed less respectable, even when economic security could be assured. Second marriages, an intent to marry after landing, or marriages borne out of love affairs were usually not accepted to reverse a debarment order. In the 1890s, officials usually rejected unconventional marriages without explicitly accusing the couple of prostitution,

Immigration inspector Philip Cowen described a case of a man who rejected his wife for becoming pregnant by another man. The following scene framed debarment as a husband's prerogative rather than state policy:

> "in a kindly voice, the interpreter asked him if he really wanted the woman sent back home. With a great gulp in his throat, he said: "No; I take her; I been no angel since I be here. Why did I wait six years to bring her here?" The board applauded the decision of the stolid Pole who showed such manhood, and on his promise, forcibly impressed upon him, to care for the child as his own, the group was admitted."[362]

While glowingly presented by Cowen, a Board of Special Inquiry that "forcibly impressed" familial responsibility was just as willing to deport women whose families did not comply with state expectations, even when women themselves held little control over partners they were legally and economically dependent on. Officials could also deport immigrants as LPC for up to a year after landing, so when board members exercised discretion to land a woman after marriage it was with the knowledge that she could be deported as a public charge should the marriage fail.

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although the archetype of sham marriages to conceal forced prostitution loomed large in later years. Some officials argued that it was not fair to hold foreigners to American sexual standards and that women who had premarital or extramarital sex perhaps did not know better or were following different cultural standards. Cannato, *American Passage,* 267. For a sample case see that of Anna Welzel, discussed in Superintendent Herman Stump to Commissioner of Immigration J. H. Senner, February 26, 1894, p. 456, Records of the Central Office - Letters Sent 1882-1912, Volume 2, Entry 8, RG 85, NARA-DC.

[362] Cowen, *Memories of an American Jew,* 154.

While a rushed marriage offered pregnant women a strategy for landing, it did not necessarily equal long-term security.

When inspectors or boards believed a man in her life was duping an unmarried pregnant woman but not trafficked for prostitution, they were more likely to take measures to land her than if they deemed her unapologetic about her indiscretion. When Felixa Drozdowska arrived at Ellis Island pregnant in January 1896, the man who had visited her in Europe impregnated her and promised her "everything would be alright," turned out to be married to another woman and refused to see her.[363] This case would seem a straightforward basis for debarment as LPC, but instead, immigration officials located other family members in Buffalo who were eager to take her in. Administrative discretion allowed flexibility when a woman appeared genuinely misled by a man. Yet applicants' families could not simply arrive at Ellis Island and expect to retrieve a detained woman. Officials usually vetted prospective families, husbands, or employers at Ellis Island or by sending investigators into the community and private homes to verify their reputation, asking questions such as "Is this a proper party to receive a young girl of tender age?" before releasing women to someone's care.[364] Inspector's comments such as "of tender age"

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[363] Acting Commissioner General Larned to Commissioner of New York, January 31, 1896, p. 333, Records of the Central Office - Letters Sent 1882-1912, Volume 3, Entry 8, NARA-DC.

[364] Quoted from letter from Commissioner of Immigration, Baltimore to Commissioner of Immigration, Philadelphia, June 5, 1903, Letters and Telegrams Received Concerning Status and Treatment of Aliens, Box 10, folder 1903, ARC 566828, NARA-PHL. In the case of

highlight the underlying concern that women might be tricked into prostitution through naivety after landing if they were not already being trafficked. Some officials proactively traced "disreputable addresses" and phony employment agencies to prevent releasing women to unsafe environments.[365] Women faced a double examination of both themselves and their relational network, although they alone carried the consequence of debarment if officials rejected their receiving party.

Not all immigration officials used administrative discretion or other available resources to arrange for women's safety. Many considered it beyond the scope of government responsibility and advised concerned missionaries and citizens to focus their energies on reforming cities rather than dictating federal immigration

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Margaret Forbes, arriving pregnant and single, the Commissioner of Immigration, New York wrote to the Commissioner of Immigration, Philadelphia to request a local inquiry into whether Forbes' sister had means to care for her (as opposed to requiring Forbes' sister to travel to New York and appear in person.) This inter-station communication enabled officials to pool resources and collect opinions from others for ambiguous cases. Letter, Nov 20, 1896, Letters and Telegrams Received Concerning Status and Treatment of Aliens, Box 3, folder 1896 (part), ARC 566828, NARA-PHL. For Immigration Service investigations into potential employers, see Urban, *Brokering Servitude,* 141. Urban argues that a substantial number of potential LPC cases were resolved when women agreed to take domestic labor positions with middle class American families, though immigration officials often vetted these potential employers less strictly as a way to foster American economic values.

[365] On collecting data on disreputable locations around New York: Cowen, *Memories of an American Jew,* 170. The Austria-Hungary House, an employment agency in New York, was regularly accused of trafficking women or at least enabling disreputable men to have contact with women staying in the home. See *Staats Zeitung* investigation, 1903, File 52727/2, "folder 21-30," Accession # 001739-008-0744, EI3.

administration.[366] However, as with the Chinese Mission Home in San Francisco, the state benefited from missionaries who provided important aid for Ellis Island by helping immigrants navigate new cities and find jobs and safe housing at minimal government expense.[367] Unlike earlier coalitions between charity boards and state immigration regimes, officials seldom treated the missionaries aiding Ellis Island were as equals with shared goals or authority. Organizations that vocally opposed Ellis Island policies were often themselves branded as fronts for forced prostitution.[368] When officials recognized missionaries' authority, it was only in

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[366] Immigration officials usually suggested that the state of New York do more to intervene and aid immigrants after landing, especially women who travel in second class and do not receive attention as immigrants from most aid societies. *Staats Zeitung* investigation, 1903, File 52727/2, "notebook 1," page 131, 134, Accession # 001739-007-0257, EI3. Another official testified: "Of course there is an enormous field in the way of missionary work to be done among the women who land here, but the place to do it is away from the piers. They ought to be followed into the cities, many need to be looked after for days and weeks after… That can't be done by the government; that is for the private missionary," *Staats Zeitung* investigation, 1903, File 52727/2, "notebook 3," page 455, Accession # 001739-007-0611, EI3. In a more cynical reading, Victor Safford claimed inspectors never did as much as they should have to protect women from forced prostitution because they were not paid enough to care. Safford, *Immigration Problems*, 213.

[367] *Staats Zeitung* investigation, 1903, File 52727/2, "notebook 2," Accession # 001739-007-0417, EI3. Historians regard these missionaries as a precursor to modern social workers.

[368] Thomas M. Pitkin, *Keepers of the Gate: A History of Ellis Island* (New York: New York University Press, 1975), 79; Unrau, *Ellis Island - Statue of Liberty,* 256.

service of the Bureau of Immigration's vision of punishing undesirable immigrants.[369] In 1903, McSweeney described local mission homes as a "supplemental inspection force" where he could temporarily release women for observation so that "girls of bad character" could be returned and deported.[370] As with the Chinese Mission Home that housed women awaiting investigation or habeas corpus proceedings, homes sponsored by Protestant, Jewish, and Catholic organizations had very different access to women's personal stories than inspectors at Ellis Island and were encouraged to use such access to weed out dangerous women.[371]

Women reformers faced pushback when they sought greater roles in state sexual policing or protecting women. Rumors abounded that woman could avoid interrogation by traveling in first- or second-class cabins rather than coach-class. These passengers were more casually inspected in their cabins before being landed, avoiding "the line" and less often being sent to a Board of Special Inquiry. Many believed that procurers would pay the extra expense to travel without harassment, although women who were sick or pregnant also likely splurged for a cabin ticket to

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[369] Val Marie Johnson, "Protection, Virtue, and the Power to Detain: The Moral Citizenship of Jewish Women in New York City, 1890-1920," *Journal of Urban History* 31 no. 5 (July 2005), 660.

[370] "Comments on the Explanation of Mr. McSweeney," McSweeney Hearings, File 52707, page 21, Accession # 001739-006-0567, EI3.

[371] Even if officials did not treat the immigration of potential prostitutes as a particularly Jewish issue at this point, Jewish reformers certainly saw the problem as uniquely impacting their community. Johnson, "Protection, Virtue, and the Power to Detain," 657.

save themselves from sexualized questioning.[372] Because LPC designation was so often tied to sexual nonconformity, even the appearance of more wealth could shield a woman, as in one case where inspectors unlawfully searched a woman's bag and found evidence of prostitution but faced reprimand for breaking protocol because she was a cabin passenger.[373] Incensed about this supposed workaround, several prominent women's groups orchestrated a campaign in 1903 to appoint special women inspectors to the Immigration Service, arguing that these women were better equipped to interrogate women in first- and second-class cabins to determine cases of coercion and trafficking.[374] Officials deemed the high-profile experiment a failure after three months, claiming the women insulted respectable passengers and could not perform the tasks of inspecting as thoroughly as men.[375] Reformers and missionaries

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[372] Johnson, "Protection, Virtue, and the Power to Detain," 683 n. 51; Schneider, *Crossing Borders,* 75. Later Commissioner Edward Corsi's own mother traveled in cabin class while her family traveled in steerage so that she could avoid a medical examination she feared she might not pass. Corsi, *In the Shadow of Liberty,* 75.

[373] Safford, *Immigration Problems*, 212.

[374] Johnson, "Protection, Virtue, and the Power to Detain," 683 n. 51; Schneider, *Crossing Borders,* 75. Later Commissioner Edward Corsi's own mother traveled in cabin class while her family traveled in steerage so that she could avoid a medical examination she feared she might not pass. Corsi, *In the Shadow of Liberty,* 75.

[375] Pitkin, *Keepers of the Gate,* 103; Jessica Pliley, "The Petticoat Inspectors: Women Boarding Inspectors and the Gendered Exercise of Federal Authority," The *Journal of the Gilded Age and Progressive Era* 12, No. 1 (January 2013), 95-126, 116. Pliley and most contemporary scholars agree that this judgement was rooted in sexism more than any objective view of the women's work. Pliley contextualized this as a limit to women reformers' growing authority in the Progressive Era. Although many operated powerful

successfully took part in this period of entry control only by invitation and when serving federal restrictionist goals above their protectionist ones.

Prostitutes themselves demonstrated awareness of the discrepancies between local policing efforts and federal immigration control and used these weaknesses for their survival, forcing administrators to revise inadequate procedures continually. In 1898, a French woman, Emilie Roussie, left the brothel she owned in San Francisco for France, then arrived at Ellis Island months later with four French women in tow, all cabin passengers. The four confessed under interrogation that they traveled to work for Roussie and had sex with men on the ship over.[376] The Commissioner telegraphed his colleague, H. H. North, Commissioner in San Francisco, to inquire whether to charge Roussie with importation under the Page Act or simply exclude her and the other women as LPC. After investigating Roussie's former notorious house, North's response came too late; all women, including Roussie, had been deported as

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charity organizations, federal state power was deemed an undesirable venue for women. See more testimony from women and male inspectors in *Staats Zeitung* investigation, 1903, File 52727/2, "notebook 1" and "notebook 3," Accession # 001739-007-0257; 001739-007-0611, EI3. Immigration officials who cancelled the women inspectors program claimed that existing matrons could accomplish the same goals without "inquisitorial power" *Staats Zeitung* investigation, 1903, File 52727/2, "notebook 3," 455, Accession # 001739-007-0611, EI3. Meanwhile, in 1910, Angel Island in San Francisco hired its first female Chinese interpreter to specialize in suspected prostitution cases. Tye Leung came highly recommended from her work at the Chinese Mission Home. Lee, *At America's Gates,* 71.

[376] Commissioner of Immigration Finchie to Commissioner-General Powderly, May 5, 1898, no 10849, page 2, file 16178, Letters Received 1882-1906, Box 70, Entry 7, RG 85, NARA-DC.

LPC. Later in the year, Roussie appeared again in San Francisco, and officials surmised that upon her deportation to France, she traveled to Canada and crossed back into the United States by train, where inspections were not required.[377] North sought permission to deport her to enter surreptitiously after a previous experience of deportation and could no longer charge her under the Page Act since she traveled alone.[378] The file ends there, but it is possible that she adopted a pseudonym or found new ways to evade entry controls rather than remain in France. Roussie's case exposes that even a more professional, confident Bureau of Immigration continued to operate defensively. While known prostitutes and brothel-owners risked excluded at entry if detected, there were few options to prosecute or deport them once they were well-established in the United States, at least until 1907.

As women continued to circumvent sexual policing at entry points, officials and legislators launched multiple initiatives to expand authority and administrative discretion at and beyond border points. Entry controls intensified after 1903 for prostitutes and most other immigrants despite public critiques of officials'

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[377] Her reentry through Canada confirmed officials' fears that the less-contained land borders fostered criminals' deliberate movements. *Staats Zeitung* investigation, 1903, File 52727/2, "notebook 2," page 218, Accession # 001739-007-0417, EI3; Annual *Report of the Commissioner-General of Immigration to the Secretary of the Treasury, 1891-1892* (Washington, D.C.: Government Printing Office, 1892), 11.

[378] North to Powderly, June 23, 1898, file 16178, Letters Received 1882-1906, Box 70, Entry 7, RG 85, NARA-DC.

administrative discretion.[379] The Immigration Act of 1903 added many more categories for exclusion and another law in 1907 expanded efforts to deport immigrants for post-entry prostitution.[380] When William Williams stepped in as New York's Commissioner of Immigration in 1902, he encouraged "kindness and consideration" from his inspectors while also applying new unofficial rules for categories like LPC to exclude higher numbers of immigrants.[381] Williams also instructed inspectors to do their jobs more diligently because there was no higher court to correct their work, at the same time threatening punishment to officers who

[379] Extensive critiques from German American newspaper *Staats Zeitung* fueled a government investigation into conditions at Ellis Island based on scathing accusations about human rights abuses in William Williams' procedures and the Board of Special Inquiry which operated as a "star chamber." Schneider, *Crossing Borders,* 87. Schneider described the paper as the "beacon of German American Republican respectability." See also *Staats Zeitung* investigation, 1903, File 52727/2, "21-30," page 9, Accession # 001739-008-0744, EI3. The paper wrote that immigrants were treated as "experimental rabbits" by Williams, who "muzzled the press, because in his modesty he did not wish the results of his system made public." For the final report which largely absolved Williams, see Report of the Commission Appointed by the President on September 16, 1903, to Investigate the Condition of the Immigration Station at Ellis Island ((Washington, D.C.: Government Printing Office, 1904).

[380] *An Act to Regulate the Immigration of Aliens into the United States,* 57th Cong., 2nd Sess., H.R. Rep. No. 12199 (1903); *An Act to Regulate the Immigration of Aliens into the United States*, 59th Cong., 2nd Sess, H.R. Rep. No. 7607 (1907).

[381] William Williams, "Rules for the United States Immigrant Station at Ellis Island," (1904), file 52516/1, Accession #001739-004-0421, EI3. Williams' most notorious unofficial policy required immigrants to arrive with $25 cash (over $300 in contemporary dollars) to demonstrate they were not likely to become a public charge. Cannato, *American Passage,* 199.

spoke out against another's actions.[382] San Francisco's Angel Island Immigration Station opened in 1910, normalizing even longer detentions for immigrant applicants and deportees, especially those of Asian nationalities.[383] The observable shortcomings of entry control and administrative discretion encouraged their expansion rather than reevaluation.

The discretionary practices weaponized against women's sexual nonconformity, encouraged from the Bureau of Immigration's founding, laid the foundation for greater state efforts to detain and deport in the coming years. Along with the 1903 and 1907 laws, the Bureau of Immigration allocated more resources to

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[382] On statements to the press: William Williams, "Rules for the United States Immigrant Station at Ellis Island," (1904), file 52516/1, EI3. On lack of judicial oversight: William Williams, "The Organization and Some of its Work" draft copy, page 3, file 52516/1-B, Accession # 001739-004-0924, EI3.

[383] Lee and Yung, *Angel Island.* Chinese newspapers like Sai Gai Yat Bo regularly encouraged immigrants to carefully document any injustices they experienced during the immigration process and to sign any circulating petitions to demand better treatment by immigration officials. Commissioner for San Francisco H. H. North translated these articles and circulated them among officials as warning, rather than as encouragement to improve treatment. File 52961/24A, Accession #001738-024-0001, EI3. Chinese merchants in the United States launched a notable boycott of American goods in China in 1905 to protest exclusion laws following the *Ju Toy* decision. In response President Roosevelt instructed immigration officials to more gently enforce Chinese Exclusion Laws, but the gains were far below immigrant demands. See Lee, *At America's Gates*, 125; Salyer, *Laws Harsh as Tigers,* 163-167. For a more detailed description of earlier protests, see Mary Coolidge's chapter on "The Chinese Protest," Mary Coolidge, *Chinese Immigration* (New York: Henry Holt and Company, 1909), 278-301.

correctly identify and exclude or deport women for prostitution or the intent to prostitute, rather than using vague charges like LPC for sexual indiscretions. Had they existed in 1898, such policies would have more resolutely criminalized Emilie Roussie and enabled H. H. North to pursue and deport her without seeking approval from his superiors. These changes also meant that Chinese women who navigated the entry process more successfully than Mok Jow Yee but worked as a prostitute after entry faced a more targeted legal response. Yet even expanded operations could not account for how women's illicit movements and sexual activities could outpace state bureaucracy. Administrative discretion allowed for continued experimentation and forgave mistakes in procedure but could never mean full control over those who Assistant Commissioner McSweeney deemed "women of bad character."

CHAPTER FOUR

The Spirit of the Law: Developing Deportation Policy Against Immigrant Prostitutes, 1903-1909

Rosa Tijerina and Immigration Inspector Alfred E. Burnett were not strangers to one another. By Burnett's account, they had interacted at Brownsville's various houses of prostitution on three occasions before he arrived at her room with a warrant for her arrest and deportation on February 25, 1908.[384] Though Tijerina admitted to working as a prostitute, her case stalled while immigration officials struggled to identify legal grounds to deport her.[385] After an anonymous letter, Burnett initiated

[384] Hearing in the Matter of Rosa Tijerina, February 25, 1908, p. 5, file 51777/56, Entry 9: Subject and Policy Files, 1893-1957, RG 85: Records of the Immigration and Naturalization Service, National Archives and Records Administration, Washington DC (hereafter NARA-DC). Tijerina's case is originally discussed in Grace Peña Delgado, "Border Control and Sexual Policing: White Slavery and Prostitution Along the U.S.-Mexico Borderlands, 1903-1910," *Western Historical Quarterly* 43 (Summer 2012), 176; Diedre Moloney, *National Insecurities: Immigrants and US Immigration Policy since 1882* (Durham: University of North Carolina Press, 2012), 75.

[385] Tijerina did not initially admit to working as a prostitute. When asked what she did for a living, she answered, "just struggle along." Her attorney, who was also her brother-in-law, offered little defense, saying, "If she is a prostitute, and has violated the law, she should suffer the consequences." Delgado, "Border Control and Sexual Policing," 175-176.

the arrest believing that Tijerina was not a US citizen, although she claimed to be born in Brownsville. Burnett also testified that while drunk, Tijerina disclosed her birthplace as Mexico, an admission she later denied.[386] After her arrest and imprisonment, officials sought advice on proceeding from the Texas attorney general and the supervising inspector in San Antonio. Meanwhile, another immigration inspector traveled across the river to Matamoros seeking evidence of Tijerina's citizenship status in church baptism records or her marriage to a Mexican man.[387] Under the 1907 Expatriation Act, marrying a Mexican man invalidated Tijerina's birthright citizenship, but her alleged divorce made her status less clear.[388] Tijerina must have known her citizenship claim was tenuous by imploring: "I recognize that I have no right here, but it is only a question of favor and justice to me as a protection against my husband, who resides on the other side."[389] Officials concluded Tijerina

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[386] Supplementary Hearing in the Matter of Rosa Tijerina, February 27, 1908, p. 1, file 51777/56, NARA-DC.

[387] Second Supplementary Hearing in the Matter of Rosa Tijerina, February 29, 1908, p. 1, folder 51777/56, NARA-DC. Tijerina was asked not only when she divorced, but "When did you cease marital relations with your husband?" Inspector Perdomo, who traveled to Matamoros to investigate Tijerina's past, reported that the priest he spoke to said official divorce was exceedingly rare in Mexico for all but the elites, invalidating Tijerina's claim to divorce.

[388] The 1907 Expatriation Act stripped women's citizenship for marrying a non-citizen immigrant and could render U.S.-born women deportable as non-citizen prostitutes. Candice Bredbenner, *A Nationality of Her Own: Women, Marriage, and the Law of Citizenship* (Berkeley: University of California Press, 1998), 4.

[389] Hearing in the Matter of Rosa Tijerina, February 25, 1908, p. 5, folder 51777/56, NARA-DC.

was guilty "under the spirit and intent of the law," regardless of which side of the Rio Grande she was born on. Agents deported Tijerina to Nuevo Laredo, Mexico.[390]

Tijerina's confrontation with Burnett signified the Immigration Bureau's expanding efforts to deport immigrant women and legally delineate the boundary between the United States and Mexico. In the first few years of the twentieth century, immigration laws excluded prostitutes and procurers at border points of entry. Still, until 1907, no deportation mechanism in law allowed the removal of immigrants from the United States for sexual indiscretions. Entry laws could only apprehend prostitutes in Mexican border towns like Brownsville, Texas, with small staffs and many legal daily crossings. In 1907, legislators expanded the immigration law by adding removal procedures through deportation.[391] The authority to deport women to their country of origin might have emboldened officials to remove women they deemed unsuitable Americans because they sold illicit sex. To deport immigrants for sexual wrongs, agents also expanded their efforts to identify, surveil, and arrest prostitutes. Encouraged to act in a discretionary manner or "in the spirit of the law," officials interpreted immigration laws against the interests of immigrant women accused of sexual commerce. They resolved complicated cases like that of Rosa Tijerina by interpreting the law in favor of deportation. Even with expanded

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[390] Hearing in the Matter of Rosa Tijerina, February 25, 1908, p. 5, folder 51777/56, NARA-DC.

[391] *An Act to Regulate the Immigration of Aliens into the United States,* 57th Cong., 2nd Sess., HR Rep. No. 12199 (1903); *An Act to Regulate the Immigration of Aliens into the United States*, 59th Cong., 2nd Sess, HR Rep. No. 7607 (1907).

immigration laws in place, alleged prostitutes and procurers outmaneuvered harsh legal interventions. Just as the new deportation regime more thoroughly incorporated immigration control at the U.S.-Mexico border into a national bureaucracy, women fluidly crossed the border to continue working. Increasing state jurisdiction did not ensure that the state could manage ostensibly wayward women.

Legislators and officials turned their attention toward immigrant prostitutes, in part because women's cross-border migrations so frequently defied regulation. Many women contradicted the expectation that they migrate from their country of origin to settle into domestic life in a US city. Upon entering the United States, some traveled fluidly between regions or temporarily crossed America's southern and northern borders. Immigrant women broke with convention by traveling alone or with men who were not family. Officials and citizen reformers found this "migratory habit" a frustrating barrier to policing.[392] Regional differences also created opportunities for women to move covertly and reinvent themselves. After entering from immigration stations in places like San Francisco, New York, and the U.S.-Mexico border, women moved to every corner of the country. This vast geographic expanse challenged immigration officials to develop more national infrastructure, pieced together from

[392] Committee of Fifteen, *The Social Evil: With Special Reference to Conditions Existing in the City of New York* (New York: The Knickerbocker Press, 1902), 142. The Committee wrote that women moved from city to city according to self-interest and that "the prostitute is notorious everywhere for her migratory habits."

local and regional policing techniques. Women's continued mobility threatened the federal state's sense of control over immigrants.

The mobile nature of prostitution uniquely positioned the Bureau of Immigration to confront prostitution. Sensational investigations into white slavery within the United States and internationally made legal interventions politically popular, although logistically complicated.[393] Legislation related to prostitution had traditionally been the purview of individual states, not Congress.[394] Only in the late nineteenth century did immigration control transportation from states to the federal level. Congress used this authority to write laws like the 1875 Page Act, which

[393] On public activism to pressure state interventions: Grace Peña Delgado, "The Commerce (Clause) in Sex in the Life of Lucille de Saint-André," in *Intimate States: Gender, Sexuality, and Governance in Modern US History*, ed. Nancy Cott, Margot Canaday, and Robert Self (Chicago: University of Chicago Press, 2021) 95, 98; Val Marie Johnson, "'Arriving for Immoral Purposes': Women, Immigration, and the Historical Intersection of Federal and Municipal Policing" in *Uniform Behavior: Police Localism and National Politics,* ed. Stacy McGoldrick and Andrea McArdle (Palgrave Macmillan, 2006), 30; Jessica Pliley, *Policing Sexuality: The Mann Act and the Making of the FBI* (Cambridge: Harvard University Press, 2014), 33.

[394] Gary Gerstle, *Liberty, and Coercion: The Paradox of American Government from the Founding to the Present* (Princeton, NJ: Princeton University Press, 2015), 101; David Langum, *Crossing Over the Line: Legislating Morality and the Mann Act* (Chicago: University of Chicago Press, 1994), 42; William Novak, *The People's Welfare: Law and Regulation in Nineteenth-century America* (Chapel Hill, NC: University of North Carolina Press, 1996), 150.

framed prostitutes as undesirable and threatening national security.[395] The Immigration Act of 1903 placed renewed attention on prostitutes and procurers by placing them on a list of undesirable immigrants to exclude at border entry points, alongside idiots, insane persons, people with epilepsy, anarchists, polygamists, those with contagious diseases, or likely to become a public charge.[396] Like the Page Act, the Act of 1903 maintained associations between slavery and prostitution by framing women as imported by others, expanded entry exclusions also built on the legal foundation laid by the 1882 Chinese Exclusion Act, through which federal courts affirmed debarment as a matter of national sovereignty.[397] Yet by only legislating stricter entry control, the 1903 Act offered a limited tool for stopping the movements of prostitutes.

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[395] Delgado, "The Commerce (Clause) in Sex," 96. *An act supplementary to the acts in relation to immigration* (Page Law), 43rd Cong., 2nd Sess., Chap. 141, 18 Stat. 477, (1875).

[396] Section 2, *An Act to Regulate the Immigration of Aliens into the United States,* 57th Cong., 2nd Sess., HR Rep. No. 12199 (1903).

[397] Although Chinese immigrants navigated a bureaucratic system separate from other immigrants within the United States, officials at the Bureau of Immigration used the legal precedents such as plenary power articulated in Chinese immigrant court cases to expand their authority and practices such as deportation. See Delgado, "The Commerce (Clause) in Sex," 96; Charles M. McClain, *In Search of Equality: The Chinese Struggle Against Discrimination in Nineteenth-Century America* (Berkeley: University of California Press, 1996); Gerald Neuman, *Strangers to the Constitution* (Princeton: Princeton University Press, 1996), 122; Lucy Salyer, *Laws Harsh as Tigers: Chinese Immigrants and the Shaping of Modern Immigration Law,* (Durham: University of North Carolina Press, 1995).

The ability to debar prostitutes at the border meant that immigration officials had to identify which women entered the United States with intentions to engage in prostitution. The Bureau of Immigration could design procedures to carry out the law with minimal oversight, a power articulated in the *Ekiu* (1892) decision. But the systems put in place to evaluate immigrants' physical health and economic stability, such as the Boards of Special Inquiry discussed in the previous chapter, held only limited appeal to strengthen sexual policing. Inspector Andrew Tedesco complained these Boards admitted too many immoral women out of "misplaced chivalry" and their quest for "gilt-edged proof" of ties to prostitution. Nor were Boards of Special Inquiry the only ones to struggle with identifying prostitutes at entry. The Secretary of Commerce and Labor once lamented, "it is impossible to discover immoral tendencies except as they translate themselves in visible acts."[398] Officials who wanted tighter restrictions needed more accurate methods for recognizing sexual immorality or methods for apprehending those who slipped past entry controls. This proved especially necessary along the land borders between the United States, Mexico, and Canada, where officials oversaw more cyclical and casual migration, making it more difficult to process and permanently bar entrants from the United

[398] Secretary of Commerce Oscar Straus to Robert Watchorn, Commissioner of Immigration, Ellis Island, January 26, 1907, *Frances Keller, reports on New York City, Prostitution and White Slavery Immigration Investigations,* file 51777/164, Accession #001742-001-0483, Series A: Subject Correspondence Files, Part 5: Prostitution and White Slavery, 1902-1933, RG 85, NARA-DC (hereafter PWSII FKR). All Series A: Prostitution and White Slavery collection accessed digitally via ProQuest History Vault.

States. Deportation offered to complement entry controls because it would allow them to deport women they had not correctly identified as prostitutes at the time of entry.

The Immigration Act of 1907 addressed the shortcomings of entry exclusion laws by expanding the Bureau of Immigration's scope to include deportation and broadening the charges related to prostitution. Section 2 continued to exclude prostitutes from entering the country but additionally excluded those entering for "or any other immoral purpose," an ambiguous category applied to women for concubinage or extramarital affairs.[399] The law also extended felony charges, including a $1000 fine and one to five years in prison, beyond procurement to include "whoever shall keep, maintain, control, or harbor… for the purposes of prostitution, or for any other immoral purpose, any alien women or girl, within three years after she shall have entered the United States."[400] Anyone associated with an immigrant prostitute, even if they had not participated in her immigration, became potentially liable for her debauchery.

Section 3 most radically revised previous practices by authorizing the deportation of any woman found practicing prostitution within three years of entering

[399] Section 2, *An Act to Regulate the Immigration of Aliens into the United States*, 59th Cong., 2nd Sess., HR Rep. No. 7607 (1907).

[400] Section 3, *An Act to Regulate the Immigration of Aliens into the United States*, 59th Cong., 2nd Sess., HR Rep. No. 7607 (1907).

the country.[401] Although prostitutes were not the only immigrants to be deportable for post-entry infractions, section 3 illustrates the new priority to distinguish them from poor or "likely to become a public charge" immigrants.[402] Officials traditionally used "likely to become a public charge" (LPC) as a stand-in for sexual and moral infractions until a 1907 memo discouraged this practice.[403] Instead, the new law prominently and specifically denounced women and girls accused of prostitution or immoral purpose and allocated more resources to collect the evidence necessary to make these charges. During this decade, immigration officials formed special investigative units that targeted immigrant prostitutes and their procurers, a level of initiative not applied to LPC or other "undesirable" categories of immigrants. Women accused of prostitution became visible to the state in different ways than those deemed LPC.[404] While local officials might alert immigration agents to immigrant

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[401] Section 3, *An Act to Regulate the Immigration of Aliens into the United States*, 59th Cong., 2nd Sess., HR Rep. No. 7607 (1907). The law did not specify deportation for immigrants convicted of procurement or harboring after serving their sentence.

[402] The first law to make LPC immigrants deportable for post-entry poverty came in 1891. Section 11, *An Act in Amendment to the Various Acts Relative to Immigration and the Importation of Aliens Under Contract or Agreement to Perform Labor,* 51st Cong., 2nd Sess., HR. No. 13586 (1891).

[403] Braun Report, September 29, 1908, page 25, PWSII BR1-A.

[404] While LPC deportations remained much higher than numbers deported for prostitution throughout this decade, the distinction of the two signals the growing interest in properly labeling criminal categories. The 1907 Expatriation Act also made women more visible and vulnerable to the state by stripping women of citizenship for marrying a non-citizen immigrant. Thus U.S.-born women became deportable as non-citizen prostitutes, as in Rosa Tijerina's case. Together LPC, expatriation, and anti-prostitution laws offered overlapping

poor who appeared in workhouses, hospitals, seeking public assistance or begging on the street, police, courts, and special investigators with the Bureau of Immigration actively sought women soliciting sex. Prioritizing the criminalization and removal of prostitutes granted officials unprecedented access to immigrant women living in the United States and altered the evidence necessary for punitive action.

By prioritizing deportation, the 1907 Act broke with international standards for policing prostitution at a moment of peak collaboration. Across Europe, outrage over white slavery–defined as forced prostitution, thought to involve international trafficking networks–motivated conferences in 1899 and 1902 to draft the International Agreement for the Suppression of the White Slave Traffic or the Paris Agreement in 1904.[405] The articles encouraged participating governments to appoint a central agency to research areas where women were especially vulnerable and share

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and flexible tools to reinforce women's dependence on men and increase their vulnerability to the whims of the federal state. The relationship between these laws further complicates the numbers available on deportation and exclusion for prostitution, which tend to under-report the state's actions to punish sexual nonconformity. Even as officials argued for more accurate documentation of who was excluded or deported for prostitution, women could imprecisely fit within overlapping categories of unacceptability. Bredbenner, *A Nationality of Her Own,* 4; Martha Gardner, *The Qualities of a Citizen: Women, Immigration, and Citizenship, 1870-1965* (Princeton, Princeton University Press, 2009), 123.

[405] "Agreement Between the United States and Other Powers for the Repression of the Trade in White Women," Treaty Series, No. 496 (Washington: Government Printing Office, 1908), *White Slave Trade Agreement, Prostitution, and White Slavery Immigration Investigations,* file 52483/1 "folder #2," Accession # 001742-002-0767, Series A: Subject Correspondence Files, Part 5: Prostitution and White Slavery, 1902-1933, RG 85, NARA-DC [PWSII WSTA].

information about suspects and illicit networks with other countries.[406] Leaders invited the Bureau of Immigration to serve in this capacity for the United States. Still, the Bureau showed only lackluster interest and declined to send a delegate to the 1906 conference.[407] US officials offered a myriad of excuses for their delays in ratifying the international agreement and general cooperation. They claimed that because states held exclusive police powers, the US could not move as quickly against white slavery as other nations with a more robust national police force.[408] The Immigration Act of 1907 also diverged from the Paris Agreement by policing women who European nations considered "willing prostitutes," who other countries believed deserved the freedom to migrate. The US law used punitive deportation rather than the agreement's recommendations for repatriation alongside rehabilitative resources.[409] The act, therefore, served US goals with little accommodation of other nation's perspectives or interests. Under public pressure, Theodore Roosevelt signed the Paris Agreement a year after the Immigration Act of 1907 went into effect, but to little

[406] "Agreement Between the United States and Other Powers for the Repression of the Trade in White Women," Article 1, page 6, PWSII WSTA.

[407] The official decline stated that the Immigration Bureau allocated no travel funds to participate. No officials wanted to pay their way. V. H. Metcalf to the Secretary of State, October 4, 1906, PWSII WSTA.

[408] Robert Bacon, Acting Secretary to Kate Waller Barrett, January 15, 1906, PWSII WSTA; Francesco Cordasco and Thomas Pitkin, *The White Slave Trade and the Immigrants: A Chapter in American Social History* (Detroit, MI: Blaine Ethridge Books, 1981), 26.

[409] Braun Report, September 29, 1908, page 25, PWSII BR1-A.

consequence.[410] While international concern for white slavery may have motivated U.S. legislation, the laws put in place showed significant diversions from the strategies shared among many European and Latin American countries.

While the 1907 act expanded the Bureau of Immigration's policing authority, several important limits on their power remained. Even as the act recognized the shortcomings of entry-based sexual policing, it could not apply retroactively. Officials could not deport women who entered before the 1907 act without solid proof they had entered with an intent to prostitute, and those who entered after 1907 were only deportable within three years of entry.[411] One official defended this limitation, writing in a memo that if Congress had intended for all prostitutes to be deported regardless of their entry conditions, it would have explicitly written the law this way.[412] Officials continued to raise questions about using the law retroactively, striking at a central tension within immigration laws: were they designed loosely by legislators for immigration officials to interpret as they saw necessary, or were

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[410] Pliley, *Policing Sexuality,* 33.

[411] The distinction of intent sometimes protected women from punishment if they entered into prostitution out of poverty or other conditions after entering the US See, for example, the case of Alice Evans. In 1908, the Detroit office of the Society for the Prevention of Cruelty to Children turned her into authorities for deportation. Agents determined that she entered under the 1903 law without any intent to prostitute and noted that she was not working in a house but only "resorting to prostitution to make a living." She was released. "Application for warrant re: Alien Alice Evans," file 51777/36, Entry 9, RG 85, NARA-DC.

[412] "Memorandum: in re power of Secretary to deport prostitutes" from Acting Solicitor Harrison Nesht, January 19, 1907, PWSII FKR.

officials expected to interpret and carry out Congress's goals? How could officials working on the ground infer the spirit and intent of Congress? Although theoretically Congress held the authority to limit immigrants' conditions of entry or deport them at will, officials warned the Bureau of Immigration leadership to move cautiously because "the possession of a power and its exercise are two different things."[413]

When officials acted with caution, it was out of fear that carefully negotiated discretionary power could be taken away. Officials often dropped complex cases not out of concern about violating women's rights but from fear of scandal or court appeals, bringing court scrutiny to their practices.[414] Robert Watchorn, Commissioner of Immigration at Ellis Island, warned:

> "A great number of people who venture to criticize the immigration department or bureau for what they are pleased to term its red tape and cumbersome methods, do not seem to realize that hasty action by the immigration officials might result in so seriously embarrassing the government as to lead to the withdrawing or annulling of the excellent discretionary power now enjoyed by the secretary of commerce and labor."[415]

Thus, immigration officials sensed unofficial limits to their authority, even in open-ended laws like the Act of 1907. To operate efficiently meant to act quickly and quietly, without bringing excessive interest to their actions. The ambiguities and

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[413] Solicitor Charles Earl to Assistant Secretary of Commerce and Labor William Wheeler, March 25, 1909, file 52241/129, entry 9, RG 85, NARA-DC.

[414] Hon. William Bennett to Assistant Secretary of Commerce and Labor William Wheeler, March 12, 1909, file 52241/129, entry 9, RG 85, NARA-DC.

[415] Memorandum from Robert Watchorn, January 25, 1907, PWSII FKR.

discretion embedded in the Immigration Act of 1907 required bureaucratic flexibility, which would become the law's strength. Officials could develop the kinds of surveillance needed to locate, detain, and deport immigrant prostitutes in rapidly changing situations.

The flexible enforcement of the 1907 act met unique policing needs along the U.S.-Mexico border, where officials used their relationships with residents and law enforcement to deport those they failed to detect upon entry at border stations. In January 1908, Lulu Sipher and Bessie Green entered the United States at Laredo with Harry Lockfeesh as his alleged niece and wife.[416] An inspector recognized Sipher as a woman previously excluded at El Paso as a prostitute. While he processed a longer line of Spanish-speaking immigrants, his fellow inspector failed to detain the party.[417] Officials pursued the group through Texas, first arresting Green and Lockfeesh in San Antonio before finding Sipher with another man at a disreputable hotel in Houston. The officials and local police across Texas cities circulated Sipher's photograph and description, suggesting the state's growing infrastructure to disrupt women's strategic border crossings. During interrogation, Green blamed Sipher for corrupting her and convincing the group to move to Mexico to make more money as prostitutes. Once there, they found the language difference a barrier to their success and attempted to

[416] Deportation case of Lulu Sipher and Bessie Green, file 51777/37, Entry 9, RG 85, NARA-DC.

[417] Deportation case of Lulu Sipher and Bessie Green, file 51777/37A, Entry 9, RG 85, NARA-DC.

return to the United States.[418] Lulu Sipher, alias Lima Lefcovish, originally from Poland, worked as a prostitute in London, Canada, and Chicago before making her way to El Paso and eventually Mexico. With such an outstanding international record of prostitution, Sipher seemingly did not find entry controls a meaningful deterrent to her travels before 1907. Once detained, Sipher pleaded for deportation to Poland, rather than "among strangers'' in Mexico.[419] The Act of 1907 intended deportation to an offender's country of origin, but officials saw financial savings deporting the group back to Mexico rather than paying for transatlantic passage. Officials deported Sipher and Green but released Harry Lockfeesh and Sipher's Houston paramour, claiming insufficient evidence of "importation."[420] Sipher and Green's case illustrated how deportation could complement entry controls, but only with many state resources and coordination.

Immigration officials at the border also saw possibilities for deportation as a systematic tool to transform their control of the region. Grace Peña Delgado identifies two divergent deportation programs simultaneously developed in the southwest by Charles Connell and Frank Stone.[421] Stone interpreted the spirit of the 1907 act as removal by any means. He leveraged the threat of raids and mass deportation to chase

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[418] Sipher was quoted as saying she returned to the United States "because she 'could not make a living as a sporting woman in Mexico' since she was among strangers and could not speak the language." File 51777/37, Entry 9, RG 85, NARA-DC.

[419] File 51777/37A, RG 85, NARA-DC.

[420] File 51777/37, RG 85, NARA-DC.

[421] Delgado, "Border Control and Sexual Policing," 164.

many brothel owners and their immigrant workforce out of South Texas and Mexico without expending the costs or paperwork of official removal.[422] Delgado argues that Stone's methods targeted the mobility of immigrant prostitutes, not the work itself. His watchfulness encouraged madams in the area to comply more strictly with the law by only hiring prostitutes who could document over three years of residency.[423] Meanwhile, Charles Connell sought to document and formally deport as many prostitutes as possible, quantifying brothels' residents throughout Arizona and New Mexico and seeking deportable women.[424] He then traveled into Mexico as a civilian to surveil Mexican legal houses of prostitution and document registered prostitutes to facilitate their arrest if they attempted to enter the United States.[425] Sometimes he deported women so swiftly that they could not testify against their procurers, preventing further arrests.[426] Although these two agents operated under opposing ideas of the law's intent, neither of their models fully considered that after deporting women across the U.S.-Mexico border, it would be impossible to keep them there.[427]

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[422] Delgado, "Border Control and Sexual Policing," 167.

[423] Delgado, "Border Control and Sexual Policing," 168; Moloney, *National Insecurities,* 72.

[424] Some records of Connell's investigations from 1909 to 1910 in "White Slave Traffic, New Mexico and Arizona, 1909-1910", file 52484/23, Entry 9, RG 85, NARA-DC. See also Delgado, "Border Control and Sexual Policing," 170; Moloney, *National Insecurities,* 72.

[425] Delgado, "Border Control and Sexual Policing," 172.

[426] Investigation of Antonio Belsito and Dolores Torres, Connell to Inspector in Charge, Tucson, June 14, 1909, "White Slave Traffic, New Mexico and Arizona, 1909-1910", file 52484/23, Entry 9, RG 85, NARA-DC.

[427] Delgado, "Border Control and Sexual Policing," 162.

Many immigration inspectors, procurers, and immigrant women knew that imperfect bureaucracy rendered deportation impermanent. Investigator Andrew Tedesco estimated that 75-80% of people returned to the US after deportation because they did not fear further punishment. This estimate did not specify the U.S.-Mexico border regional conditions that facilitated this recidivism.[428] In the first decade of the twentieth century, immigration stations were new to the U.S.-Mexico border, and residents maintained what Julian Lim called a "porous border" through regular crossings.[429] Officials sometimes wielded the charge of "crossing without inspection" against women they suspected of clandestine movements to support prostitution, as in Rosa Tijerina's case.[430] Women also migrated cyclically because licensed prostitution was legal in Northern Mexico and tolerated in some neighborhoods on the US side.[431]

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[428] Tedesco to Braun, September 1908, page 17, PWSII BR1-A.

[429] Julian Lim, *Porous Borders: Multiracial Migrations and the Law in the U.S.-Mexico Borderlands* (Durham: University of North Carolina Press, 2017), 11. Lim emphasizes that as the nation-states of the US and Mexico asserted increasing authority in the borderlands, residents and new migrants moved in ways that challenged any sense of order and sovereignty.

[430] Crossing without inspection was an arrestable and deportable violation. It allowed officials to arrest and detain Tijerina while seeking the evidence necessary to charge her more precisely as an immigrant prostitute. Application for a warrant of arrest for Rosa Tijerina, February 11, 1908, File 51777/56, Entry 9, RG 85, NARA DC. Other prostitution and crossing cases without inspection include Deportation of Luz Cristina, April 4, 1912, file 53423/183, Entry 9, RG 85, NARA-DC.

[431] Robert Fischer, "Mobility and Morality at the Border — A Lefebvrian Spatio-Temporal Analysis in Early Twentieth-Century Ciudad Juárez and El Paso," *Historical Social Research* 38 No. 3 (2013), 181. Fresh approaches to prostitution raised questions of sovereignty and

Many women used personal networks and knowledge of these variations to move between these spaces and evade punishment.[432] In 1908, Coka Puiento escaped detention in Brownsville and registered to work as a prostitute in Nuevo Laredo, Mexico, until the hunt for her slowed. At some point, she successfully returned to Corpus Christi because some weeks later, she reappeared at an inspection station with a friend (a known madam), intending to cross into Mexico for a "pleasure trip."[433] In traveling to Mexico for a second time, Puiento likely miscalculated that she could continue to outmaneuver officials. Even after officials deported her to Mexico for this, it is entirely possible that she continued to migrate under a forged identity.

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cooperation, as Mexican officials resisted US commands and expectations to serve US interests. The increasing number of white women crossing into Mexican towns for prostitution also complicated border regulation. Mexican women sought, with little success, to have their American competitors deported by Mexican officials. Marlene Medrano, *Regulating Sexuality on the Mexican Border: Ciudad Juárez, 1900-1960,* Ph.D. Diss. (Indiana University, 2009), viii. Although registered prostitution was more legal in Mexico, some American border towns, like El Paso, established "tolerant" neighborhoods for prostitution. Reform efforts usually entailed moving the industry to a new area instead of prosecuting. Ann R. Gabbert, "Prostitution and Moral Reform in the Borderlands: El Paso, 1890-1920," *Journal of the History of Sexuality* 12. No. 4 (Oct. 2003), 577.

[432] Christine Christensen, Mujeres Públicas: *Euro-American Prostitutes and Reformers at the California-Mexico Border, 1900-1929,* Ph.D. Diss. (University of California, Irvine, 2009), 12; Delgado, "Border Control and Sexual Policing," 162; Medrano, *Regulating Sexuality on the Mexican Border,* 90.

[433] "Warrant proceeding in Coka Puiento at Corpus Christi, TX," file 51777/34, Entry 9, RG 85, NARA-DC.

Deportation served as a temporary setback rather than a severe deterrent to women like Puiento.

Mobile women also circumvented officials at the U.S.-Canada border. More than at the U.S.-Mexico border, US officials collaborated with their Canadian counterparts to apprehend these women and jointly determine the consequences.[434] Stricter border enforcement could only prevent so much clandestine activity. Investigators Marcus Braun and Andrew Tedesco postured that as checkpoints tightened, procurers carried women transnationally in buggies over country roads or into Washington state via fishing boat.[435] Tedesco's report invoked the specter of women on the run with the example of Anna Frank Frings, "a prostitute whom I arrested three times within four months and who returned at least twice, once by Canada, saying that she would return the third time, and while we could not find her yet, I have no doubt that she is the third time back in the US coming via Canada."[436] Tedesco later wrote that he initially attributed 75% of the white slave traffic to New

[434] Commissioner-General Keefe to Lieutenant Colonel A. P. Sherwood, Commissioner of Dominion Police, Canada, March 15, 1909, *White Slave Traffic in Canada, Prostitution and White Slavery Immigration Investigations,* file 52483/5, Accession # 001742-002-0922, Series A: Subject Correspondence Files, Part 5: Prostitution and White Slavery, 1902-1933, RG 85, NARA-DC.

[435] Tedesco to Braun, August 15, 1908, page 7, *Marcus Braun's US Detail,* file 52484-1, Accession # 001742-003-0326, Series A: Subject Correspondence Files, Part 5: Prostitution and White Slavery, 1902-1933, RG 85, NARA-DC [hereafter PWSII BR1]; Tedesco to Braun, September 1908, PWSII BR1-A.

[436] Tedesco to Braun, September 1908, PWSII BR1-A.

York City and 25% to other American sports. Still, after five years of vigilant policing, he estimated only 10% came through New York, and a majority of trafficking happened over the U.S.-Mexico and U.S.-Canada borders. He projected that well-dressed men could transport 50-100 women as alleged family members in a day without arousing suspicion. The challenges to policy enforcement at the borders were not aberrations; border experiments informed national legislation and contributed to new surveillance and detection methods.[437] Policing at the borders also helped shape a typical image among immigration officials, that of the immigrant prostitute as relentlessly deceptive and cunning, even when the public viewed prostitutes as white slaves, powerless victims transported by others.

Women's covert border crossings across land borders and at port cities exposed immigration stations' bureaucratic weaknesses. Countless case files document women's strategic aliases — and these only include the women who the state eventually caught. Lima Lefcovish, arrested and deported as Lulu Sipher at the Texas border, may have changed her name to present to clients as an American girl or to distance herself from her previous immigration records, or likely a combination of both.[438] Sipher's strategy was not unique; many case files listed three or four aliases, such as with Maria Blum, alias Meyer, alias Soliatz, alias Emma Baer. Blum

[437] Delgado, "Border Control and Sexual Policing," 21. Delgado argues that the application of "social morals control" by immigration control in the borderlands beginning in 1903 foreshadowed the 1910 Mann Act.

[438] Moloney, *National Insecurities*, 66.

allegedly left Germany to live with men out of wedlock in Paris, Buenos Aires, and London before being arrested in New York and deported as a member of an excluded class and practicing prostitution after entry.[439] Officials included a detailed physical description and photographs in the file outlining her deportation.[440] The photograph depicts her at 23 years old, freckled and youthful, donning a dainty white blouse with a faint smirk on her face. Perhaps she suspected that with the volume of immigration to Ellis Island and other ports, it was unlikely that inspectors would recognize her and debar her if she tried to enter the country again. As one immigration official handling her case complained to the police commissioner, "it is impossible from the landing records to identify persons of this class, as their names

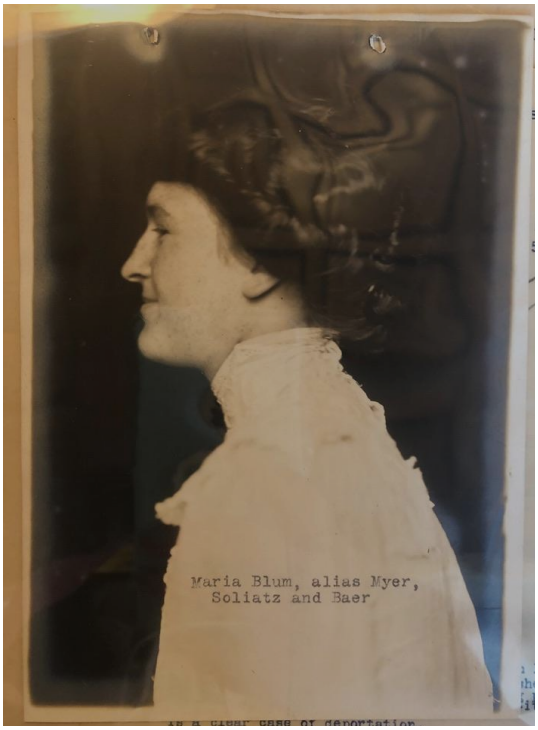

Figure 2

Maria Blum, 1908. Image Courtesy of National Archives and Records Administration, Washington, D.C.

[439] William R. Wheeler to Police Commissioner Theodore Bingham, June 15, 1908, file 51777/119, Entry 9, RG 85, NARA-DC.

[440] A personal description of María Blum, February 5, 1908, file 51777/119, Entry 9, RG 85, NARA-DC.

change with the setting of the sun."[441] Despite government concern about trafficking, the aliases and impersonation did not require elaborate coaching by a procurer. In her testimony, Blum refuted that her international traveling partner, Leon Soliatz, had forced her into the work.[442] Whether women traveled with men or alone, for prostitution or not, they could attempt reentry as a new woman with another name and enough funds.

Women most successfully evaded punishment under the 1907 law by exploiting the three-year window for deportation. Officials observed that a suspicious proportion of immigrant women arrested for prostitution between 1907 and 1910 claimed to have over three years of residency, making them ineligible for deportation. Rather than seeing this as a reasonable limit to the law, officials concluded that someone must have coached women to lie.[443] When officials detained Natalie Gonzales in the local jail in Spokane, Washington, they accused her of learning

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[441] Secretary Oscar Straus to Police Commissioner Theodore Bingham, May 6, 1908, file 51777/119, Entry 9, RG 85, NARA-DC.

[442] Board of Special Inquiry Hearing, June 10, 1908, file 51777/119, Entry 9, RG 85, NARA-DC.

[443] Gardner, *Qualities of a Citizen,* 77. In a brief history of immigration laws against white slavery, presented to the National Vigilance Committee's conference in January 1908, the Secretary of Commerce and Labor Oscar Straus wrote: "The detection of alien women and girls who are being imported for immoral purposes is by no means an easy task. Those who engage in importing them are thoroughly informed as to the provisions of the law and spare no pains in coaching those whom they procure…. In fact, every conceivable subterfuge is resorted to in an effort to evade or defeat the purposes of the law" Oscar Straus to Dr. O. Edward Janney, file 51777/30, Entry 9, RG 85, NARA-DC.

English and the technicalities of immigration laws from her fellow female inmates. In a response reminiscent of many Chinese women accused of being coached in previous decades, she replied, "the girls tell me nothing, I know [it] myself."[444] Investigator Andrew Tedesco claimed to uncover an elaborate black market in false identities, through which (mostly French) pimps purchased the entry information of immigrants with an older residency that prostitutes could claim as their primary alias.[445] Helen Bullis believed court translators and the police themselves instructed arrested prostitutes to lie about their residency in the police court to prevent deportation so that women could testify against their pimps and procurers.[446] These dramatic theories minimized immigrant women's agency and intelligence while casting sex commerce as an outcome of organized foreign influencers.

Disregarding women's claims to residency also discredited the three-year window for distinguishing a woman immigrating with an intent to prostitute from those who later entered the business. This struck at a core difference between the law's design, managing the immigration of prostitutes, and the more ambitious vision

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[444] Hearing of Natalie Gonzales, April 24, 1908, 51777/112, Entry 9, RG 85, NARA-DC.

[445] Tedesco to Commissioner at Ellis Island, February 26, 1909, *Helen M. Bullis Reports on New York City, Prostitution and White Slavery Immigration Investigations,* file 52423/30, Accession # 001742-001-0638, Series A: Subject Correspondence Files, Part 5: Prostitution and White Slavery, 1902-1933, RG 85, NARA-DC [hereafter PWSII HBR]. This accusation echoed concerns over Chinese "paper sons'' who purchased false identities to enter under the exemption categories for Chinese exclusion.

[446] Bullis to Watchorn, December 29, 1908; Bullis to Watchorn, March 19, 1909, PWSII HBR. See also Johnson, "Arriving For Immoral Purposes," 38.

of deportation to abolish prostitution by removing undesirable prostitutes who were foreign born. When Gertie Lesch fought her deportation order with ample witnesses to her American childhood, officials begrudgingly agreed with her lawyer's argument that while she was undoubtedly a prostitute and had likely traversed the Canadian border, "if she is not an alien, her morals is a subject which does not concern the United States."[447] Whether Lesch's claims to residency were accurate or artful deception, officials recognized that their generous authority over immigrant women had some firm limits.

The Bureau of Immigration responded to these challenges by assuming arrested prostitutes and procurers guilty unless they could concretely prove their innocence. Circular 156, passed down on September 26, 1907, instructed immigration officers who encountered immigrant prostitutes to research their entry details to determine if they entered for prostitution or another immoral purpose but to assume most deportable. Any prostitute or procurer who claimed over three years of

[447] Attorney Ray M. Stanley, "Brief to Department of Commerce and Labor in the Matter of Gertrude Linton, an Alleged Alien," May 11, 1908, 51777/79A, Entry 9, RG 85, NARA-DC. Gertie Lesch, alias Gertrude Linton, was arrested and questioned by a Board of Special Inquiry for her work in a brothel at Niagara Falls. She claimed to have worked for precisely three years, but she had lived her whole life in the United States besides a brief trip to Canada. In a time before standard birth certificates, citizenship claims often relied on witness testimony. Lesch procured her former Sunday School teacher, who identified her as her student around 1898. Hearing held on March 28, 1908, 51777/79A, Entry 9, RG 85, NARA-DC.

residency needed to prove this landing beyond doubt to prevent deportation.[448] This shifted the burden of proof to accused immigrants, impractically expecting them to have hard evidence of a landing over three years prior. On its face, this policy responded to the rumors of forged identities and organized trafficking. Still, circular 156 punished those with poor false documentation rather than verifying those most likely to bear the consequences.[449] The women most at risk were transient, less resourced, or working without a pimp or organization, or simply had not kept meticulous records of their movements. Women like Marie Dossin, who could document years of residency, even if those years included working as a prostitute or madam, could get their charges dropped.[450] The Bureau of Immigration often released individuals likely to contest their charges in the interest of quietly continuing to

[448] Department of Commerce and Labor Circular No. 156, file 51777/30, Entry 9, RG 85, NARA-DC.

[449] The expectations for evidence, or lack thereof, were still up to officials' discretion, not decided in a court of law. In one case, HH North sought to deport Rejeane Martin and Rachel Thomas despite a witness that testified they had been prostitutes for over four years. The police records that could have verified this history were destroyed in the 1906 earthquake and fire. The warrants for arrest were canceled. Memorandum for the Acting Secretary from Commissioner-General Frank Sargent, May 23, 1908, file 51777/121C, Entry 9, RG 85, NARA-DC.

[450] Statement of Alien Marie Dossin, March 24, 1908, file 51777/51, Entry 9, RG 85, NARA-DC. Although Commissioner-General Frank Sargent believed some of her evidence to be fabricated and therefore dismissible, the Acting Secretary Charles Earl instructed him to drop the case for fear higher courts would side with Dossin and limit the subsequent application of circular 156. Memo from Commissioner-General F. P. Sargent to Acting Secretary, March 27, 1908, file 51777/51, Entry 9, RG 85, NARA-DC.

operate away from court scrutiny, thus self-imposing limits on the agency's expanding authority.

While women claimed long-term residency or adopted aliases to circumvent detection and punishment as prostitutes, immigration officials notably rejected another migration strategy: marriage. Since the 1890s, European women regularly entered marriage, sometimes at the immigration station, to avoid debarment after immigrating with an unmarried lover or pregnant. These marriages commonly resolved LPC charges because they shifted perceived living expenses from the public to the new husband. By 1907, women found less success in marrying to avoid deportation for prostitution. When Bessie Green, a friend of Lulu Sipher, admitted that she lived with her traveling companion Harry Lockfeesh but was not his legal wife, she claimed she would marry him immediately if he were willing.[451] Officials deported her to Mexico without Lockfeesh. Officials also cast doubt on men who requested to marry a detained woman, though attempts to prosecute them as importers or harborers often fell through.[452] Convinced that immigrant men forged citizenship

[451] "Cases of Bessie Green, Escape of Lulu Sipher, and Arrest of Henry Lockfeesh," file 51777/37A, Entry 9, RG 85, NARA-DC.

[452] Sometimes deportation proceedings even moved too quickly to allow for such marriages. In 1913, Annie Hof's deportation case made headlines when an uncle who had sexually abused her reported her to authorities as an immoral woman, possibly to protect his reputation by getting her deported. The media rallied around her case, particularly because she had given birth in recent months. When her boyfriend-father of her child wrote to officials begging for one more chance to marry Hof, he was denied because she had been deported two days prior. Commissioner-General Keefe to Peter Andrew Witt, April 18, 1913, Case of Anna

to marry immoral women and protect them in the trade, Marcus Braun declared men willing to marry a prostitute as "unworthy of his American citizenship."[453] This growing suspicion of European marriages converged with the existing treatment of Japanese and Chinese immigrant marriages, which officials had long regarded as a ploy for prostitution unless proven otherwise.[454] Immigrant women and their partners

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Hof, file 53575/57-61, Entry 9, RG 85, NARA-DC. See additional examples in Bredbenner, *A Nationality of Her Own,* 31-34. In one case, when Secretary Nagel pushed to invalidate a marriage to deport a woman for prostitution, the Attorney General advised that he could continue to monitor the couple. Still, as long as they behaved as husband and wife, the state had to leave them alone. In procurement cases, juries were carefully instructed that men could only be charged if they intended their wife for prostitution at the time of entry, not if she entered the work after arriving. Instructions for the Jury, Case 4718 (Jin Wi Shuck), Box 368, Criminal Case Files 1851-1912, US District Court Northern District of California, RG 21, NARA-SB.

[453] Braun Report, September 29, 1908, page 14, PWSII BR1-A.

[454] Japanese Interpreter E. H. Van Dyke warned John Clark, Commissioner of Immigration in Montreal, that single Japanese women who immigrate claiming they will find a husband later would "pursue an immoral life" in 99 out of 100 cases. Van Dyke to Clark, June 21, 1907, "Japanese Picture Brides, 1905-1913," file 52424-13, Entry 9, RG 85, NARA-DC. In 1906, before the 1907 act legislated deportation, Commissioner-General Sargent instructed the San Francisco Commissioner of Immigration to alert the local Attorney General of any Chinese women found working in houses of prostitution so that local police could prosecute their husbands under California laws. Sargent to San Francisco Commissioner of Immigration, January 6, 1906, file 10030-5787, Immigration Arrival Investigation Case Files 1884-1944, box 104, RG 85, National Archives and Records Administration- San Bruno [hereafter NARA-SB]. Bredbenner also cites a (likely hyperbolic) report from the Secretary of Commerce and Labor that American-born citizens of Chinese descent marry women in Mexico and bring them through El Paso as a trafficking scheme. Bredbenner, *A Nationality of Her Own,* 30.

found that the concept of respectability shifted from a performance of behaviors to a status that "immoral" women could not imitate or rehabilitate toward in the eyes of immigration officials.

While husbands and lovers linked to an immigrant prostitute faced state scrutiny, the prosecution was not a foregone conclusion. Under the 1903 and 1907 acts, men risked not just deportation but a fine and imprisonment for importing or harboring an immoral woman. In 1909, police arrested Jennie Ruhl for soliciting an undercover officer, which she claimed to be an accident. By her account, "I merely said it for fun because I was in a place having some drinks and I met some girls. They were talking about different things, and I said I will try my luck somewhere. I tried my luck, and I got it."[455] When officials found she had entered the United States with William Meyer intending to marry but never followed through, they indicted him as an importer. While the US Attorney believed the incident to be a case of poor timing, immigration officials concluded Meyer had delayed tying the knot because of Ruhl's indiscretions. The state deported Ruhl, but Meyer faced no charges. In another case, against Chinese husband Jin Wi Shuck for importation, jury instructions specified to evaluate only whether they believed he intended to "use" his wife for prostitution at the time of her entry.[456] The instructions also reminded jurors that U.S.-born citizens

[455] Board of Special Inquiry meeting, "in the matter of Jennie P. Ruhl, alias Jennie Meyer," 52241/130, Entry 9, RG 85, NARA-DC.

[456] Instructions for the Jury, Case 4718, Box 368, Criminal Case Files 1851-1912, US District Court Northern District of California, RG 21, NARA-SB.

of Chinese descent were entitled to bring their non-citizen wives to the United States. Officials deemed Shuck not guilty. These and other importation cases that did not result in convictions suggest officials were quick to accuse but more cautious about fully convicting family members of importation. The involvement of the US Attorney's office in William Meyer's case and a grand jury in Jin Wi Shuck's case suggest that perhaps arbiters beyond the Bureau of Immigration interpreted the 1907 Act more conservatively. In contrast, women's arrest and deportation for prostitution usually happened entirely within the Bureau of Immigration's purview, and therefore officials could swiftly deport women regardless of their relationship status.

The 1907 act also criminalized non-marital relationships by expanding its scope to include "other immoral purposes" beyond explicit prostitution. Immoral purposes offered officials an elastic category for sexual indiscretions that did not involve the exchange of money or other clear markers of professional prostitution. Officials applied the immoral purpose clause to women suspected of traveling as a mistress or concubine, such as Natsu Takaya. Takaya immigrated to Seattle when many women from Japan entered the United States as "picture brides" to join husbands they had married without meeting in person.[457] Immigration officials sought

[457] Gardner, *Qualities of a Citizen*, 34; Eithne Luibhéid, *Entry Denied: Controlling Sexuality at the Border* (Minneapolis: University of Minnesota Press, 2002), 61. Luibhéid emphasizes the reproductive labor of picture brides, who offered Japanese men in the United States a path toward respectability and assimilation through the family formation. Because of this potential, the immigration service aggressively policed Japanese women's sexuality and motherhood.

to connect the picture bride tradition to prostitution to exclude these women but found this endeavor fraught with diplomatic and legal barriers.[458] However, Takaya was not immigrating to Seattle as Kogero Sumida's picture bride; he was already married to another woman. She officially entered as a nurse, but Sumida told officials they had a "very intimate friendship." Months later when their relationship soured, she accompanied another man, Sumida's rival, to Spokane, Washington. Sumida and his business associates reported Takaya to immigration officials, claiming that her "disgraceful [behavior] besmirched" the Japanese immigrant community.[459] Once arrested, Takaya described physical abuse from Sumida and claimed he had tricked her into cohabitation.[460] She also admitted some intent at entry, saying, "so far as I understood what he meant was to do some immoral business - prostitution. But it was not clearly stated, but I understood that is what he meant. To which I answered by saying, I am willing enough to go [to the United States] but unable to find anyone besides myself."[461]

Officials deported Takaya for entering the United States for immoral purpose, citing the decision *US v Bitty* (1908), which categorized concubinage as a form of

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[458] Extensive correspondence on picture brides can be found in file 52424/13, Box 550, Entry 9, RG 85, NARA-DC. Amongst the suggestions for tighter restrictions never implemented were investigations into the prospective homes of arriving brides, with follow-up inspections six months after landing. Immigration inspectors claimed adequate training to do this work but understaffing prevented frequent home visits.

[459] Warrant for Deportation of Natsu Takaya, file 51777/52, Entry 9, RG 85, NARA-DC.

[460] Moloney, *National Insecurities,* 39.

[461] File 51777/52, NARA-DC.

immoral purpose.[462] Sumida served a year in prison and paid a $100 fine as Takaya's importer, despite being the one to report her. Although the Immigration Act of 1907 encouraged harsh punishments for trafficking, officials decided they had punished him enough and declined to deport him.[463] State officials meted out punishments based on a simplistic view of Sumida and Takaya's contentious relationship, even as each party claimed victimhood to negotiate leniency. The immoral purpose label meant officials did not have to solidify the details of their charge. Yet the case also suggests the state's limited capacity to hunt down immoral purpose cases, which described so many types of relationships; without Sumida reporting his ex-lover, it's plausible the state would never have detected their indiscretions at all.

As prostitutes and procurers attempted to outrun or outsmart the Bureau of Immigration, officials sponsored undercover investigations to understand their covert operations. The investigators' reports tried to justify the Bureau of Immigration's attack on prostitution. This work also aligned with the Progressive Era tradition of pseudo-scientific study to illuminate any socially ill solutions.[464] Yet "special investigators" like Marcus Braun, Andrew Tedesco, Helen Bullis, and Charles Connell did far more than witnessing the purchase of sex.[465] Without clear directives

[462] File 51777/52, NARA-DC.

[463] File 51777/52, NARA-DC. Under the 1907 act, women were often prosecuted for prostitution than their male companions for procurement. Moloney, *National Insecurities*, 52.

[464] Pliley, *Policing Sexuality,* 3.

[465] The investigators discussed here were based in different parts of the country but often shared information and mentored one another. Andrew Tedesco, an immigration inspector,

from central authorities, these agents relied on an exceptional degree of administrative discretion to go undercover, flirting and loafing in bars in attempts to infiltrate criminal networks they believed operated most immigrant prostitution.[466] Some regarded these methods as a necessary evil because of the urgent crisis at hand. When applying for reimbursement for his monthly bar tab, Charles Connell wrote, "I desire to state that, personally, I do not drink, but it is essential in the obtaining of evidence desired to associate with those who do, and as it is the custom of the country, I appreciate the fact that the expenditure was necessary to obtain the data

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first trained by Helen Bullis in New York City, accompanied Marcus Braun on his investigation through ten cities across the United States and Canada. Braun and Bullis shared information to pursue a group of procurers working between San Francisco and New York City. Braun and Connell both worked along the U.S.-Mexico border, at times crossing into Mexico as private citizens to investigate beyond their formal orders. Bullis' work as an investigator was an interesting development following women inspectors' unpopular trial run in 1903. Robert Watchorn, more progressive than his predecessor William Williams, appointed her. Bullis argued that her femininity made her more attuned to the needs and conditions of victimized women. Her gender prevented certain kinds of undercover work, and she hired assistants such as Tedesco to impersonate a procurer.

[466]Pliley, *Policing Sexuality,* 35. Among the more theatrical applications of discretion, Marcus Braun described his coy method of apprehending immigrant prostitutes in St. Paul, Minnesota. He would go to a brothel, invite a woman for a ride in his car, and drive her to the police station. He claimed this method steadily arrested guilty women without drawing media attention as a raid would. Staying out of the papers helped his colleague, Tedesco, continue to circulate undetected in vice circles. Braun to Commissioner-General of Immigration, August 1, 1908, PWSII BR1.

required."[467] Investigators framed their unorthodox methods as a moral imperative because of the urgent crisis at hand. Yet, the boldness of these methods was not always well-received, especially abroad. Marcus Braun pushed this discretion to its limits when his investigations through Europe provoked several diplomatic outrages.[468] When Braun's bold and visible methods became a liability to US

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[467] Connell to Commissioner-General of Immigration, October 2, 1909, file 52484, Entry 9, RG 85, NARA-DC.

[468] On Braun's European investigations, see Gunther Peck, "Feminizing White Slavery in the United States: Marcus Braun and the Transnational Traffic in White Bodies, 1890-1910" in *Workers Across the Americas: The Transnational Turn in Labor History*, ed. Leon Fink (Oxford University Press, 2011), 230; Pliley, *Policing Sexuality,* 46. Braun made few friends in his travels, meeting with high-ranking officials in France and other countries and blaming their policies for American prostitution. M. Hennequin, the undersecretary of the French minister of the interior, countered that Americans lured women to immigrate without adequate opportunity and, therefore, to blame for most prostitution. Braun bristled at what he perceived as French non-cooperation as they refused to support his investigations as official government business. Braun complained that Americans were mostly on their own as European countries were not motivated to assist in stopping consensual prostitution, but also considered them implicitly supportive of the cause, writing: "between the lines I could read that they are mostly glad if such people do go away." See letter from Braun to Commissioner-General of Immigration, June 23, 1909, *Marcus Braun International Report, Prostitution and White Slavery Immigration Investigations*, file 52484/1-D, Accession # 001742-003-0586, Series A: Subject Correspondence Files, Part 5: Prostitution and White Slavery, 1902-1933, RG 85, NARA-DC, [hereafter PWSII BR1-D]. Further criticism of European inaction in "Memorandum for the Assistant Secretary: in re report of Immigrant Inspector Marcus Braun, summarizing the results of his investigation of the "White Slave" traffic in Europe," October 12, 1909, *Marcus Braun Europe Report, Prostitution and White Slavery Immigration Investigations*, file 52484/1-H, Accession # 001742-004-0001, Series A: Subject Correspondence Files, Part 5: Prostitution and White Slavery, 1902-1933, RG 85, NARA-

diplomatic relations, Commissioner-General Keefe instructed Braun to "confine himself strictly to the performance of the duties which have been outlined in [his] letter of instructions."[469] Braun's actions suggest that he and his colleagues preferred to risk admonishment for over-extending their authority rather than cautiously following the letter of the law.

This culture of risk-taking extended into who investigators hired to assist them. Although the Bureau of Immigration had received a steady stream of accusations of corruption and unprofessional appointments over the years, investigators fought to hire disreputable characters who would never otherwise be considered for government service and argued the ends justified the means.[470] They

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DC. As with his domestic work, Braun prefaced his last reports on Europe by saying most of his evidence was circumstantial and did not demonstrate organized traffic before launching into many pages of speculation about how policies might address such a traffic. Braun to Commissioner-General of Immigration, October 2, 1909, *Marcus Braun Europe Report, Prostitution and White Slavery Immigration Investigations*, file 52484/1-G, Accession # 001742-003-0790, Series A: Subject Correspondence Files, Part 5: Prostitution and White Slavery, 1902-1933, RG 85, NARA-DC [hereafter PWSII BR1-G].

[469] Secretary of Labor Charles Nagel to instruct Commissioner-General Keefe, May 25, 1909, PWSII BR1-D.

[470] Tedesco to Braun, August 15, 1908, PWSII BR1; Commissioner-General Frank P. Sargent to Secretary of Commerce and Labor, October 21, 1907, folder "Bullis Report/Ostrow Appointment" 51652/41B, Entry 9, RG 85, NARA-DC. When controversy arose with the Chicago Federation of Labor over the hiring of Edgar Theriault, the Inspector in Charge in Chicago wrote to Keefe, "This man has done considerable work on the lines expected of him already. And the character of the work would naturally excite suspicion and distrust in any man. To get results he is obliged to get "in touch" with the underworld. And when he

claimed that the average immigration inspector was not adequately trained to recognize signs of white slavery and was too pure of heart to understand the criminal realities of white slavery.[471] Investigators also lowered standards for credible evidence, following tips from anonymous letters that sometimes resulted in deporting

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succeeds in this, he pretty nearly leaves reputation behind him. My investigations leads me to believe that he is 'in touch' with the underworld, hence if he will give the government a "square deal," he will be of great value in the effort to break up the white slave traffic, will he do this? I don't know. And my answer to this question would be the same regarding any other man that would undertake the work." Ultimately, it appears Keefe canceled his appointment after the Keller decision dampened policing efforts. Crawford to Keefe, April 14, 1909, *Edgar Theriault Investigation, Prostitution, and White Slavery Immigration Investigations*, file 52443-13, Accession # 001742-001-0673, Series A: Subject Correspondence Files, Part 5: Prostitution and White Slavery, 1902-1933, RG 85, NARA-DC.

[471] Some officials regarded recognizing and apprehending pimps and prostitutes as a standard job duty of any inspector, despite local reports to the contrary. Acting Commissioner-General Larned to Seattle Inspector in Charge, August 28, 1908, PWSII BR1. Braun identified particular difficulty in finding reliable Japanese interpreters to aid investigators. Report from Braun in a letter to Commissioner-General, September 29, 1908, page 23, PWSII BR1-A. From a letter from the Commissioner of Immigration at Ellis Island to the Commissioner-General of Immigration: "The profits of this business are enormous, and it thus attracts a shrewd and capable class of criminals, men whom untrained investigators, no matter how conscientious, are quite unable to cope with. It is unfortunate that police officers, who much frequently come in contact with the numerous alien 'pimps' and 'cadets' of New York City, so rarely report them to this office." December 18, 1912, *White Slavery Memos, Correspondence, Laws, Regulation; Prostitution and White Slavery Immigration Investigations*, file 52809/7-E, Accession # 001742-006-0835, Series A: Subject Correspondence Files, Part 5: Prostitution and White Slavery, 1902-1933, RG 85, NARA-DC [hereafter PWSII MCLR].

women well outside the prostitution industry.[472] The controversial hires and investigators' methods fostered a subculture within the Immigration Service that privileged individual discretion over standardized procedures under the guise of efficiency against an agile criminal network.[473] As investigators successfully rewrote

[472] With enthusiasm to convict but difficulty finding guilty parties, Bullis and other investigators used anonymous tips to find men and women who otherwise did not fit the stereotypical procurer or prostitute at all. It was often difficult for women to defend their respectability against anonymous, unverifiable claims or those from family members. Discussion of Bullis' use of anonymous tips in Johnson, "Arriving for Immoral Purposes," 35; file 51777/2, Entry 9, RG 85, NARA-DC. Sometimes these tips came from family members of varied motives, concerned for a woman's moral health or economic security but leading the government straight to a deportable woman. Moloney, *National Insecurities,* 42. These letters often appear in immigration case files: a letter traced to a brother-in-law led to an investigation without arrest, Memorandum, June 18, 1908, Case of Juliette Maire, file 51777/110, Entry 9, RG 85, NARA-DC. In the deportation case of Emilie Palliet, inspectors suspected her uncle reported her as a punishment for not repaying a debt but deported her for prostitution anyway in March of 1908. File 51777/62, Entry 9, RG 85, NARA-DC. The increased racialization of white slavery is visible in a series of letters submitted to an inspector, one of which told "Federal White Slave Detectives" that a Jewish man held a 17-year-old "Gentile girl" in white slavery. Inspector to Commissioner of Immigration in Philadelphia, July 25, 1910, *White Slavery Instructions and Enforcement, Prostitution and White Slavery Immigration Investigations*, file 52809/7-B, Accession # 001742-006-0561, Series A: Subject Correspondence Files, Part 5: Prostitution and White Slavery, 1902-1933, RG 85, NARA-DC.

[473] The Bureau of Immigration expedited communications amongst the special force investigating the White Slave Traffic by permitting them to communicate without going through traditional bureaucratic channels. "Bureau letter to Ellis Island," April 15, 1909, *White Slave Traffic in Ellis Island, Prostitution and White Slavery Immigration Investigations*, file 52484/3, Accession # 001742-004-0106, Series A: Subject

the rules for policing sex, officials like San Francisco Commissioner of Immigration Hart Hyatt North acted boldly without requesting approval or guidance from central authorities.[474] Thus, investigators filtered the improvised and extralegal methods to other officials seeking more authority over immigrants involved in sex commerce.

While investigators set out to infiltrate criminal networks, it proved challenging to prosecute organized trafficking. The Act of 1907 attempted to cast a wide net over those profiting from the prostitution of others. Section 3 of the act named it a felony to import or try to import an immigrant woman or girl, or to "keep, maintain, control, support, or harbor" an immigrant woman for immoral purpose or in a house of prostitution.[475] Yet officials struggled to arrest violators with enough evidence to charge them. Helen Bullis coordinated undercover investigations into New York's houses of prostitution and warned of the futility of deporting prostitutes

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Correspondence Files, Part 5: Prostitution and White Slavery, 1902-1933, RG 85, NARA-DC.

[474] San Francisco Immigration Commissioner HH North faced a reprimand for sending Japanese Interpreter Gardiner, rather than a qualified special inspector, on undercover assignments. He responded that if the Department of Commerce and Labor were serious about breaking up foreign prostitution, they needed to grant North discretion to assign work and reimburse related expenses as needed and send more investigators with French, Russian, or Polish language skills. North to Commissioner-General, January 22, 1908, 51777/2, Entry 9, RG 85, NARA-DC. This conversation echoed many other instances when North acted beyond his directives out of zeal to prosecute Chinese and Japanese prostitutes.

[475] Section 3, An *Act to Regulate the Immigration of Aliens into the United States*, 59th Cong., 2nd Sess, HR Rep. No. 7607 (1907).

individually without punishing their procurers.[476] However, she deported prostitutes in high numbers but seldom reported arrests for procurement.[477] Connell and Stone's work at the U.S.-Mexico border similarly attempted to prioritize traffickers over prostitutes but found that those who ran brothels used their close relationships with police and politicians to escape.[478]

The Supreme Court limited convictions for alleged prostitutes in *Keller v. the US* (1909). The Supreme Court deemed that the 1907 act's inclusion of harboring immigrant prostitutes living in the United States infringed on state police powers over morality laws and was therefore unconstitutional.[479] Because Joseph Keller had not known the prostitute he had employed was an immigrant and had not known her at the time of her immigration, the court decided they should not prosecute him under the law.[480] Some saw the *Keller* decision as an invitation to state legislatures to step up their anti-prostitution campaigns. Charles Connell advised authorities in Texas to

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[476] Reformer Frances Keller framed this industry as the "vice trust." Frances Keller, Report on White Slavery to Commissioner-General of Immigration, May 28, 1908, PWSII FKR. Bullis wrote to Commissioner-General Sargent, "The deportation of these individual women is not a matter of difficulty, but unless the men who brought them over can be apprehended, that would do little good. They would simply reenter at some other port under another name." Bullis to Sargent, October 8, 1907, file 51652/41B, Entry 9, RG 85, NARA-DC.

[477] Johnson, "Arriving for Immoral Purposes," 36.

[478] Delgado, "Border Control and Sexual Policing," 167.

[479] Keller v. United States 213 US 138 (1909). Hereafter Keller, 213 US.

[480] For a detailed analysis of the case, see Mark Thomas Connelly, *The Response to Prostitution in the Progressive Era* (Chapel Hill: University of North Carolina Press, 1980), 52-57.

apply vagrancy laws to those harboring prostitutes but punishable under the Immigration Act after *Keller*.[481] But *Keller* depleted the Bureau of Immigration's confidence to push cases against harborers and procurers without ample evidence and exacerbated tensions between the Bureau and the judicial branch, which they accused of leniency against white slavery. Meanwhile, legislators attempted to crack down on harborers more explicitly in subsequent laws such as the 1910 amendment to the Immigration Act of 1907 and the Mann Act.[482] Though officials spoke of *Keller* as having a chilling effect on their mission, it reinforced the existing enforcement pattern: it remained easier to deport women for prostitution than convicting their procurers.

Even as the Supreme Court limited the potency of the Immigration Act, investigators continued to treat administrative and authoritative boundaries between policing agencies as negotiable. Investigators often looked beyond their federal purview to make demands and recommendations on other governing entities, especially local police departments and courts. These calls attempted to align the

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[481] Connell to Commissioner-General, August 4, 1909, "White Slave Traffic, New Mexico and Arizona 1909-1910" file 52484/43, Entry 9, RG 85, NARA-DC; Connell to Commissioner-General of Immigration, June 14, 1909, "White Slave Traffic, New Mexico and Arizona, 1909-1910", file 52484/23, Entry 9, RG 85, NARA-DC; Dr. O. Edward Janney, Chairman of the National Vigilance Committee, to Larned, April 24, 1909, 51777/30, Entry 9, RG 85, NARA-DC. Both Janney and Connell selected what they considered to be exemplary state legislation and encouraged immigration agents to promote such laws in other states with high rates of prostitution.

[482] Connelly, *The Response to Prostitution,* 54.

practices of other agencies with their vision of more convictions, harsher punishments, more streamlined deportations for sexual indiscretions. Braun and Tedesco traveled through American cities. They posited that localized raids in individual cities allowed prostitutes to migrate to evade apprehension. They advocated for simultaneous nationwide action to address prostitution but knew it was only possible with the participation of local police.[483] In some cities, Braun and Tedesco cultivated personal relationships with police leaders who accepted their view of prostitution as existential threats to community morality and endeavored to continue the work, armed with detailed intelligence about local criminals generated by the two investigators.[484] Yet, these steps toward collaboration produced limited results. Police were encouraged but not required to cooperate with investigations and sometimes opposed deportation as disrupting their established systems of fines and warnings for prostitution.[485] Investigators with the Dillingham Commission criticized courts and police as too lenient and undercutting the work of immigration officials

[483] Braun to Commissioner-General of Immigration, August 15, 1908, PWSII BR1.

[484] Marcus Braun recommended that inspectors from Denver, San Francisco, and Seattle be sent to New York City for a month to study the policing of white slavery there. His suggestion was denied as too expensive. Braun to Commissioner-General, September 16, 1908*,* PWSII BR1. Other reports referenced the unfortunate lack of cooperation in other cities from local police, notably in St. Louis. Commissioner-General Larned to Braun, September 8, 1908, PWSII BR1.

[485] These fines were likely further supplemented by bribes paid by–or extorted from–prostitutes for police protection. Tedesco to Braun, August 13, 1908, PWSII BR1; Pliley, *Policing Sexuality,* 38.

seeking to deport problem individuals.[486] When immigration officials stepped into active cases and disrupted local police, judges often sided with the accused and threw out cases.[487] The Commission concluded immigration officials could better fulfill their mission if they could bypass legal routines such as applying for warrants to arrest suspected prostitutes and procurers, a change which did not come to pass.[488] Federal investigators regarded more centralized federal power as the solution to these conflicts over shared authority.

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[486] At times courts seemed to contradict the goals and methods of reformers intentionally. Johnson wrote on these conflicts, "Varied police conduct at different ranks and in varied situations—like the resistance of court officials and the cautionary notes of Immigration Commissioners—illustrate the fragmented and contradictory workings of the local and federal state, and the policing intersection between them." Johnson, "Arriving for Immoral Purposes," 39.

[487] In one case, Special Agent N. G. Schlamp (also written Schlemp and Schlamm) of the Dillingham Commission interjected as plainclothes officers were arresting seven women for prostitution, none of whom were immigrants. The magistrate overseeing the case in police court recalled the women and dropped their charges after Schlamp's interference. The police officer further reported to the Police Commissioner that Schlamp asked for a plainclothes officer to assist him in his investigations and threatened to break up his squad when refused. The Immigration Commissioner-General fielded the complaint, saying he had no authority over the Immigration Commission investigators appointed outside the Bureau of Immigration. Members of the Commission acted without a clear chain of command or retribution. File 52241/129, entry 9, RG 85, NARA-DC.

[488] From the recommendations of the Dillingham Commission: "The right should be given to every inspector assigned to such duty to arrest on sight any alien woman found practicing prostitution, and also any alien man who appears to be living upon her earnings or who is supporting or harboring her for immoral purposes," due to their rapid movements to evade the law. Immigration Commission, "Importing Women for Immoral Purposes," 34.

Between 1907 and 1909, recommendations flowed from investigators' reports, but few correlated to the empirical findings from their fieldwork. Special investigators consistently found sexual commerce less centralized, less organized, and less internationally coordinated than expected.[489] The Dillingham Commission tasked by the Senate with studying the traffic in women and girls as part of the Act of 1907 concluded that most women consciously entered prostitution because it seemed like easy money.[490] Without proof of complex organization among procurers, investigators increased their racialized depictions of pimps as members of nefarious

[489] Braun to Commissioner-General of Immigration, October 2, 1909, PWSII BR1-G; Immigration Commission, "Importing Women for Immoral Purposes," 29. As stated by the Commission: "To guard against the sensational beliefs that are becoming prevalent, it is best to repeat that the agents of this commission have not learned that all or even the majority of the alien women and girls practicing prostitution in the US in violation of the immigration act were forced or deceived into the life; that they have not learned that all who entered the life unwillingly or unknowingly are desirous of leaving it; and they have not proved that alien women as a class are more quickly degraded than native women….often the lure to the women is evidently not more in the amount of money made than in the apparent ease and excitement of making it."

[490] On the relationship between the Commission and the Act of 1907: Gardner, *Qualities of a Citizen*, 63. The Commission's findings are summarized in the United States Immigration Commission (1907-1910), "Importing Women for Immoral Purposes: A Partial Report From the Immigration Commission on the Importing and Harboring of Women for Immoral Purposes," Document No. 136, 61st Congress, *2nd session,* (Washington, DC: Government Printing Office, 1909). This same Commission studied a wide range of immigration topics and eventually released forty-one volumes of their findings.

fraternal organizations, if not outright trafficking rings.[491] The Dillingham Commission went furthest to associate immigrant prostitution with Jewish men, fueling anti-Semitism in media like Turner's "Daughters of the Poor" that cited these government reports for legitimacy.[492] The reports often admitted that their conclusions were speculative, but their hyperbolic and xenophobic language motivated swift legislative action rather than nuanced engagement.[493] Even when leaders did not adopt suggestions like Braun's idea for constant surveillance or revoking the citizenship of those who consorted with immigrant prostitutes, these radical ideas encouraged policymakers to suspend regular liberties at extreme times.[494] Otherwise, he warned, "This great Republic, Powerful Nation and Mighty Land seems to be not great enough, not powerful enough, not mighty enough to

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[491] One letter between officials ended with "the fact that the peculiarly base business of controlling women for the personal gain of men is almost exclusively in the hands of aliens of three or four races." (emphasis in original). Commissioner at Ellis Island to Commissioner-General, December 18, 1912, PWSII MCLR.

[492] Immigration Commission, "Importing Women for Immoral Purposes," 23; Pliley, *Policing Sexuality,* 52. On John Kibbe Turner's use of the Commission's work in his sensational journalism, see Johnson, "Arriving for Immoral Purposes," 27.

[493] Immigration Commission, "Importing Women for Immoral Purposes," 4. The Commission declared their findings to be geographically diverse and thorough enough for policy change, while they admitted to unanswered questions and lack of evidence.

[494] Peck, "Feminizing White Slavery in the United States," 234. Braun's suggestions to revoke the citizenship of those deemed sexually immoral, including "pederasts, sodomites, and male prostitutes," suggest his aspiration to punish many forms of sexual nonconformity, not just participation in organized commercial sex. Braun to Commissioner-General of Immigration, October 2, 1909, page 46, PWSII BR1-G.

wrestle with these cunning scoundrels."[495] These catastrophic predictions made Braun's recommendations sound relatively modest, just as Tedesco's speculation of 100,000 prostitutes working made Braun's 50,000 seem like a conservative estimate rather than the exaggeration it likely was.[496]The contradictory and inconclusive findings of investigators and the Dillingham Commission, packaged as shocking facts to mobilize public action, allowed policymakers and the public to draw whatever conclusions they wanted and laid the groundwork for the more extreme Mann Act and the Immigration Act of 1910.

It took only three years for legislators to amend the Immigration Act of 1907 in response to its limitations. Just as the 1907 law had moved to correct the 1903 act, the 1910 amendment dramatically expanded the Bureau of Immigration's reach and targeted women's primary strategies against the 1907 act: claiming over three years of residency, migrating under an alias, and reentering after deportation. The law expanded the deportation regime by removing the three-year window for removal. Now, women who entered after March 1910 could be deported at any point, regardless of their entry or length or residency, if found working as a prostitute or for

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[495] Braun prefaced his warning, "I know it is repugnant to our system of government to have any kind of espionage over our citizenship, but I would keep such people under a certain surveillance… I repeat again that while 'eternal vigilence [sic] is the price of liberty,' quick, prompt, and simultaneous action is the price of eradication of the White Slave Traffic." Report of Special Inspector Marcus Braun, September 29, 1908, pages 10-11, PWSII BR1-A.

[496] Report of Special Inspector Marcus Braun, September 29, 1908, page 2, PWSII BR1-A. Tedesco estimated 100,000 foreign-born prostitutes in a letter to Braun, September 1908, page 15, PWSII BR1-A.

other immoral purpose charges. This meant immigrant women lived under perpetual state watch and could be deported for even the vaguest charge, including "connection with any house of prostitution, music or dance hall, or other place of amusement or resort habitually frequented by prostitutes."[497] Deporting those who associated with prostitutes, even if they had not sold sex, made the law "preventative as well as curative," according to Commissioner-General Frank Larned.[498] Attempting to reenter the United States after being debarred or deported also became a misdemeanor.

Together, these changes cemented deportation as the Bureau of Immigration's primary tool to address prostitution by removing undesirable immigrant women, despite all the shortcomings of deportation revealed between 1907 and 1909. In San Francisco, Hart Hyatt North saw the law as the mandate he had long-awaited and laid plans to deport as many Chinese, Japanese, and many European women as the Bureau would devote resources. A month after the amendment went into effect, North told the Commissioner-General that he had generously delayed enforcement "in order that all who may be disposed may stop their unlawful calling and assume some more respectable method of life."[499] After that brief grace period, "unlawful" women

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[497] Section 3, *An Act to amend an Act entitled "An Act to Regulate the Immigration of Aliens into the United States*," 61st Cong., 2nd Sess, HR 15816 (1910).

[498] Larned to Inspector in Charge, Los Angeles, February 6, 1915, *Memos, Correspondence, Laws, Regulations, Prostitution, and White Slavery Immigration Investigations*, file 52809/7-F, Accession # 001742-007-0001, Series A: Subject Correspondence Files, Part 5: Prostitution and White Slavery, 1902-1933, RG 85, NARA-DC.

[499] North to Commissioner-General, April 27, 1910, *House of Representatives, Prostitution and White Slavery Immigration Investigations*, file 52809/7, Accession # 001742-006-0345,

navigated unfamiliar terrain as local police and federal officials coordinated a more expansive campaign against immigrant prostitutes.

By 1910, immigration officials successfully compelled lawmakers to shift the "letter of the law" toward the spirit of pervasive state control over women's sexuality. The 1907 law's shortcomings, and women's successful navigation of entry exclusion and punitive deportation, prompted more expansive and discretionary policies, including amendments to the law and the new White Slave Traffic (Mann) Act in 1910. These laws continued to police migration and use deportation to remove allegedly indecent women from American cities. Anti-white slavery zealots like Marcus Braun and his fellow investigators, who worked within the Bureau of Immigration to fight prostitution, also contributed to the growing body of sensational reports that activated citizens to build the vigilance movement into the next decade. After wielding their administrative discretion for so many years against sexual indecency, the Bureau of Immigration became only one defense line in a conflict waged across multiple cultural fronts and geographies.

Series A: Subject Correspondence Files, Part 5: Prostitution and White Slavery, 1902-1933, RG 85, NARA-DC. North also inquired whether he could deny bail to Chinese women arrested for prostitution because he believed they immediately returned to prostitution.

CHAPTER FIVE

Vigilance and Removal: Global, Local, and National Responses to White Slavery and Immigrant Prostitution, 1910-1917

In *House of Bondage* (1910), Ronald Wright Kauffman detailed wholesome American girl Mary Denbigh's fictional descent into the hellish life of a white slave after eloping with Max, a handsome immigrant man who plied her with drink and brought her straight to a New York City brothel. As her head clears in the following days, she learns the ropes of the work from other women in this "house of bondage" who convince her that her traumatizing fate as a white slave was exceedingly common. These women, all immigrants, formed the archetypes of who anti-white slavery activists like Kauffman considered most vulnerable to prostitution. Fritzie chose sexual servitude over drudgery in a factory; Celeste's French heritage predisposed her to the demimonde; Evelyn resigned to the work as inevitable for her station; and Wanda, a recent Jewish immigrant, worked her way up to the current middle-tier establishment after being kidnapped from Ellis Island.[500] The variety of ways immigrant women casually entered prostitution foiled Mary's small-town

[500] Reginald Wright Kauffman, *The House of Bondage* (New York: Grosset & Dunlap, 1910), 98.

naivety, which ensnared her in the traps laid by a false engagement, villainous employers, and crooked cops.

The novel read as a cautionary tale of real danger and included an appendix of government reports on white slavery, which further blurred the boundary between fact and fiction.[501] The author believed, like many Progressive writers and activists, that education about sexual dangers served as women's best defense against coercion: young women, and a society that valued them, needed to remain vigilant against the dangers lurking behind flashy dance halls and the compliments of dashing male procurers. Progressive Era writers and reformers identified existing policing mechanisms as inadequate and demanded federal and local state initiatives to meet the crisis facing women's sexual propriety. The 1910 Mann Act, released a month before *House of Bondage's* publication, ostensibly offered just such an effort to protect female victims by expanding sexual policing nationwide.[502]

In 1910, a tightened coalition between local police, citizen-civilian activists, and federal officials ushered in a new era of social and legislative attacks on forced prostitution, which they called white slavery. Vigilance served as the coalition's driving organizing and discursive tool. Vigilance carried dual meanings: as a call for

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[501] Kauffman, *The House of Bondage*, 12; 467. The appendix includes the presentment of the New York City grand jury investigation, even though the report declined to claim that the traffic in women was actually coordinated nationally or internationally.

[502] *The White Slave Traffic Act: an Act to Further Regulate Interstate Commerce and Foreign Commerce by Prohibiting the Transportation Therein for Immoral Purposes of Women and Girls, and for Other Purposes* (also known as the Mann Act), 36, Stat. 825 (1910).

self-education, encouraging residents to recognize and condemn the social temptations which so often led to white slavery; and vigilance as a social contract, by which concerned citizens critiqued state inertia toward prostitution and activated more robust local, federal, and non-government interventions into women's sexual lives. As in San Francisco in the 1850s, private citizens advocated for state actions to preserve moral order and acted as quasi-state agents themselves to bring about the changes they envisioned. Yet the vigilance committees of the white slavery-social hygiene movement expanded far beyond the tribunals used by nineteenth-century vigilante groups. Organizations like John D. Rockefeller's Bureau of Social Hygiene and O. Edward Janney's National Vigilance Committee deployed undercover investigators, wrote and lobbied for legislation, and blurred boundaries between state and private reform efforts, all under the belief that women's sexual behaviors deserved urgent public regulation. The nationwide movement against white slavery took cues from local campaigns, such as the New York City vigilance movement led by John D. Rockefeller and carried techniques from the Bureau of Immigration into domestic sexual policing. The resulting Mann Act, immigration law, local measures, and related social projects worked in tandem to expand the deportation regime and punish prostitutes, procurers, and anyone who crossed domestic and international borders for illicit sex or other "immoral purposes." The combined private and public efforts consolidated punitive state authority over women, but divergent long-term goals prevented moral transformation or the abolition of prostitution, even as

immigrant women faced increasingly heavy consequences for their perceived sexual indiscretions.[503]

Legislating against sex in this period required lawmakers and the public to develop working definitions of prostitution and white slavery. For historians and even those using the terms in 1910, the terms defied clear definition because they were so often negotiated or intentionally ambiguous.[504] These ambiguities, and especially the conflation of all prostitution as white slavery, benefited activists and lawmakers who could strategically deploy laws to meet their own ends, either by focusing on white slavery more narrowly as forced prostitution involving a trafficker or procurer, or using anti-vice and anti-white slavery laws to punish other forms of prostitution. At other times, law enforcement could rely on more conservative interpretations of legislation to justify their inaction or to not prosecute in controversial cases. Most anti-white slavery activists defined white slavery by a moment of capture and

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[503] This chapter builds on scholarship by Grace Peña Delgado, which argues that the Mann Act reasserted the commerce clause as a legal tool to commodify women's sexuality and migrations while minimizing their personhood and ability to consent to prostitution. This chapter further explores the relationship Delgado identifies between anti-white slavery activists and local and federal legislation. Grace Peña Delgado, "The Commerce (Clause) in Sex in the Life of Lucille de Saint-André," in *Intimate States: Gender, Sexuality, and Governance in Modern U.S. History,* ed. Nancy Cott, Margot Canaday, and Robert Self (Chicago: University of Chicago Press, 2021), 85-109.

[503] Mark Thomas Connelly, *The Response to Prostitution in the Progressive Era* (Chapel Hill: University of North Carolina Press, 1980), 17, 130.

[504] Mark Thomas Connelly, *The Response to Prostitution in the Progressive Era* (Chapel Hill: University of North Carolina Press, 1980), 17, 130.

coercion into prostitution, rather than a continued physical enslavement in a literal sense, although the latter could exist: in *House of Bondage* Mary's captors continually drugged and purposely disoriented her for months to trap her in the brothel. White slavery narratives more often implied that even one sexual violation who trap a respectable woman in the work because she would never feel comfortable returning to her former life.[505] Young women also drew and self-policed their own boundaries between prostitution and other forms of exchange, like "treating," where a man paid for a date with the expectation of sexual favors in return.[506]

This chapter uses white slavery to denote situations where a woman was believed to be tricked or forced into prostitution, while acknowledging that not all prostitution–sex for money or other sustenance–was coerced. While many people in the early nineteenth century believed women incapable of consenting to prostitution, because of their literal abduction or because their socioeconomic circumstances or

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[505] This prompted some to focus on prostitution as a psychological slavery, perhaps in part because cases of literal enslavement proved rare, but so many activists had positioned themselves as righteous abolitionists. Reformer Maude Miner wrote her doctoral dissertation on "The Slavery of Prostitution," extending the slavery metaphor far beyond the white slavery tracts of few years earlier. Maude Miner, "Slavery of Prostitution: a Plea for Emancipation" (PhD diss., Columbia University, 1916).

[506] Elizabeth Alice Clement, *Love For Sale: Courting, Treating, and Prostitution in New York City, 1900-1945* (Chapel Hill: University of North Carolina Press, 2006), 3. While Clement argues that working class women drew their own distinctions between treating as socially acceptable and prostitution as undesirable, many classic elements of treating or dating appeared in stories of white slavery, warning women to distrust a man's offer to go dancing or to drink a beverage that they could have drugged.

hereditary moral character made prostitution an unfortunate, unwanted decision, other evidence from the time suggests that at least some prostitutes entered sex work or exercised autonomy in determining some details of what this work would look like.[507] Activists were less likely to recognize this distinction publicly because while they mobilized public attention around white slavery, most hoped for the eventual eradication of all prostitution. Activists and government officials produced so much discourse about prostitution that strategically did not incorporate the voices or experiences of individual women they claimed to represent, further showing the power the state held over women suspected of sexual indecency to define the terms of their labor and supposed crimes.

Citizens who developed definitions of white slavery justified their involvement through a vigilance ideology, empowering citizens to act collectively alongside traditional governing bodies as enforcers of justice. This idea structured the political activism of many groups which enlisted elite and educated citizens to the anti-prostitution cause in the first decade of the twentieth century, often called the social hygiene movement. The sheer number of different social hygiene groups, including the Committee of Fourteen and many other city-specific committees modeled off New York's example, National Vigilance Committee, and Rockefeller's

[507] Clement, *Love For Sale,* 76; Connelly, *Response to Prostitution,* 130; Jessica Pliley, *Policing Sexuality: The Mann Act and the Making of the FBI* (Cambridge: Harvard University Press, 2014), 7. Ruth Rosen, *The Lost Sisterhood: Prostitution in America, 1900-1918* (Baltimore: Johns Hopkins University Press, 1982), 8.

Bureau of Social Hygiene, ensured a diversity of tactics and varied proximity to state authority.[508] These groups shared a sense of entitlement to state-like power because of a majority elite, educated, white, male membership who believed they would act in the best interest of the public. They also justified their authority by responding to a gap in policing, often surveilling or confronting criminal activities because they felt lawmakers and police did not adequately fulfill their obligations to public safety.[509] These citizen-led groups generated more power in numbers; earlier decentralized efforts to form "social purity" groups did not gain as much social or political attention. A critical mass of groups organized by 1910 and shared insights and structures with one another. Greater numbers and more vocal public support insulated the organizations from criticism or marginalization by government agents, as these groups became too active to be ignored. This chapter refers to these collectively as vigilance groups to emphasize the role these groups sought to play in governance and sexual policing.

Vigilance served as a flexible framework by which to critique existing state responses to prostitution while advocating for stronger government interventions.

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[508] For more on coalitions against prostitution, particularly between feminist and medical organizations, see Barbara Meil Hobson, *Uneasy Virtue: the Politics of Prostitution and the American Reform Tradition* (New York: Basic Books, Inc., 1987), 150. Hobson recognizes that groups did not share a singular vision, and many groups such as the Women's Christian Temperance Union related white slavery to their other causes.

[509] Hobson, *Uneasy Virtue,* 158. It is likely that at least some police did not support reform projects because they benefited financially from "tolerating" illicit prostitution.

Early on, vigilance groups found mixed success in electoral politics as a vehicle for change. In 1900, when New York City's Committee of Fifteen attempted to confront prostitution by launching a campaign to unseat corrupt Tammany Hall leadership and challenge the Raines Law. This city ordinance only allowed hotels to sell liquor on Sundays, thus motivating saloons to operate small-scale brothels, or "Raines Law hotels" to qualify–and often finding sex commerce even more lucrative.[510] The Committee published a damning report of their investigative work in Lower East Side tenements titled *The Social Evil,* intended to galvanize the public to vote for politicians with better moral character and hold them accountable once in office.[511] Other agitational materials like the pamphlet *Facts for New York Parents: Conditions that are Not to be Endured* (1900) encouraged electoral solutions with the opening recommendation: "The Women's Municipal League asks every woman to read this pamphlet, and to ask every man she knows to read it, before election."[512] The pamphlet equated procurers and negligent politicians as partners in "destroy[ing] the virtue of our sons and daughters."[513] The committee sought to generate public outrage and channel it into swift electoral changes.

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[510] Committee of Fifteen, *The Social Evil: With Special Reference to Conditions Existing in the City of New York* (New York: the Knickerbocker Press, 1902), 159.

[511] Committee of Fifteen, *The Social Evil,* v; W. H. Baldwin, Jr., "Publicity as a Means of Social Reform," *The North American Review* 173, no. 541 (December 1901): 847.

[512] District Attorney Philbin, et. al, *Facts for New York Parents: Conditions that are Not to be Endured* (New York: Women's Municipal League, 1901), HQ131.V54 N6, Center for Jewish History.

[513] Philbin, *Facts for New York Parents,* 3.

The confidence that an activated public could force elected officials into making reforms followed a *vox populi* logic of governance. This implied that local government answered to the will of the people, and if "the people" wanted the state to intervene in sex commerce, the government must act on their will. Historically, states and local governments invoked police powers to write anti-vagrancy, anti-nuisance, and other morality laws which policed sex, but enforcement could be sporadic without public pressure.[514] Many politicians and police profited from the status quo, wherein establishments of sex commerce paid kickbacks for protection to operate tacitly.[515] The public indignation that the Committee of Fifteen sought to cultivate did not materialize in 1900-1902 and thus they could not mount forceful change, beyond temporarily shaking up Tammany Hall politics.[516] The Committee crumbled without massive public support of their work. It would take nearly a decade for public interest

[514] William Novak, *The People's Welfare: Law and Regulation in Nineteenth-century America* (Chapel Hill, NC: University of North Carolina Press, 1996), 189.

[515] Committee of Fifteen, *The Social Evil,* 159.

[516] A decade later, the Committee of Fourteen (successor to New York's Committee of Fifteen) more effectively attacked Raines Law Hotels not through legislation, but through collaborating with the city's Excise department (which distributed liquor licenses) and the Brewers Association to make economic incentives to clean up or lose their beer supply. Mara Keire, *For Business and Pleasure: Red-Light Districts and the Regulation of Vice in the United States, 1890-1933* (Baltimore: The Johns Hopkins University Press, 2010), 18. Yet the temporary arrangements made between prostitutes and Raines Hotels likely allowed women more autonomy over their labor, so the demise of this system also contributed to increased pimping and procuring women for full-time brothels. Clement, *Love For Sale*, 92.

to coalesce around the cause, and then only when recast as white slavery, or forced prostitution.

Vigilance groups which formed in the Committee of Fifteen's wake held a more ambivalent view of electoral politics, seeking instead to operate as quasi-state entities themselves or influence existing state projects. Vigilance groups coordinated with local police, or independently inserted themselves into what they deemed the underworld. Much like the Bureau of Immigration's special investigators, vigilance activists believed their ends justified these means and that their pure morals inoculated them from the many financial and sexual temptations they accused politicians and police officers of succumbing to.[517] The published reports and experiences of these private groups led to invitations to collaborate with state officials who believed in an urgent white slavery crisis. Lawmakers deemed attorney Clifford Roe's undercover investigations in Chicago so informative that they tapped him to

[517] O. Edward Janney, *The White Slave Traffic in America* (New York City: National Vigilance Committee, 1911) 31. Janney writes, "Naturally, you will ask, if there is an army of these dangerous men thus violating the law, why are they permitted to continue to do so? The answer is that they are useful to the politicians." Elizabeth Alice Clement notes that the Committee of Fourteen's investigations using paid informants offer a unique look at women in these underworld spaces, because investigators were more interested in finding and prosecuting the pimps and industry leaders than punishing individual women. Clement, *Love For Sale*, 11. Thomas Mackey considered the Committee of Fourteen to be a friendly "adjunct" police force trusted by cops rather than an alternative group. Thomas Mackey, *Red Lights Out: A Legal History of Prostitution, Disorderly Houses, and Vice Districts, 1870-1917* (New York: Garland Publishing, Inc., 1987), 22.

help write the 1910 White Slave Traffic Act (also known as Mann Act).[518] Prominent philanthropist John D. Rockefeller begrudgingly accepted an appointment as foreperson of a grand jury investigation into New York City's white slavery.[519]

Rockefeller's Grand Jury investigation dove much deeper into the topic than city officials really intended. The presiding judge encouraged the jury instead to focus on easily prosecutable cases using existing laws against underage sex and procurement, rather than waiting for stronger federal laws against prostitution or white slavery still under debate in Congress.[520] When the jury failed to find evidence of an organized trafficking ring, Judge O'Sullivan and local media declared white slavery reports to be unnecessary slander by overzealous journalists.[521] Yet

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[518] Clifford Roe served as a state's attorney for Cook County (Chicago) but left the job to become a full-time vice reformer. Margit Stange, *Personal Property: Wives, White Slaves, and the Market in Women* (Baltimore: The Johns Hopkins University Press, 1998), 76.

[519] Walter Page, Doubleday Publishing to John D. Rockefeller, Jan 5, 1909, file 56, III 2 0, Office of the Messrs. Rockefeller Records, Series O, Rockefeller Archive Center, Sleepy Hollow, New York [hereafter RAC]; Brian Donovan, *White Slave Crusades: Race, Gender, and Anti-Vice Activism, 1887-1917* (Champaign, IL: University of Illinois Press, 2006), 91; Gretchen Soderlund, *Sex Trafficking, Scandal, and the Transformation of Journalism, 1885-1917* (Chicago: University of Chicago Press, 2013), 149.

[520] Instructions to Grand Jury from Judge O'Sullivan, January 3, 1910, file 56, RAC.

[521] Following access to the full Presentment of the Jury, Mayor William Gaynor assured Rockefeller that he was knowledgeable enough about white slavery and did not need Rockefeller's advice about continued investigations, beyond recommendations for a commissioner to lead a project. Gaynor to Rockefeller, July 2, 1910, file 57, RAC; Soderlund, *Sex Trafficking, Scandal, and the Transformation of Journalism,* 157. Meanwhile Rockefeller's colleagues congratulated him on a thorough investigation which at the very

Rockefeller had committed deeply to a view of prostitution as an organized and coercive industry.[522] In order to continue investigating without government sponsorship, Rockefeller formed the Bureau of Social Hygiene. One of his first projects included hiring Roe to replicate his Chicago investigations in New York City, and the two men offered to consult with any cities considering conducting similar investigations.[523] Rockefeller's first experience as a civilian collaborating with the state through the grand jury showed the potential for government investigations, and the limited commitment many city officials held toward serious prosecution. This convinced him that private organizations like the Bureau of Social Hygiene could fill in the gaps in state response to prostitution.

Investigations such as that by the 1910 New York City Grand Jury deliberately blurred the lines between state authority and citizens' prerogatives in ways which empowered vigilance groups, while shielding them from the liability of following government protocols. Emma Goldman questioned the motives of such projects, writing in *Mother Earth:* "The 'righteous' cry against the white slave traffic

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least drove foreign prostitution temporarily out of New York and toward California. The Assistant District Attorney James Bronson Reynolds wrote that this additional travel at least "placed a high tariff on imported vice." Reynolds to Rockefeller, July 1, 1910, file 57, RAC.

[522] Janney, *The White Slave Traffic in America,* 72. An avid supporter of Rockefeller's work, Janney believed that the Grand Jury investigation did not find evidence of organized traffic because criminals are clever at concealing their actions and thus vigilance organizations needed to keep looking.

[523] Rockefeller envisioned follow-up investigations not just in New York but across multiple U.S. cities. Rockefeller to F. T. Gates, November 2, 1910, file 57, RAC.

is such a toy. It serves to amuse the people for a little while, and it will help to create a few more fat political jobs–parasites who stalk about the world as inspectors, investigators, detectives, etc."[524] While Goldman criticized investigators as motivated by profit or prestige, investigations by appointed citizens or funded by philanthropic organizations also proliferated because they appeared to have a social impact without stepping too far into the realm of criminal prosecution. Righteous citizens could identify criminals all day but did not have the authorization to arrest them. Clifford Roe lamented to Rockefeller that their efforts would be useless if courts chose not to convict those who came before them.[525] Vigilance groups differed from vigilante groups in that they stopped short of doling out punishments that directly contradicted or superseded the state justice system. The preoccupation with investigation and moral condemnation occupied vigilance groups without directly challenging the state justice system.

Vigilance groups offered what appeared to be a symbiotic relationship between private philanthropists and the state. Government officials could reap the benefits of popular morals-driven policing without having to devote their own resources or take responsibility for the projects which complemented their own anti-prostitution agenda. Yet vigilance groups could also infringe on state authority or direct attention toward social vice reform when state officials might hold other

[524] Emma Goldman, "The White Slave Traffic," *Mother Earth Bulletin*, IV No. 11 (January 1910): 344.

[525] Roe to Rockefeller, April 3, 1912, file 42, RAC.

priorities. Officials, especially federal immigration agents, appeared wary of direct requests for greater authority by vigilance groups. Edward O. Janney, founder of the National Vigilance Committee, often petitioned the Bureau of Immigration for access to arriving immigrants to identify potentially trafficked women, but withdrew one request when asked to clarify more of his plans.[526] At another point, immigration officials declined to send Janney the full reports from Marcus Braun's investigations, but offered that he could read them if he visited their Washington office.[527] These examples suggest that vigilance groups adopted state-like authority more easily within local governing structures than federal ones, and where they could launch a new program or fill a void with less government oversight. This tension between state collaboration and the limits to citizens' authority also encouraged vigilance groups to direct energy toward social uplift alongside punitive state solutions to white slavery.

Vigilance groups derived some of their political influence from public support, or at least the illusion of it. To make morals policing more popular, groups focused on educating the public as the first step toward abolishing white slavery.[528]

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[526] Janney to Oscar Straus, January 6, 1908, 51777/30, Entry 9: Subject and Policy Files, 1893-1957 (hereafter Entry 9), RG 85: Records of the Immigration and Naturalization Service, National Archives and Records Administration, Washington D.C. (hereafter NARA-DC).

[527] Larned to Janney, October 23, 1908, *Marcus Braun Reports, Prostitution and White Slavery Immigration Investigations*, file 52484/1-B, Accession #001742-003-0504, Series A: Subject Correspondence Files, Part 5: Prostitution and White Slavery, 1902-1933, RG 85, NARA-DC, accessed via History Vault [hereafter PWSII].

[528] Janney, *The White Slave Traffic in America,* 72.

Vigilance groups believed an engaged public audience could hold state officials more accountable, because informed citizens could identify and vote out corrupt or negligent politicians and law enforcement. But groups like the National Vigilance Committee also used 'vigilance' to denote self-education and personal responsibility as a prevention measure against white slavery. A flood of texts between 1907 and 1914 assured readers that reading about the problem was an essential part of a solution. Gen. Theodore Bingham, once the Police Commissioner of New York City, blamed "inherited Puritanism" for the public ignorance which perpetuated white slavery.[529] Bingham argued in *The Girl That Disappears: the Real Facts About the White Slave Traffic* that this ignorance allowed thousands of girls to go missing annually without proper investigation into their abduction, in part because parents never believed it could happen to their own daughters.[530] Edward O. Janney, founder of the National Vigilance Committee, claimed that greater knowledge of trafficking also helped women recognize warning signs and escape from their captors in white slavery cases.[531] Even Emma Goldman, while critical of the punitive state-based reforms vigilance groups advocated for, agreed that open education about the realities of prostitution and women's sexuality was necessary to combat sexual exploitation.[532] Yet education as self-defense offered a temporary solution without dismantling the

[529] Theodore Bingham, *The Girl That Disappears: the Real Facts about the White Slave Traffic* (Boston: R.G. Badger, 1911), 11.

[530] Bingham, *The Girl That Disappears,* 10.

[531] Janney, *The White Slave Traffic in America,* 28.

[532] Goldman, "The White Slave Traffic," 351.

structural forces which caused white slavery.[533] An educated girl might protect herself from seduction, but in the Progressive view of the vice industry there would nearly always be another woman to fall victim.

Public education appeared to be a limitless project for vigilance groups, especially compared to the often fraught negotiations for state authority. Many also recognized that pamphlets full of facts and figures alone would not mobilize the public. Novels like *House of Bondage* offered compelling, fictionalized parables to educate vulnerable women, as well as their parents and neighbors, about the common ruses of white slavers. Even as the texts claimed to educate, the titillating drama of the texts drew on traditions of captivity narratives and conspiracy theories to draw readers in.[534] When Rockefeller read the book months after his Grand Jury investigation, the network of crooked politicians and heavily accented foreign procurers mirrored his hypothesis about trafficking, which he had not adequately uncovered while serving as a foreperson.[535] Rockefeller sent hundreds of copies of

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[533] Many reformers vocally agreed with socialists, even if they did not consider themselves socialists politically. Kauffman and Janney speculated that economic insecurity and low wages were primary causes of white slavery. Kelli Ann McCoy, "Claiming Victims: the Mann Act, Gender, and Class in the American West, 1910-1930s," Ph.D. Diss., (University of California, San Diego: 2010), 53; Janney, *The White Slave Traffic in America,* 93, 156.

[534] Connelly, *The Response to Prostitution,* 119.

[535] *White Slave Traffic: Presentment of the Additional Grand Jury for the January Term of the Court of General Sessions in the County of New York, in the matter of the investigation as to the alleged existence in the County of New York of an organized traffic in women for immoral purposes,* filed June 29, 1910. The most-referenced conclusion of the investigation stated: "We have found no evidence of the existence in the County of New York of any

the book to his business and philanthropic acquaintances with a request for their honest review. Financier J.P. Morgan wrote that he read the 500-page book in two days and could not stop thinking about it. Many of the elite readers who raved about the text likely ignored Kauffman's socialist undertones, which primarily blamed white slavery on women's low wages and economic precarity.[536] Instead, literature such as *House of Bondage* fed the egos of elite anti-white slavery activists by encouraging them to "emancipate" vulnerable women. One man speculated whether Kauffman's book could contribute to the fight against white slavery as *Uncle Tom's Cabin* had galvanized the anti-slavery movement in the nineteenth century.[537] He wrote, "The question that I am trying to decide is whether the psychological moment has arrived for this book on prostitution. If so, it may cause doing incalculable good. I

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organization or organizations, incorporated or otherwise, engaged as such in the traffic in women for immoral purposes, nor have we found evidence of an organized traffic in women for immoral purposes." Text available in Kauffman, *The House of Bondage*, 472.

[536] McCoy, "Claiming Victims," 43. Members of the Committee of Fourteen and settlement home leaders held a very different view and formed a committee to study the issue. They concluded that "weakness of mind and will; individual temperament; immoral associates; lack of religious or ethical training…. idleness…. Love of finery and pleasure; unwholesome amusement; and inexperience, and ignorance of social temptations," all contributed more than low wages to lure women into prostitution. Robert H. Gault, "Relation of Woman's Wage to the Social Evil," *Journal of the American Institute of Criminal Law and Criminology* 4 No. 3 (September 1913), 324.

[537] Kauffman clearly intended this comparison, as the madam Rose Legere's name echoed the plantation owner Simon Legree in *Uncle Tom's Cabin*. Donovan, *White Slave Crusades*, 49.

fear, however, that we are not quite ready."[538] Many letter writers encouraged Rockefeller to lead in this "psychological moment," prompting his formation of the Bureau of Social Hygiene (BSH). Among its many projects, the BSH continued to sponsor sociological studies of prostitution in New York, the United States, and Europe, and funded the Bedford Hills Reformatory for Women.[539] The group believed that professional, sustained attention on white slavery would more successfully combat the problem than momentary outbursts of legislation or public outrage.[540]

The flood of pamphlets, novels, and sociological reports vigilance organizations created to educate the public reinforced their alleged expertise on the subject. Writers acknowledged the gravity of their subject, and its shock factor to an uninformed public, by emphasizing the factual nature of their texts. In a preface to a 1913 study of New York City prostitution, John D. Rockefeller described the report as a "dispassionate, objective account…. In the spirit of scientific inquiry," not meant

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[538] Letter from Office of General Manager, New York & Pennsylvania Co. Paper & Chemical Fibre [signature illegible] to Rockefeller, December 20, 1910, "Bureau of Social Hygiene 'House of Bondage' Distributor," file 85, RAC.

[539] George J. Kneeland, *Commercialized Prostitution in New York City* (New York: The Century Company, 1917); Howard Woolston, *Prostitution in the United States* (New York: The Century Company, 1921); Donovan, *White Slave Crusades*, 109; Anne E. Bowler, Chrysanthi S. Leon and Terry G. Lilley, ""What Shall We Do with the Young Prostitute? Reform Her or Neglect Her?" Domestication as Reform at the New York State Reformatory for Women at Bedford, 1901-1913," *Journal of Social History* 47 No. 2 (Winter 2013), 459.

[540] Kneeland, *Commercialized Prostitution*, 15.

to criticize a particular government or department that allowed such conditions to exist.[541] Works like Janney's *The White Slave Traffic in America* constantly emphasized facts and uncovering dark truths.[542] Vigilance literature often parroted facts from one another out of context, construing numbers into more and more alarming statistics. Jo Doezma argues these reformers did not deliberately misrepresent data, but genuinely believed their claims as it contributed to the myths about white slavery which they had invested in.[543] Pseudo-scientific and journalistic language may have convinced some readers, but made others (and later, historians) more skeptical about the actual amount of white slavery.[544] The emphasis on exposing truths reinforced the power and necessity of vigilance groups, who claimed to have access to the underworld that others did not. They could also blame skeptics who rejected the white slavery narrative for perpetuating the system of forced prostitution allegedly caused by collective inattention.

Yet, reformers did not have total control over how discourse on white slavery developed, and others did not share their political goals. Journalists and filmmakers borrowed this language of objectivity and facts to make sensational and often

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[541] Kneeland, *Commercialized Prostitution*, x.

[542] Janney *The White Slave Traffic in America,* 6, 84.

[543] Jo Doezma, *Sex Slaves and Discourse Masters: The Construction of Trafficking* (London: Zed Books, 2010), 31.

[544] Connelly, *The Response to Prostitution,* 129-132; David J. Pivar, *Purity and Hygiene: Women, Prostitution, and the "American Plan," 1900-1930* (Westport: Greenwood Press, 2002), 84; Rosen, *The Lost Sisterhood*, 113; Soderlund, *Sex Trafficking, Scandal, and the Transformation of Journalism,* 165.

unverifiable claims which challenged the educational aspect of vigilance.[545] Films like *The Inside of the White Slave Traffic* and books like *From Dance Hall to White Slavery: the World's Greatest Tragedy,* by two investigators for the Metropolitan Press mimicked the format of vigilance texts, but more likely to sell copies than motivate any political reform.[546] Activists like Rockefeller often disparaged such media as distorting realities and feeding salacious impulses. Prominent court cases debunked sensational works like W.T. Stead's "The Maiden Tribute of Modern Babylon" in Britain or George Kibbe Turner's "Daughters of the Poor" exposé on New York City, but only after their works created watershed moments in the public consciousness of white slavery.[547] While Rockefeller's Grand Jury put Turner on the stand and uncovered his articles to be based more on exaggeration than evidence, investigations like the New York Grand Jury became media spectacles in their own right.[548] Rockefeller quickly found that someone could misrepresent even the most carefully worded presentment in the media, largely to lull readers into believing that white slavery did not exist in New York City just because a singular organization did

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[545] Soderlund, *Sex Trafficking, Scandal, and the Transformation of Journalism,* 5; Stange, *Personal Property,* 76.

[546] H.W. Lytle and John Dillon, *From Dance Hall to White Slavery: The World's Greatest Tragedy* (Chicago: C.C. Thompson Co, 1912); Shelley Stamp Lindsey, "'Oil Upon the Flames of Vice': The Battle Over White Slave Films in New York City," *Film History* 9 No. 4 (1997): 352.

[547] Soderlund, *Sex Trafficking, Scandal, and the Transformation of Journalism,* 99.

[548] Soderlund, *Sex Trafficking, Scandal, and the Transformation of Journalism,* 154.

not appear to manage all traffic.[549] But as Gretchen Soderlund notes, as social hygiene activism spent less time on the front pages in subsequent years, more fictionalized accounts of white slavery continued to thrive.[550] These works avoided censorship because they purported to be educational and informative, even when they also titillated. Vigilance groups faced a choice between decrying the rise of sensationalized media which they could not control or coexisting with it as they fought to stay publicly relevant. Greater public engagement reinforced their vigilance authority.

Vigilance groups and popular media also differed in their depictions of immigrant women. Vigilance groups sometimes mentioned immigrant men as perpetrators and immigrant women as victims of white slavery, but they focused on educating American-born girls and families. Indeed, the "white slave panic," as it came to be known, revolved primarily around allegedly vulnerable white American women.[551] Yet immigrant women disproportionately faced the material results of this vigilance activism. Groups like the Committee of Fourteen carried out much of their

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[549] Soderlund, *Sex Trafficking, Scandal, and the Transformation of Journalism,* 157.

[550] Soderlund, *Sex Trafficking, Scandal, and the Transformation of Journalism,* 164.

[551] Connelly, *The Response to Prostitution,* 202 n6. Margit Stange reads this focus on vulnerable daughters as not just a moralistic concern, but one rooted in a conception of women as property of the family. Stange writes, "white slavery literature opens the reader's eyes to the value of a woman by pointing out the structure of exchange, in which one's "own" woman is destined to be appropriated by a group outside one's own." White slavers who allegedly abducted women from their stable homes robbed a family of a daughter who would otherwise be exchanged through marriage. Stange, *Personal Property,* 83.

investigations in tenement neighborhoods like New York City's lower east side, known to be a predominantly Jewish immigrant neighborhood, but their reporting did not always explicitly name the foreignness of the alleged victims.[552] Later studies of prostitution, such as those carried out among prostitutes imprisoned at the Bedford Hills Reformatory, noted women's nationalities but found that the U.S.-born daughters of immigrants were more likely to become prostitutes, and more likely after a destabilizing life event like the death of a parent, than because of seduction.[553] Thus, immigrant women were not treated as a significantly distinct or priority demographic by many vigilance groups, although they encountered many immigrant women through their work.

Popular media did not have such a measured approach. Works like Turner's "Daughters of the Poor" depicted immigrant women as uniquely targeted by procurers because of their ignorance of American life and specific cultural stereotypes.[554] For example, Turner wrote, "the acute horror among the Jews of the state of being an old maid makes swindling of Jewish women under the promise of marriage especially easy."[555] Turner also claimed that because Jewish boys were

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[552] Clement, *Love For Sale,* 104.

[553] Clement, *Love For Sale,* 79; Bowler, et. al, "Domestication as Reform at the New York State Reformatory for Women at Bedford," 463; Rosen, *Lost Sisterhood,* 138.

[554] Lytle and Dillon, *From Dance Hall to White Slavery,* 271; George Kibbe Turner, "Daughters of the Poor: A Plain Story of the Development of New York City as a Leading Center of the White Slave Trade of the World, Under Tammany Hall," *McClure's Magazine* (1909), 45.

[555] Turner, "Daughters of the Poor" 55.

raised to feel superior to Jewish women and entitled to their labor, Jewish "cadets" (procurers) did not feel guilty about selling these women into prostitution.[556] Stories of specific women did not substantiate these claims, and Turner refused to reveal any sources when questioned by the Grand Jury–likely because he did not have any.[557] The popular media's emphasis on the foreignness of many white slaves and their procurers reinforced an outsider status which had long justified vigilance interventions, such as the formal and informal community expulsions in the mid-nineteenth century.[558] In the media and by vigilance groups, calls for greater state interventions seldom acknowledged that policies to arrest and deport immigrant prostitutes already existed.

The media and sociological attention on daughters of immigrants also cast white slavery as a more pervasive import because these women were birthright citizens and not deportable or covered by existing immigration policies. In *House of Bondage*, Mary Denbigh's immigrant parents overwork and emotionally neglect her, making her more vulnerable to seduction–by a swarthy, heavily accented man who

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[556] Turner, "Daughters of the Poor" 55.

[557] Testimony of George Kibbe Turner, In the Matter of the Investigation as to the Alleged Existence in the City and County of New York of an Organized Traffic in Women for Immoral Purposes, file 58, RAC; also discussed in Soderlund, *Sex Trafficking, Scandal, and the Transformation of Journalism,* 154.

[558] William Novak, *The People's Welfare: Law and Regulation in Nineteenth-century America* (Chapel Hill, NC: University of North Carolina Press, 1996), 164; Kunal M. Parker, *Making Foreigners: Immigration and Citizenship Law in America, 1600-2000* (Cambridge: Cambridge University Press, 2015), 4.

claims to be the son of a Hungarian immigrant.[559] These characters portrayed immigrant parents as especially ignorant of white slavery, putting Mary at greater risk and preventing her own Americanization. Novel aside, daughters of immigrants were relatively more likely to work outside the home and had fewer job prospects, which more likely contributed to their rates of prostitution rather than coercion.[560] Thus, new legislation could not treat anti-white slavery laws as only the purview of immigration control and required a nimbler state apparatus.

Vigilance groups gained momentum by confronting white slavery through multiple fronts. While state and city-sponsored commissions offered influence over local changes, many considered federal intervention necessary to condemn white slavery. Thus, lawmakers quickly drafted and passed the White Slave Traffic Act (more popularly known as the Mann Act) in June 1910, mere months after the 1910 amendment to the 1907 Immigration Act expanded deportation powers over immigrant prostitutes. Not all reformers celebrated the Mann Act. When the Committee of Fourteen approached Rockefeller to support the bill, he expressed skepticism that the law would be truly enforceable.[561] Still leading the Grand Jury investigation, he already witnessed firsthand the barriers to prosecution, which kept

[559] Kauffman, *House of Bondage,* 12.

[560] Clement, *Love For Sale,* 79.

[561] Rockefeller to Arthur Farwell, President of the Chicago Law & Order League, June 7, 1910, file 57, RAC.

criminals from facing charges in what he considered clear-cut cases.[562] Rockefeller preferred to keep working locally for change and resisted pressure from other activists to step up as a national leader of the movement, even though his Bureau of Social Hygiene would subsequently make recommendations and share resources across multiple local campaigns.[563] Indeed, the Mann Act remained under-enforced in New York City, which reformers blamed on a narrow, outdated definition of white slavery which judges and Grand Juries applied to convict more stringently.[564] A law focused on interstate travel would inevitably not catch all white slavery, especially within urban centers. Yet the Mann Act's swift passage suggests that vigilance groups could effectively lobby the federal government, even if they could not agree on a perfect one-size-fits-all white slavery law.

Legislators crafted the 1910 Mann Act to extend anti-trafficking laws beyond existing legislation, which focused on international trafficking through immigration. James R. Mann (R-IL) collaborated with outspoken social hygienists Edwin Sims, US Attorney in Chicago, and Clifford Roe, attorney and author of the novel *Panders and*

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[562] Could talk about that English Red case Even Rockefeller's independent investigations following the Grand Jury faced similar barriers. Clifford Roe's investigation, sponsored by Rockefeller, seemed to produce a clear-cut case of exploitation by a man known as "English Red." Yet the grand jury called for the case failed to indict him, and the woman who testified against him, Anne Falcone, was murdered in a mysterious bombing soon after. Roe Report to Rockefeller, May 22, 1911, file 42, RAC.

[563] Rockefeller to Arthur Farwell, President of the Chicago Law & Order League, June 7, 1910, file 57, RAC.

[564] Langum, *Crossing Over the Line,* 60; McCoy, *Claiming Victims,* 206.

their White Slaves, to write the bill.[565] The Mann Act criminalized transporting a woman or girl across state lines for "prostitution, debauchery, or for any other immoral purpose," making it a law against procurement rather than prostitution itself. The law most often cast women as victims, not violators, unless they procured other women into the work.[566] Federal agents prosecuted women as procurers far more often than the law anticipated.[567] This diverged from immigration laws, which authorized the debarment or deportation of women practicing prostitution in the same laws which made procuring a woman for prostitution, forced or otherwise, a felony.

The Mann Act also extended the relationship between sexual policing and commerce regulation. Immigration laws previously regulated immigrant women as potential commerce through the precedent that immigrants' movements qualified as international relations. The Mann Act went much further by rendering all women,

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[565] Donovan, *White Slave Crusades,* 71; David Langum, *Crossing Over the Line: Legislating Morality and the Mann Act* (Chicago: University of Chicago Press, 2007) 40; Pliley, *Policing Sexuality*, 67. Langum speculated that Sims probably wrote the bill, though he did not publicly take credit. Mann claimed that Sims' original draft only dealt with immigration. Roe's relationship to white slavery is evident in his first of several novels on the subject. Clifford G. Roe, *Panders and Their White Slaves* (New York: Fleming H. Revell Company, 1910).

[566] McCoy, "Claiming Victims," 9.

[567] Jessica Pliley writes that lawmakers had likely not predicted how many women could be charged as procurers, because of false assumptions about women's victimhood and coercion into prostitution. Pliley, *Policing Sexuality,* 81. The widely followed Belle Moore case in New York City, concluded a month before the Mann Act's passage, provided a prime example of women's potential as procurers, and that many women they employed were not duped or ignorant of the work they entered into. Donovan, *White Slave Crusades,* 108.

immigrant and citizen alike, who traveled for immoral purposes as potential articles of commerce because their alleged procurers relied on interstate networks of communication and transportation.[568] Equating women with commercial items dehumanized them as people devoid of agency and perpetuated what Grace Peña Delgado identifies as "a faulty analogy between chattel slavery and white slavery as sexual slavery" drawn by many Progressive reformers and sensational authors.[569] Mann's assertion that forced prostitution ensnared white, native-born women generated broad, bipartisan support for applying the commerce clause to the movements of adult citizens.[570] *Hoke and Economides v. United States* (1913) and other Supreme Court cases which upheld the Mann Act continued the pattern of extrapolating broad precedents about state and federal authority from specific cases involving prostitution. Public concern over women's sexuality made swift, expansive state action more palatable, as courts determined which level of state should manage sexual indiscretions, not whether they should at all.

Despite these differences, Mann explicitly built the White Slave Traffic Act on existing immigration acts against prostitution and procurement. In his report to the Senate in late 1909, proposing the bill, a "history of the development of the law"

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[568] Delgado, "The Commerce (Clause) in Sex," 102.

[569] Delgado, "The Commerce (Clause) in Sex," 98.

[570] The Supreme Court supported this application of the commerce clause in Hoke and Economides v. United States (1913). Connelly, *The Response to Prostitution,* 129; Langum, *Crossing Over the Line,* 62. The decision in Hoke emphasized that travel was not a right, except when exercised morally.

provided a genealogy of federal sexual policing from the 1875 Page Act to the 1907 Immigration Act.[571] Mann adopted certain language from these laws into his own, most notably the "or other immoral purpose" clause which first appeared in the Immigration Act of 1907 to catch those immigrating as concubines or mistresses.[572] Like the Immigration Act of 1907, the law attempted to cast a wide net over those procuring, harboring, or profiting from the sexual labor of women. And like immigration laws, the Mann Act focused on moments of transit, across both interstate and international borders. Gary Gerstle interprets the Mann Act's focus on interstate travel as surrogacy, a workaround for federal powers to criminalize some prostitution without interfering with state police powers.[573] Indeed, the law's detractors raised the potential infringement on police powers, prompting Mann to compare his effort to limit interstate trafficking of women to federal laws against the interstate transfer of

[571] Committee on Interstate and Foreign Commerce, Report on White Slave Traffic, H.R. Rep. No. 47, at 5-9 (1909). [CMS 775] Mann devoted particular attention to the decision in Keller v. US, which limited the 1907 act's authority over those who harbored immigrant women after their immigration but played no part in their migration and endeavored to craft a law that would more resoundingly condemn all those who profited off women's prostitution.

[572] Marlene D. Beckman, "The White Slave Traffic Act: The Historical Impact of a Criminal Law Policy on Women," The Georgetown Law Journal 72 (1984), 1114. In 1913, the Supreme Court ruled in Athanasaw and Sampson v. United States (1913) that "debauchery" mentioned in the act included actions that could lead to sex, not only the act of intercourse itself. Connelly, *The Response to Prostitution,* 129.

[573] Gary Gerstle, *Liberty and Coercion: The Paradox of American Government from the Founding to the Present* (Princeton, NJ: Princeton University Press, 2015), 101.

lottery tickets.[574] Vigilance-minded collaborators like Sims and Roe encouraged such appropriation of federal power to enforce moral behaviors.

Beyond legal convenience, the Mann Act's focus on state boundaries illuminates the relationship lawmakers perceived between white slavery and mobility. Government reports argued that prostitutes and their procurers frequently traveled and would make themselves most visible through this transit, even across state lines which were much less closely regulated than international borders.[575] Books like *House of Bondage* perpetuated the image of young women procured from rural areas, like Denbigh's quaint Pennsylvania town, into urban centers like New York City.[576] In reality, local sweeps and periodic reforms increased the mobility of sex commerce, as brothel owners and prostitutes moved to avoid arrest. The Mann Act offered a federal response to that transience, applying a nation-wide law to supplement inconsistent state and municipal-led campaigns which policed only prostitution, white slavery, or both and usually for a short time. Mann insisted his act addressed white slavery only, therefore not infringing on police powers. Indeed, the law offered few options to address prostitution or white slavery cases that did not cross a state or

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[574] "Report on White Slave Traffic," 4; Pliley, *Policing Sexuality,* 68.

[575] United States Immigration Commission (1907-1910), "Importing Women for Immoral Purposes: A Partial Report From the Immigration Commission on the Importing and Harboring of Women for Immoral Purposes," Document No. 136, 61st Congress, *2nd session,* (Washington, DC: Government Printing Office, 1909). Braun's reports to the Commissioner-General of Immigration also circulated Congress at this time. Pliley, *Policing Sexuality,* 45.

[576] Kauffman, *House of Bondage,* 2.

national boundary. That meant procurers could still operate within cities like New York without tipping off federal agents. But even though the law specified white slaves rather than all prostitutes, officials could apply the law to consenting professional prostitutes who traveled between states with any companion, now construed as their procurer.[577] Criminalizing interstate movement, rather than a particular sexual act or relationship, made it easier for agents to procure concrete evidence for their charges; train tickets were easier to present in court than proving alleged sexual acts. Punishing sex commerce through transit also followed the traditional pattern of treating sexual immorality as a crime of status rather than linked to a literal behavior.[578] Thus, the Mann Act remained conceptually in-sync with immigration laws and state morals policing.

Even though most of the Mann Act did not specifically address immigrants, they remained at the discursive and political center of federal white slavery policing. More state surveillance increased immigrants' chances of being caught and subsequently turned over to immigration officials for deportation. Section 6 of the act went further, requiring brothel operators to report the name, age, and nationality of any immigrant women they employed to aid in the Commissioner of Immigration's

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[577] The "immoral purpose" clause also applied to unmarried couples who traveled across state lines even in noncommercial contexts, far from Mann and Congress' original intent. Langum, *Crossing Over the Line,* 46. Some critics in Congress wanted the Mann Act to be more punitive toward women, so that prostitutes faced consequences when they were willing participants in prostitution. Pliley, *Policing Sexuality,* 74.

[578] McCoy, "Claiming Victims," 189.

surveillance of these women's "debauchery."[579] This section of the act failed woefully, with only one brothel keeper consistently complying in the first few years of the law.[580] Surveillance and reporting against immigrant prostitutes, whether they fit a white slave archetype, continued in other ways.

While the Mann Act offered a way to prevent non-immigrant women from entering prostitution, immigration officials had other ideas on how to increase the effectiveness of their anti-prostitution policies. Before the Mann Act reached its last stages, Congress amended the Immigration Act of 1907 in March 1910, following the Bureau of Immigration's request and input from the Dillingham Commission.[581] The 1907 act allowed for women's deportation if they were found working as a prostitute within three years of entry to the United States. The amendment removed the three-year limit, meaning that a woman found working as a prostitute at any point after entering the country in March 1910 would be deported.[582] The amendment implied that the lackluster results of the 1907 Act against immigrant prostitution warranted

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[579] Section 6, *The White Slave Traffic Act: an Act to Further Regulate Interstate Commerce and Foreign Commerce by Prohibiting the Transportation Therein for Immoral Purposes of Women and Girls, and for Other Purposes* (also known as the Mann Act), 36, Stat. 825 (1910).

[580] Delgado, "The Commerce (Clause) in Sex," 104; Langum, *Crossing Over the Line*, 45. One concern for operators is that while they were promised amnesty from federal laws, nothing stopped federal agents from passing on their information to state authorities who could surveil or prosecute under different laws.

[581] Pliley, *Policing Sexuality,* 75.

[582] *An Act to amend an Act entitled "An Act to Regulate the Immigration of Aliens into the United States*," 61st Cong., 2nd Sess, H.R. 15816 (1910).

more state action, rather than less. This reinforces that pattern identified by Gunther Peck, that, "for immigration bureaucrats, efforts to stamp out the white slave traffic led to policy failure, policy revision, and bureaucratic expansion simultaneously."[583] The law's continued investment in deportation, especially for post-entry infractions, stood in stark contrast to the assumptions of the Mann Act. Whereas the Mann Act constructed most women as victims of sexual commerce, immigration laws considered most immigrant prostitutes to be complicit in their own degradation, if not eager participants. This made them undesirable members of American society and therefore deportable, rather than pitiable white slaves, in need of rehabilitation.

With the passage of the Mann Act, the two laws operated in tandem to shape the deportation regime against immigrant men and women for various forms of sexual debauchery. As Jessica Pliley describes, "Now, any sex trafficker crossing colonial, territorial, state, or national boundaries with his or her 'wares' faced significant legal obstacles. This was a full-fledged national war on visible prostitution, and the White Slave Traffic Act formed the federal front of that war–a front that was manned by the special agents of the young Bureau of Investigation."[584] When President Roosevelt formed the Bureau of Investigation (later FBI), soon after assigned to carry out the mandate of the White Slave Traffic Act, these new agents joined immigration

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[583] Gunther Peck, "Feminizing White Slavery in the United States: Marcus Braun and the Transnational Traffic in White Bodies, 1890-1910" in *Workers Across the Americas: The Transnational Turn in Labor History*, ed. Leon Fink (Oxford University Press, 2011), 225.
[584] Pliley, *Policing Sexuality,* 75.

officials with years of investigative experience.[585] This experience also tempered the optimism of immigration officials about combatting prostitution. Secretary of the Bureau of Immigration Charles Nagel wrote to the president that the Mann Act was impractical, but in many respects "so desirable and salutary a character that it would be inappropriate to criticise them."[586] Nagel's comment signals what immigration agents had learned from years of deportation-heavy sexual policing: that legalizing sexual policing did not make it a straightforward task, even with the combined power of two federal agencies.

The overlapping mandates of the Mann Act and 1910 Immigration Act expanded federal authority, but also complicated questions of jurisdiction which had already plagued the Bureau of Immigration in recent years. The two laws did not clearly delineate the division of duties between the Bureau of Immigration and the Bureau of Investigation, or the degree to which one agency should enforce the laws of the other. As a result, immigration officials questioned how the Mann Act should change their daily operations. Inspectors received clarifying instructions in fall of 1910 that sections 1-5 of the White Slave Traffic Act applied to both immigrant and citizen women, and that immigration officials should hand over any relevant information on citizen violators to the Department of Justice, who would similarly

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[585] Langum, *Crossing Over the Line,* 49.

[586] Nagel to President Roosevelt, June 25, 1910; *Prostitution Immigrant Investigations Senate*, 52809/7-A, Accession #001742-006-0473, Series A: Subject Correspondence Files, Part 5: Prostitution and White Slavery, 1902-1933, RG 85, NARA-DC [hereafter PWSII Senate].

pass on cases of immigrant prostitutes or procurers.[587] However, even this did not fully clarify expectations, as inspectors continued to inquire about the degree to which they were expected to collect evidence against non-immigrant suspects before passing on the case.[588] An inspector based in Pittsburgh asked if he would be reimbursed for expenses incurred by investigating cases that ended up with the Department of Justice instead of the Bureau of Immigration. The Bureau of Investigation had previously invited him to assist in an investigation in Ohio, which he had declined because he did not have time.[589] Many officials shared the question of how much time and resources to devote to shared policing, and raised the perennial concern that the Bureau of Immigration did not receive the allocation of staff and funding necessary to carry out these laws to the extent the crisis demanded and the law provisioned.[590] Responses encouraged officials to use their own discretion to aid investigations when they had the means, but to not feel legally required to do the

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[587] Memo to all Immigration Inspectors, November 23, 1910, *White slavery instructions and enforcement*, 52809/7-B, Accession #001742-006-0561, Series A: Subject Correspondence Files, Part 5: Prostitution and White Slavery, 1902-1933, RG 85, NARA-DC [hereafter PWSII IE] A similar circular generated from the Department of Justice two weeks prior.

[588] Larned to Supervising Inspector, El Paso, November 10, 1910, 52809/7-B, PWSII IE.

[589] Inspector (name illegible) to Commissioner of Immigration, Philadelphia, November 2, 1910, 52809/7-B, PWSII IE.

[590] The FBI faced similar challenges with inconsistent funding to carry out their mandate, as federal interests shifted between white slavery and other causes like antitrust laws. Funding increased more consistently after the American Vigilance Association and other activist groups mounted a letter writing campaign to the Attorney General. Langum, *Crossing the Line,* 52, 55.

bidding of the Department of Justice.[591] These instructions set few boundaries on officials' authority, even as memos discouraged taking "affirmative action" to seek suspects.[592]

While the latest amendment extended deportation authority, immigration officials moved cautiously at first. Aware of how decisions like *Keller v. US* (1909) stymied their previous efforts to deport procurers, officials corresponded with one another in search of the right test case to affirm their new powers.[593] The most pressing question was whether the law would apply retroactively to women already in the country before 1907, since the 1910 act amended the Immigration Act of 1907. If courts agreed with this interpretation, basically any immigrant woman arrested for prostitution could be deported. But as of August 1910, Commissioner-General Daniel Keefe explained to an inspector that their power was not only limited pending favorable court decisions; the Department of Commerce and Labor also found it financially unrealistic to pursue the great number of immigrant prostitutes who had lived in the United States for over three years.[594] When the Oakland chief of police tried to partner with immigration officials in a sweep of the city, Keefe instructed the San Francisco Commissioner of Immigration that the law should not be used for

[591] Larned to Supervising Inspector, El Paso, November 10, 1910, 52809/7-B, PWSII IE.

[592] Charles Earl to Secretary of Commerce and Labor, November 29, 1910, 52809/7-B, PWSII IE.

[593] Acting Inspector Mansfield to Commissioner-General of Immigration, October 10, 1912, 53019/45-K, Entry 9, NARA-DC.

[594] Keefe to Inspector in Charge, Denver CO, August 5, 1910, 53019/45, Entry 9, NARA-DC.

"drag-net proceedings," although individual women could be deported if brought to immigration officials by police.[595] By the close of 1910, judges in regional courts, including Baltimore, Chicago, western Washington, and the Southern district of New York, upheld the deportations of various women who had landed in the United States prior to the 1907 act.[596] Yet these regional cases, some without a formal written decision to explain their legal grounding, did not fully embolden immigration inspectors. A circular sent on March 24, 1911, again discouraged officials from deporting those who could verify a landing over three years prior, because of the demand on state resources, including the costs of litigation as many women appealed.[597] Already the state's enthusiasm for broader jurisdiction outpaced its ability, or willingness, to fund the ambitious moral clean-up activists hoped for.

A strong test case appeared in August 1910, through which the Supreme Court clarified prostitute deportation. Denver's Inspector-in-charge Louis Adams, eager to use the new law despite Keefe's precautions, arrested fourteen immigrant women one

[595] Keefe to Commissioner of Immigration for San Francisco, Aug 6, 1910, 52809/7-A, PWSII Senate.

[596] Ben Cable, acting secretary to Attorney-General, November 4, 1910, file 53019/45-K, Entry 9, NARA-DC.

[597] "Method of Applying Immigration Laws Relating to 'White Slaves'" Circular, March 24, 1911, *White Slavery Memos, Correspondence, Laws, Regulation; Prostitution and White Slavery Immigration Investigations*, file 52809/7-D, Accession #001742-006-0835, Series A: Subject Correspondence Files, Part 5: Prostitution and White Slavery, 1902-1933, RG 85, NARA-DC. The circular specified that all procurers should be deported, regardless of their length of residency.

night and applied for warrants to deport seven of them. Three women, Anna Goldstein [alias Helena Bugajewitz], Lilly Weiner, and Anna Schwartz, filed habeas corpus petitions to appeal their imprisonment.[598] The district judge upheld their deportation, citing *Fong Yue Ting* (1893) and the government's right to expel immigrants who violate the moral expectations established by immigration laws.[599] Their appeal, led by Helena Bugajewitz, became the Supreme Court case *Bugajewitz v. Adams* (1913). Immigration officials requested that the case be heard at the earliest date, because so many other cases hinged on the decision.[600] Even with such chief interest, the decision did not come until May 12th, 1913, nearly three years after Helena Bugajewitz's Denver arrest.

The decision in *Bugajewitz v. Adams* (1913) reaffirmed deportation as a tool of state by emphasizing its utility for removing unwanted residents rather than the impact of removal on immigrants themselves or their sense of due process. Bugajewitz's legal counsel argued that deportation for prostitution was a punishment

[598] Keefe to US Attorney Sims, Nov 3, 1910; Acting Inspector Mansfield to Keefe, Oct 25, 1910, 53019/45-K, Entry 9, NARA-DC.

[599] Thomas Ward Jr, US Attorney for District of CO to Inspector Louis Adams, Oct 29, 1910, 53019/45, Entry 9, NARA-DC. The judge declined to write out a full decision, preventing a clear precedent.

[600] Ben Cable, acting secretary to Attorney-General, November 4, 1910, file 53019/45, Entry 9, NARA-DC.

and therefore deserved a criminal trial to determine her guilt.[601] In the decision, Justice Holmes wrote in response,

> "It is thoroughly established that Congress has the power to order the deportation of aliens whose presence in the country it deems hurtful. The determination of facts that might constitute a crime under local law is not a conviction of crime, nor is the deportation a punishment; it is simply a refusal by the government to harbor persons whom it does not want."[602]

By emphasizing that deportation was not a criminal punishment, the court defended federal sexual policing as not infringing on state police powers over prostitution laws.[603] The assertion of deportation as removal for the benefit of the nation drew attention away from the women most affected by the policy and back onto U.S. sovereignty over immigrants. To treat deportation as removal, without the need to charge the immigrant with a crime, preserved administrative discretion and a much lower requirement of evidence in order to deport. It rendered immigrant status more

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[601] Daniel Kanstroom, *Deportation Nation: Outsiders in American History* (Cambridge: Harvard University Press, 2010), 126; The brief submitted by the U.S. to the Supreme Court called Bugajewitz attorney "flippant" for not properly considering the long line of cases which established full Congressional authority over deportation. Brief, October Term, 1912, 53019/45-K, Entry 9, NARA-DC.

[602] Bugajewitz v. Adams, 228 U.S. 585 (1913), hereafter Bugajewitz, 228 U.S. For more on Holmes' reasoning, see Siegfried Hesse, "The Constitutional Status of the Lawfully Admitted Permanent Resident Alien: the Pre-1917 Cases," *Yale Law Journal* 68 no. 8 (July 1959), 1607.

[603] From the decision: "The coincidence of the local penal law with the policy of congress is an accident." Bugajewitz, 228 U.S.

vulnerable to the whims of the state than a citizen or even criminal status. This also reinforced the Bureau of Immigration's flexibility in interpreting intent at entry. The *Bugajewitz* decision did not take a firm stance on the importance of intent, because they found it adequate that, "she [Bugajewitz] is a prostitute now."[604] This ambiguity allowed officials to continue to deport at their discretion with or without claiming intent at entry, making the 1910 Immigration Act the first true post-entry social control deportation law since the 1789 Alien Friends Act, according to Daniel Kanstroom.[605] This meant that immigrant women could never fully escape the threat of deportation, even for moral infractions committed years into their residency.

Helena Bugajewitz's case also revealed some realities of immigrant prostitution which contradicted the popular narratives of white slavery. Under questioning by immigration officials after her arrest in August 1910, Bugajewitz described moving from Russia to London, then coming to the United States and working as a domestic and in a garment factory making neckties.[606] Bugajewitz signed legal documents by mark rather than signature, suggesting she was illiterate and further limited her employment options. But Bugajewitz was not trafficked; she

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[604] Bugajewitz, 228 U.S. Daniel Kanstroom interprets this section of the decision as a missed opportunity for a "definitive turning point in U.S. deportation law" regarding social control. Daniel Kanstroom, "Deportation, Social Control, and Punishment: Some Thoughts about Why Hard Laws make Bad Cases," *Harvard Law Review* 113 no 8 (June 2000), 1911 n 129.

[605] Kanstroom, *Deportation Nation,* 126.

[606] Hearing of Chane Goldstein, alias Anna Goldstein [alias Helena Bugajewitz], August 10, 1910, 53019/45-K, Entry 9, NARA-DC.

immigrated alone and entered prostitution after another woman told her it would pay better than her other jobs. As Progressive studies would find again and again, familial upheaval likely contributed to Bugajewitz's staying in the work: her brothers stopped speaking to her after she joined the "sporting life," except to report that her parents were dead. Bugajewitz pleaded in vain with officials for a chance to "quit the business and be decent now" rather than be sent back to Russia.[607]

Bugajewitz's story also aligns with the depictions of immigrant prostitutes in Kauffman's *House of Bondage,* trapped in the work by a lack of economic opportunities or social safety net rather than by menacing pimps. That the Bureau of Immigration would use Bugajewitz's case as a standard to justify their deportation practices shows the degree to which the Immigration Act of 1907 sought to control prostitution rather than white slavery, and targeted individual women in the trade rather than the procurers and vice industry leaders that reformers wanted to prioritize.[608] But Helena Bugajewitz's story also resonated with common patterns of immigrant prostitution in another way: in the archival record she and the two other women attached to her appeal successfully evaded their deportation. Early in their

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[607] Hearing of Chane Goldstein, alias Anna Goldstein [alias Helena Bugajewitz], August 10, 1910, 53019/45-K, Entry 9, NARA-DC.; On potential impact of familial loss, see Bowler, et. al, "Domestication as Reform at the New York State Reformatory for Women at Bedford," 462.

[608] W.R. Harr, Assistant Attorney General to Secretary of Labor, May 24, 1913, 53019/45-A, Entry 9, NARA-DC. The Department of Justice named at least 5 pending cases that could immediately be dropped or decided based on the ruling in Bugajewitz.

habeas corpus cases, Bugajewitz, Lilly Weiner, and Anna Schwartz each paid a steep $1500 bail. By the time the Supreme Court decided their case three years later, the bondsmen told officials they could not locate the women. Two years later they had still not been found, prompting officials to cancel their warrants of arrest and deportation.[609] Considering the women's multiple aliases and Bugajewitz's history of migrating as a prostitute, it is likely that they successfully built new identities to stay in the United States. With the Bureau of Immigration's decreasing enthusiasm to find and deport long-time residents, the women were more likely to avoid deportation the longer they avoided arrest. Even as *Bugajewitz v. Adams* (1913) became a decisive moment for deportation policy, in life Bugajewitz challenged the supposed power of immigration officials who failed to detain her.

By 1913, immigration officials regularly wielded their authority to deport prostitutes far beyond white slavery cases. Records of lengthy and contentious hearings suggest the incredible discretionary power still used to deport regardless of flawed evidence. In Margaret Chowoski's case, her limited knowledge of English further complicated the claims against her. A police officer alleged she solicited him even though the examining inspector questioned whether she could have said the phrase in English.[610] The officer then claimed that she beckoned him with her

[609] Louis Post to Denver Inspector in Charge, July 13, 1915, No. 53019/45-K-M-N, Entry 9, NARA-DC.

[610] Testimony of Police Officer Patrick Fitzgibbons, February 1, 1913, case of Margaret Chowoski, 53575/60, Folder 53575/57-61, Entry 9, NARA-DC.

hand.[611] Chowoski said she was simply confused during the alleged exchange and offered to undergo a physical examination to demonstrate her chastity.[612] The cased turned on evidence from Sadie Kaufman, a prostitute currently incarcerated at the Magdalen Home for violating probation after many arrests for prostitution. She claimed to know Helen Stutgat, Chowoski's half-sister, and thought it likely that Sturgat recently brought Chowoski into the business. Kaufman confirmed under oath that she understood her testimony could cause Stutgat's deportation, and stood by it.[613] But even Stutgat's role in the exact night in question seemed unclear, as she currently boarded with an older woman who claimed she had been sick and "hemorrhaging," and possibly menstruating the night before the arrest, making it unlikely that she would solicit sex.[614] Although it seemed Chowoski had not knowingly solicited, or had only just tried for the first time, officials deported her and

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[611] Testimony of Police Officer Patrick Fitzgibbons, 53575/60, Entry 9, NARA-DC.

[612] Chowoski: "I am a hard-working girl, always earning my own living. What do I want the men for?"

Examiner: "Are you willing to be examined by the physician at Ellis Island to show whether you are a good girl. [sic]"

Chowoski: "Yes, I don't care; I am willing to be examined."

Testimony of Margaret Chowoski, February 1, 1913, 53575/60, Entry 9, NARA-DC.

[613] Testimony of Sadie Kaufman (Morris), February 1, 1913, 53575/60, Entry 9, NARA-DC. Kaufman's testimony takes up 15 pages–much more than any other witness–though her motivations for speaking out against Helen Stutgat are unclear. She spends much of her time on the stand emphasizing her own unfair conviction and incarceration at the Magdalen House.

[614] Testimony of Mrs. Chambers, February 1, 1913, 53575/60, Entry 9, NARA-DC.

her sister, arguing that they should have been excluded as LPC.[615] Comments about LPC status often supplemented the formal charge of prostitution, suggesting a continued perception that prostitutes only worked out of desperate poverty–even when women like Helen Stutgat discussed the higher pay and flexibility of prostitution than other jobs for women, and possibly encouraged Chowoski to follow in her footsteps. Although in this case the women clearly entered prostitution after entering the United States, rather than entering with the intent to prostitute, under the 1910 act, intent became irrelevant. Even if Chowoski's supposed hand gesture was her first step toward exchanging sex for money, she paid the steep price of deportation.

Immigration officials also sought to deport those embroiled in cases of sexual impropriety even beyond streetwalking. Though the Immigration Act of 1907 first introduced "any other immoral purpose" as a cause for deportation, the Mann Act's adoption of the term further encouraged its use within immigration law. Just as with the Mann Act, immoral purpose cases often embroiled state officials in personal dramas and reports made by neighbors, family members or spurned lovers.[616] The growing public awareness of white slavery generated by vigilance groups likely emboldened landlords, employers, and neighbors to testify more openly to sexual impropriety they observed in their community–likely when someone's "immoral

[615] Acting Commissioner Kuhl to Commissioner-General of Immigration, March 3, 1913, 53575/60, Entry 9, NARA-DC.

[616] McCoy, "Claiming Victims," 22; Pliley, *Policing Sexuality,* 118.

purpose" inconvenienced them, rather to enforce respectability.[617] Such cases reported to federal officials took much less investigation and fewer state resources, although they less often affected the alleged industry of white slavery.[618] While Mann Act charges prosecuted men for trafficking whether the relationship was consensual, the immigration act allowed for the deportation of all parties involved in the "immoral purpose."[619] The wide breadth of sexual indiscretions which could be punished with deportation communicated strict standards to immigrants and removed those who did not conform.

Such was the case for Jan Dora and Juzeffa Derusz. After arriving in the United States, Derusz opened a boarding house but soon gained a reputation among her neighbors for having sex with her boarders and becoming pregnant.[620] Among her partners was Jan Gora, a childhood friend from the "old country" (Russia) also living in Lackawanna, New York, outside Buffalo.[621] When officials pressed Derusz on the morality of having sex with a man while claiming to be a friend of his wife, Derusz

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[617] Clement, *Love For Sale,* 104.

[618] Langum, *Crossing Over the Line,* 14; McCoy, "Claiming Victims," 5; Pliley, *Policing Sexuality,* 111. The growing focus on noncommercial cases also served as a racialized weapon to enforce miscegenation laws, such as in the famous conviction of boxer Jack Johnson for traveling with his white wife. Pliley, *Policing Sexuality,* 102.

[619] McCoy, "Claiming Victims," 4.

[620] Inspector in Charge, Buffalo New York to US Commissioner of Immigration, Montreal, Canada, March 19, 1912, folder 53423/186-193, Entry 9, NARA-DC.

[621] Hearing in the Case of Jan Gora, April 12, 1912, folder 53423/186-193, Entry 9, NARA-DC. Gora called his wife and Derusz "chums" in his hearing.

seemed unbothered: "That's nothing, I was pregnant anyway, I don't see anything wrong with that."[622] After local police arrested the couple under vagrancy and adultery charges, Derusz's case for deportation as a prostitute appeared straightforward. However, when a grand jury did not indict her lover, Jan Gora for adultery, immigration officials sought further evidence to substantiate their beliefs that he could not maintain employment and spent his money on prostitution and alcohol rather than supporting his wife and children still in Russia.[623] With testimony from his landlord and other neighbors, officials deported Gora in Spring of 1912 as LPC, then deported Durusz and her American-born child shortly after.[624] Immoral purpose hinged on the ways to two immigrants flouted marital conventions and work ethic, seemingly with little remorse, rather than on Derusz's potential commercial prostitution. The Supreme Court would later uphold such broad applications of immoral purpose in *Caminetti v. United States* (1917), arguing that the term immoral purpose did not specify a commercial aspect, regardless of Congress' unwritten intent when crafting the Mann Act.[625]

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[622] Hearing of Juzeffa Derusz, April 12, 1912, folder 53423/186-193, Entry 9, NARA-DC.

[623] Warrant for Deportation, Jan Gora (Gura), March 29, 1912, folder 53423/186-193, Entry 9, NARA-DC.

[624] When asked if Jan Gora still visited Derusz, Malgursta Lonc (who boarded him after his adultery arrest) said, "Yes, very often it seems that even if he wants to go to the toilet he wants to go to her house. She seems to draw him to her." Hearing in the Case of Jan Gora, April 12, 1912, folder 53423/186-193, Entry 9, NARA-DC.

[625] The Caminetti case brought a new level of legal and public attention to the law, in part because it involved the travel of unwed couples from elite families. The accused, Farley

A 1912 white slavery case involving four Chinese women used LPC in yet another way: to return trafficked women to their country of origin. The four women, Lor Dai Moy, Lum Dai Yow, Fan Ngan Ying, and Loy Muey, were found as stowaways aboard the steamer Nippon Maru, hidden in the coal room and dressed in men's clothing.[626] Two testified to a harrowing experience of traveling from their small village to a theater performance in Canton, only to be drugged by Leung Moon and brought aboard.[627] The other two admitted to working as prostitutes in Canton, where work slowed as the municipal government cracked down on prostitution, though they had not consented to traveling to the United States with Moon.[628] All four women asked to be sent back to their parents in China and accepted deportation. Officials categorized them as likely to become a public charge (LPC) rather than immigrating for prostitution.[629] Their case fits the tabloid depiction of white slavery:

Drew Caminetti, was the son of recently appointed Commissioner of Immigration Anthony Caminetti. This potential conflict of interest likely increased the push to prosecute to the fullest extent of the law. Langum, *Crossing Over the Line,* 99.

[626] Presentment of Grand Jury in the case of Leung Moon and Chin Chan (alias Chan Cheun), Case 5184, Box 401, Admiralty Case Files 1851-1934, U.S. District Court Northern District of California, RG 21, NARA San Bruno [hereafter Case 5184, NARA-SB]. On the disguise of men's clothing: Testimony of Lor Dai Moy; Testimony of Fan Ngan Ying, Immigration Service Hearing, November 26, 1912, Case 5184, NARA-SB.

[627] Lor Dai Moy, Case 5184, NARA-SB.

[628] Testimony of Lum Dai Yow, Immigration Service Hearing, November 30, 1912, Case 5184, NARA-SB.

[629] On the relationship between prostitution and deportation as LPC, see chapter 3 of this dissertation as well as Martha Gardner, *The Qualities of a Citizen: Women, Immigration, and Citizenship, 1870-1965* (Princeton, Princeton University Press, 2009), 91; Diedre Moloney,

young women drugged and abducted while innocently attending the theater. Yet the state response, to imprison their trafficker and deport the women home, did not offer these immigrant women a very safe resolution.[630] Deportation back to China without an escort or contact with their families made it more difficult to be reunited. Deportation as LPC may have saved them from social stigma of forced prostitution, but deportation of any kind would prevent any future attempts to enter the United States legally.

Most trafficking cases were not as swiftly caught and punished as Leung Moon's; the 1910 amendment extended the window of time and resources necessary to deport after complicated pursuits. The state recommended this only in "exceptional cases," lacking the resources or desire to seek every long-term resident working as a prostitute. The Jayet case became one such exceptional case. When Louis Jayet and his female companions Marie Jayet and Euphrasie Petit arrived at Ellis Island in 1907, inspectors detained them on suspicion that they intended to meet friends in New York City's red-light district, but eventually released them. Two years later, immigration officials attempted to locate them after a new tip about their clandestine operations but were still looking for the trio in 1912. Officials eventually located Louis Jayet, alias John Jayet, alias Louis Napoleon, and pieced together his story

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National Insecurities: Immigrants and U.S. Immigration Policy since 1882, (Durham: University of North Carolina Press, 2012), 32.

[630] Leung Moon appealed his conviction in April of 1913 but was most likely unsuccessful, considering the amount of testimony and evidence against him. Bond on Appeal, April 10, 1910, Case 5184, NARA-SB.

from various sources. Officials in South Africa provided photographs and reports of his earliest criminal record, while a local humane society worker testified to Jayet's more recent dog-fighting operation.[631] Yet even with extensive questioning, Jayet did not reveal the whereabouts of Marie and Euphrasie. He agreed to not resist deportation back to France if given two weeks to arrange his affairs. Yet officials showed disappointment at this resolution, as they had hoped to deport the three together; instead, in March 1913, San Francisco Commissioner Backus requested Larned cancel the women's warrants because they had no further leads to investigate and suspected that the women had already returned to France.[632] If this had been the case, Jayet had either been truthful about his ignorance of their whereabouts, or he could have revealed this information to end the investigation because the end goal had been fulfilled. Officials' authority to deport remained only as useful as their capacity to find their suspects. The successful evasions by Marie and Euphrasie, as with Bugajewitz and her companions, shed light on why officials like Hart Hyatt North, Backus' predecessor, proposed denying bail to all detained immigrant prostitutes.[633] Yet North's vision of further limiting the rights of alleged prostitutes

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[631] A.J. Knopf, Superintendent of Pacific Humane Society, to John Robinson, Angel Island Immigration Station, January 25, 1913, 51777/38, Entry 9, NARA-DC.

[632] Backus to Larned, March 26, 1913, 51777/38, Entry 9, NARA-DC.

[633] North to Commissioner-General, April 27, 1910, *House of Representatives, Prostitution and White Slavery Immigration Investigations*, file 52809/7, Accession # 001742-006-0345, Series A: Subject Correspondence Files, Part 5: Prostitution and White Slavery, 1902-1933, R.G. 85, NARA-DC [hereafter PWSII HR].

did not come to pass, likely because more incarceration would have further increased state costs without addressing the many women like Marie Jayet and Euphrasie Petit that evaded arrest altogether.

The Jayet case foreshadowed a shift in administrative discretion toward more selective enforcement of the Immigration Act. After steamship companies resisted shouldering the cost of increased deportations for prostitution, courts determined a compromise: women who entered after March 26, 1910 would be deported at the steamship's expense, based on the assumption that the steamship company should have vetted its passengers' moral character more closely, while the cost of passage for women who entered before the 1910 amendment were charged under the Bureau of Immigration's "expenses of regulating immigration."[634] In a memo for the Commissioner-General of Immigration on February 17, 1914, the Secretary of Commerce and Labor wrote that to conserve expenses to the agency, immigrant women who entered the U.S. before 1910 should only face deportation after going through domestic courts and facing other legal consequences for prostitution.[635] The memo emphasized officials focus on only the most "flagrant" cases of long-residing prostitutes, a recommendation which regularly appeared after 1914. As happened

[634] Memo for the Commissioner-General of Immigration, February 17, 1914, *White Slavery Memos, Correspondence, Laws, Regulation; Prostitution and White Slavery Immigration Investigations*, file 52809/7-F, Accession # 001742-007-0001, Series A: Subject Correspondence Files, Part 5: Prostitution and White Slavery, 1902-1933, RG 85, NARA-DC [hereafter PWSII MCLR].

[635] Memo, February 17, 1914, 52809/7-F, PWSII MCLR.

often in the policing of prostitution, the legal power to punish women for sex outpaced the willingness to fund such punishment on a large, systematic scale. Part of the cruelty of deportation for sex-related crimes came from its arbitrary selectiveness, while prostitution remained commonplace in the United States.

As officials wrote to the commissioner clarifying the new recommendation, three exceptions to the rule emerged. First, inspectors in Montreal and El Paso were instructed to continue to deport as much as possible along land borders regardless of a woman's date of entry, because the cost of "arresting and deporting these people is nominal and can be met without serious embarrassment to the other interests of the service."[636] Thus immigration officials could continue more deportation "sweeps," especially helpful in El Paso where immigration officials accused local courts of leniency toward arrested prostitutes.[637] In 1915, Commissioner-General Larned also responded to an inquiry from the inspector in charge of Los Angeles concerning the growing "traffic in boys and men." Larned clarified that although anti-prostitution laws used the phrase "women and girls," they could be interpreted more inclusively as "aliens" involved in prostitution and argued that cases of male prostitution and

[636] Acting secretary to Supervising inspector of El Paso, March 6, 1914, 52809/7-F, PWSII MCLR.

[637] A summary of this claim in letter from acting secretary to Mr. Parker, Dec 9, 1914, explained: "Departmental letter of April 27th, 1914, to El Paso office, stating that system, prevailing in many towns and cities of the west, of arrest prostitutes, accepting bond for their appearance, and then not compelling them to appear, does not constitute a conviction." 52809/7-F, PWSII MCLR.

immoral purpose should be dealt with especially swiftly to stop the spread of European depravity (his euphemism for homosexuality).[638]

Officials also adjusted their enforcement of the policy based on the war developing in Europe. In 1914, special inspector A. Warner Parker suggested that as deportations to Europe stalled, immigration officials could devote more of their energy to Chinese and Japanese prostitutes and procurers, and likely find others to deport for violating Chinese Exclusion laws along the way.[639] Thus, the urgency to deport came not only from the time spent in the United States, or the expense to the government, but from the rejection of Asian immigrants based on race, especially those associated with sex commerce. Parker warned that the policy would have to be carried out discreetly to avoid being recognized as "raids," but believed that such a project would "benefit… [the Immigration] Service and the country." These adjustments to enforcement show that immigration laws against prostitution did not prioritize preventing exploitation from white slavery, or even meting out punishment based solely on sexual wrongs. Over time, the law served more flexibly to augment other goals of the Bureau of Immigration: to deport expeditiously poor, undesirable, and non-white immigrants. The deportation practices first exercised on prostitutes and

[638] Larned to Inspector In Charge, LA, February 6, 1915, 52809/7, PWSII HR.

[639] Parker to Commissioner-General, August 7, 1914, 52809/7-F, PWSII MCLR.

procurers laid the foundation for further deportation for post-entry infractions written into the Immigration Act of 1917 and beyond.[640]

The Bureau of Immigration's focus on deporting prostitutes drew the criticism of some white slavery activists, especially women, who believed officials unfairly prioritized deporting immigrant women over more elusive procurers. In the book, *A New Conscience and an Ancient Evil,* Jane Addams blamed much of immigrant white slavery on the poor opportunities available to women. She wrote, "certainly the immigration laws might do better than to send a girl back to her parents, diseased and disgraced because America has failed to safeguard her virtue from the machinations of well-known but unrestrained criminals."[641] Addams' words employ several key assumptions which contradicted the Bureau of Immigration's view: she believed that the default case involved an innocent woman forced into white slavery, rather than a "willing" prostitute. Her claim of "well-known but unrestrained criminals" implied that immigration officials, as with other law enforcement, were aware of procurers and yet did not or could not prosecute them under existing laws. But even the claim that deportation returned a woman to her parents, "diseased and disgraced" assumes that deported women successfully reunited with their families, though the U.S.

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[640] The Immigration Act of 1917 greatly expanded the deportation regime for post-entry conduct, especially for political dissidents such as anarchists, often without time limitations. Courts upheld these radical changes without great deliberation. Kanstroom, "Deportation, Social Control, and Punishment," 1912.

[641] Jane Addams, *A New Conscience and an Ancient Evil* (New York: The Macmillan Company, 1912), 34.

government did nothing to ensure that. Many women did not have parents to return to or would not have done so out of shame.

This critique of deportation without supervision prompted organizations like the National Council of Jewish Women and the International Council of Women to develop programs to chaperone or trace a woman through deportation to her destination.[642] Kate Waller Barrett, president of the International Council of Women, generated support from the group's immigration committee by sharing her interactions with immigration officials, who told her deportation was a sad necessity of their work. Only one vocal critic in the meeting, a Jewish woman, called the deportation policy barbarous and discouraged the organization's endorsement.[643] Although In Waller Barrett's official position she promoted cooperation between women's organizations and the Bureau of Immigration, in an article published the following year she criticized the "minor officials" who were "indefatigable in arresting women, but… very unsuccessful in finding the guilty male partner."[644] Like Addams, Waller Barrett warned that cunning men used deportation to get rid of lovers

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[642] Kate Waller Barrett to Commissioner-General Caminetti, May 27, 1914, 53210/74B, Accession #001742-007-0392, Series A: Subject Correspondence Files, Part 5: Prostitution and White Slavery, 1902-1933, RG 85, NARA-DC, accessed via the History Vault Database [hereafter PWSII].

[643] Kate Waller Barrett to Commissioner-General Caminetti, May 27, 1914, 53210/74B, PWSII.

[644] Kate Waller Barrett, "The Immigrant Woman" in *Immigration, Some New Phases of the Problem,* ed. Frank Lenz (New York: American Sociological Society and Committee of One Hundred, Federal Council of Churches in America, 1915), 12.

and partners they no longer wanted.[645] The maternalist view of white slavery emphasized male responsibility for the ills of prostitution and challenged laws that did not address this.[646] Waller Barrett's support of deportation chaperones and a concurrent effort by Commissioner-General Caminetti to keep detained women in the custody of women officers or at private, religious reform homes suggest that she and other women activists supported punishing immigrant women as long as other women could bring elements of maternal protection or rehabilitation to the process. While private organizations could call attention to the shortcomings of state policies, they usually found that outright critiques of the state obstructed their own projects and thus acted in tandem with the state in order to wield their own influence. Most often, their critiques called for an even more active state, rather than less state authority over immigrant women.

Many vigilance groups measured their organizational success in their influence over state policies, which they believed would enforce morality. At the local legislative level, vigilance groups increasingly conflated white slavery and prostitution because states and municipalities could punish both types of crime using police powers. "Little Mann Acts" often focused on the business side of prostitution, punishing the landlords, brothel operators, and procurers, more similar to the federal

[645] Addams, *A New Conscience,* 34; Waller Barrett, "The Immigrant Woman," 12.

[646] Hobson, *Uneasy Virtue,* 162.

Mann Act than immigration laws.[647] Even though many brothel operators and procurers worked with willing prostitutes, white slavery tropes successfully painted them as villains and, thus, primary targets of punishment. In peak vigilance mentality, Red Light Abatement Acts allowed any citizen to sue any brothel or hotel in civil court and effectively shut down red-light districts one establishment at a time.[648] Edward O. Janney of the National Vigilance Committee celebrated the piecemeal local approach of these laws as a supplement to federal laws because it forced illicit establishments to remain on the move.[649]

Yet all these laws were only as good as their enforcement, and the real or imagined graft by police and politicians at the local level proved a formidable barrier.[650] Thus vigilance groups also lobbied for laws like Iowa's *Law to Remove Officials for Misconduct or Neglect of Duties in Office*, which threatened to remove any "county attorney, sheriff, mayor, police officer, marshal, or constable" for not adequately enforcing their public nuisance law against houses of prostitution.[651] The

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[647] Some "Little Mann Acts'' replicated the federal act quite literally. A New York State law criminalized transporting women across *county* lines. Pivar, *Purity and Hygiene,* 121.

[648] Contemporaries at the time justified Red Light Abatement Acts as, "clearly police legislation, designed to protect the public health and morals rather than to provide a remedy for injury to private property." "'Red Light" Injunction and Abatement Acts,' *Columbia Law Review* 20 No. 5 (May 1920): 605. By 1920, 35 states had abatement laws on the books, effectively closing most red-light districts. Kiere, *For Business and Pleasure,* 95.

[649] Janney, *The White Slave Traffic,* 150.

[650] Janney, *The White Slave Traffic,* 153.

[651] Law reprinted in Janney, *The White Slave Traffic,* 188.

active citizen-civilian organizations which had encouraged laws like this also helped spread them by publishing laws in popular texts, like Janney's *The White Slave Traffic in America,* or in volumes like the encyclopedic *Laws Relating to Sex Morality in New York City,* published by the Bureau of Social Hygiene to serve as a resource to activists and legislators in other parts of the country.[652] Publications from the Bureau of Social Hygiene flexed their power over the public perception of sexual policing, claiming victory in turning New York City from the perpetual problem child of organized prostitution into a city with only a "furtive, disorganized, precarious, and unsuccessful" sex industry between 1910 and 1913.[653] Such works offered the driest possible "scientific" presentation to counter the salacious nature of white slavery media, which had generated only "sporadic bursts of public indignation and interest" and resulted in "ill considered, scattered, inconsistent, and chaotic" laws.[654] Vigilance groups committed to state-based sexual policing invested in their own education, communication, and vigilance against state inaction as an effective strategy to ensure legislative change during the decade of 1910-1920.

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[652] Arthur Spingarn, *Laws Relating to Sex Morality in New York City* (New York: The Century Company, 1915). Center for Jewish History, HQ131.U54 N5.

[653] Kneeland, *Commercialized Prostitution*, 18. It is difficult to take these bold claims of success at face value when vigilance groups themselves had such vested interests in proving their efficacy. Many times, these successes came from shifting definitions of success. John D. Rockefeller, dedicated to abolishing prostitution in 1910, =appeared to consider it a success to just drive sex commerce underground by 1913.

[654] Spingarn, *Laws Relating to Sex Morality,* xi.

By other measurements, the alliance between vigilance groups and federal and local state officials fell short. The moral transformation activists hoped to bring about by punishing the most egregious immorality did not materialize by most of their standards. When punishing male procurers and exploiters proved logistically difficult, the protectionist ideology which motivated many vigilance and feminist groups to extract women from sexual commerce increasingly justified women-specific carceral spaces, which blurred the boundaries between rehabilitation and punishment.[655] Some cities turned to a network of settlement homes and women's prisons, like the Magdalen Home and Bedford Hills Reformatory both serving New York City, but these relied on private funding and leadership that not every city or state had access to. Janney's vision of closing an entire red-light district at once and sending all the working prostitutes who were "more sinned against than sinning" to a countryside colony for rehabilitation would never come to pass.[656] Working-class parents sometimes turned in their own daughters to this carceral system, suggesting that they saw vigilance groups' efforts at family education and moral uplift as less effective in preventing sexual delinquency than incarceration.[657] Even immigration officials

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[655] Hobson, *Uneasy Virtue,* 163. Hobson argued that feminists were largely unsuccessful in pushing for policies which punished customers and business operators connected to prostitution because they challenged gender and class beyond what most people, including most reformers, were willing to accept.

[656] Janney, *The White Slave Traffic,* 152.

[657] Mary E. Odem, *Delinquent Daughters: Protecting and Policing Adolescent Female Sexuality in the United States, 1885-1920* (Durham: University of North Carolina Press, 1995), 158.

found use for detention homes as a last resort before deportation or an alternative for cases which did not clearly warrant removal. Women like Donaldina Cameron of the Chinese Mission Home in San Francisco maintained a close relationship with state officials into the 1920s because her home provided a relatively free service to the state by managing the lives of Chinese immigrant women. Decades of infantilizing Chinese immigrant women, along with a white slavery trope that rendered "women and girls" incapable of sexual agency, encouraged local courts to grant Cameron legal guardianship over adult immigrant women. While Cameron and others previously wrote many missionary tracts about "yellow slavery," she found more quasi-state authority by 1910 as immigration laws and white slavery activism revived citizen-state collaboration.

Implementing federal sexual policing laws like the Mann Act and Immigration Acts challenged the protectionist ideal of exploited women who could be rescued by punishing their procurers. Legislators and officials had not foreseen how many women would be arrested and charged as procurers and business owners, nor had they predicted that courts would support punishing non-commercial, consensual "immoral" acts under the law.[658] Courts increasingly raised questions about women's

[658] Pliley, *Policing Sexuality,* 61; Langum, *Crossing Over the Line,* 69. By 1914, Langum identified 15% of convictions as non-commercial, and another 10% as not involving prostitution, fraud, or force.

complicity in their alleged white slavery and distinguished whether women could be charged as accomplices, especially in cases of immoral purpose.[659]

World War I further facilitated the shift from the prostitute as a trafficked victim to a criminal in her own right. Heightened concern about venereal disease incapacitating soldiers prompted aggressive federal policing, especially around training camps across the United States. Many social hygiene activists, doctors, and social workers filled positions in this new government project, especially as part of the Commission on Training Camp Activities (CTCA).[660] Raymond Fosdick, who previously worked closely with Rockefeller's Bureau of Social Hygiene, was appointed chairman of the CTCA and rejected the advice of military leaders and European allies who suggested regulating prostitution would be the best way to control venereal disease.[661] The last vestiges of red-light districts closed in cities near training camps when Fosdick threatened to relocate camps if cities would not cooperate by removing their temptations.[662] But over time, providing soldiers with

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[659] Beckman, "The White Slave Traffic Act," 1120, 1124. The Supreme Court in U.S. v. Holte suggested that in some instances a woman could conspire in her own trafficking and thus be guilty of conspiracy. In some cases, US attorneys would make such charges against women but drop them if women were willing to testify against their procurer.

[660] Pivar, *Purity and Hygiene,* 209-10.

[661] Connelly, *The Response to Prostitution,* 137-138, 142; Pivar, *Purity and Hygiene,* 203. Pivar notes that while medical experts advocating for regulation were losing the conversation domestically about regulating prostitution to manage VD, especially among men, World War I also offered an unprecedented opportunity to provide medical care and distribute new prophylaxis.

[662] Connelly, *The Response to Prostitution,* 138; Langum, *Crossing Over the Line,* 59.

wholesome recreation received less enthusiasm than policies which quarantined women suspected of prostitution or casual sex with a soldier. Such focus on detaining women, both for medical examinations to check for venereal disease, and rehabilitation homes for those suspected of selling sex to soldiers, fulfilled the protectionist vision that so many reformers held dear.[663] Yet the suspension of civil liberties under wartime conditions meant even more extreme state action without as much public or reformer oversight.[664] And while prostitutes and sexually active women were not the only ones facing a crisis in civil liberties, historian Barbara Hobson distinguishes between state repression against pacifists and socialists based on ideology versus repression based on gender and class assumptions.[665] This repression was familiar to some women: immigration laws already allowed women to be accused of and detained or deported for prostitution without a full criminal trial. Under the 1918 Chamberlain-Kahn Act, any woman could be detained and examined for venereal disease without evidence or a trial, affecting 30,000 women over the

[663] Connelly, *The Response to Prostitution,* 141; Hobson, *Uneasy Virtue,* 171.

[664] Throughout the war, judges affirmed these wartime measures and rarely sided with women complainants. Clement, *Love For Sale,* 130. Hobson compares the public silence and lack of protest over examination during WWI to the outcry against the 1910 Page Law in New York, which proposed medical examinations for prostitutes in what they believed to be a violation of women's civil rights. Hobson, *Uneasy Virtue,* 170.

[665] Hobson, *Uneasy Virtue,* 167.

course of the war.[666] While the public interest in white slavery began waning before U.S. entry into the war, the wartime repression more aggressively replaced the white slave trope with images of prostitutes as unpatriotic and diseased, and young women as more likely swept up in passion for romance than seduced by a soldier.[667]

As the white slavery trope faded from the public imaginary, the state maintained a double standard of punishment which punished individual women but not their clients, and kept red-light districts shuttered. While state sexual policing remained, vigilance groups lost more of their public support and thus position within a coalitional state. Despite this expanded policing system, vigilance groups could claim only limited victory as the commercial sex industry adapted quickly to changing times. A "scatter syndrome" led to more underground prostitution into the 1920s, where women relied on pimps and police protection to avoid the many petty charges which could get them sent to a workhouse or women's prison.[668] Other forms of "sexual entertainment" also rose in popularity, such as taxi dancing, hostessing, streetwalking, and burlesque, providing services without a stable physical location

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[666] Connelly, *The Response to Prostitution,* 143-145; Hobson, *Uneasy Virtue,* 177-78. En loco parentis allowed the state additional power over women under the age of 18, who were often sent to delinquency or rehabilitation homes.

[667] Clement, *Love For Sale,* 114, 143. Clement argues that the CTCA work fell short of its goals in part because they did not detain or fully police "charity girls" who dated and had sex with soldiers. This widened the rift between prostitution and more informal treating practices because of the different consequences.

[668] Rosen, *The Lost Sisterhood*, 170.

like the traditional brothel.[669] The FBI continued to find cases of coerced prostitution, but cases did not always end in a conviction, and women's motivations or complicity underwent much more scrutiny.[670] By the Great Depression, social workers claimed that economic precarity–and increased demand from men in a crisis of masculinity–pushed more women into prostitution.[671] More casual and more secretive forms of prostitution challenged lawmakers, who harshly punished those they could apprehend to compensate for the practical limitations of policing casual and commercial sex.

The campaign against white slavery has animated historiographic debates for decades now, asking: how did reformers so quickly and effectively mobilize the public against this perceived issue? How common was actual abduction and forced prostitution?[672] Yet this concern over the mythology of the white slavery panic looks too narrowly at the social and cultural dimensions of reformers' power, when their actions directly expanded state power over women's sexual expressions to an unprecedented degree. Historiography has also narrowly looked to rhetoric more than lived experience because they are inundated with sources which obscure women's agency, as citizen reformers clung to narrative control by concocting their own stories of white slavery, which rarely considered or recorded the perspectives of actual

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[669] Pliley, *Policing Sexuality,* 173.

[670] Pliley, *Policing Sexuality,* 175.

[671] Pliley, *Policing Sexuality,* 179.

[672] Connelly, *The Response to Prostitution,* 6; Doezma, *Sex Slaves and Discourse Masters,* 9; Frederick Grittner, *White Slavery: Myth, Ideology, and American Law* (New York: Garland Publishing, 1990); Rosen, *The Lost Sisterhood,* xv.

women working as prostitutes. Yet it is clear from vigilance group- and state confrontations with immigrant women, that many prostitutes rejected the white slave victim trope. Despite the public sympathy for tragic literary figures like *House of Bondage's* Mary Denbigh, more immigrant women survived through sex commerce rather than despite it. While some faced deportation for indiscretions ranging from working in a brothel to unabashedly sleeping with a married man, these women resisted state and citizen efforts to characterize them as naïve or morally flawed. And regardless of how women felt about their depictions in media and in courts, they continued to survive. Women like Bugajewitz, who provided the Supreme Court its gold standard case for aggressive deportation, successfully jumped bail and evaded deportation. While immigration control used sexual policing to reject recalcitrant prostitutes it did not want on U.S. soil, no amount of authority or social stigma could completely overpower women's migrations.

EPILOGUE

"Living Openly and Notoriously: Sexually Nonconforming Women Navigating Immigration Control, 1852-1924" reveals the extent to which government officials and private citizens exerted state power to police women's bodies, relationships, and sexuality in a campaign against prostitution at the turn of the twentieth century. Racist and xenophobic tropes about prostitutes as imports to the United States worked alongside a system of federal immigration control to make immigrant women the most accessible targets for state sexual policing. Yet crossing state and national borders also helped many immigrant women move faster or more covertly through the machinery of immigration restrictionism. When policies to exclude or deport prostitutes fell short of their goals, state officials requested new legislation and court rulings that expanded their power and administrative discretion rather than questioning the premise of policing sex.

Officials found they could not solve all challenges inherent to policing by expanding their authority. Apprehending potential prostitutes as they sought to enter the United States required imprecise and ever-changing standards of judging

women's dress, assets, traveling companions, and other criteria to identify immoral women. The Bureau of Immigration employed undercover agents to arrest immigrant women already living in the United States for prostitution or "other immoral purposes." Still, few women faced punishment for the literal sale of sex, and prostitution continued in the United States. More often, the state relied on proxy charges, punishing women for tangential indiscretions such as traveling over state lines with a married man as his mistress under the 1910 Mann Act, or for poverty, pregnancy, or a neighbor's suspicions. Some women admitted to prostitution under interrogation, but more often, investigations revealed diverse methods of evasion women used to survive. Immigration officials most aggressively punished non-white immigrant women, such as Mexican and Chinese women, even when public attention focused more on white American or Western European women as coerced victims of what they called white slavery. Thus, sexual policing furthered other state goals of racialized and class-based exclusions.

Because of the challenges of sexual policing, federal immigration officials collaborated with private reform groups like Christian mission homes, prominent citizens like John D. Rockefeller, and local police to help exclude, detain, or deport women for prostitution or other sexual nonconformity. Such coalitions connected federal agents to local organizations with diverse politics and priorities, allowing for sexual policing to develop regional solutions to varied conditions at the U.S.-Mexico and U.S.-Canada borders and port cities such as San Francisco and New York. By 1910, the enthusiasm of citizen coalition partners to abolish prostitution or at least

white slavery pushed federal legislation further than the federal state previously envisioned. Many private reformers adopted policing authority in vigilance activity, believing that they were acting in the best interest of society. The combined resources of private reformers, local police, and federal immigration officials created an expansive carceral system that detained and deported immigrants while claiming to rescue and protect vulnerable immigrant women, even when this coalition sought to dismantle the sex commerce industry by targeting powerful male pimps and procurers and immigrant women who were easier to locate received more punishment. Policies that privileged deportation and incarceration blurred distinctions between protection and punishment, especially as officials and charitable citizens drew those boundaries without considering the opinions voiced by immigrant prostitutes themselves.

The case of Leong Sai Moy shows just how complex this carceral-immigrant network became, even for a woman actively seeking to escape coerced prostitution. Leong Sai Moy legally entered San Francisco in May 1909 as the wife of a man who eventually abandoned her and reportedly died, leaving her with few economic options. According to her defense attorney, a local brothel lured her in and beat her to force her into prostitution.[673] Leong Sai Moy claimed to have resisted these efforts but caught the attention of Chin Deh, a man who agreed to rescue and marry her.

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[673] "Brief Statement of the Defense," In the Matter of the Arrest of Leong Moy, September 16, 1910, 53019/154, Entry 9: Subject and Policy Files, 1893-1957 (hereafter Entry 9), R.G. 85: Records of the Immigration and Naturalization Service, National Archives and Records Administration, Washington D.C. (hereafter NARA-DC).

Knowing that brothel owners might violently retaliate against them, Chin sought the help of Donaldina Cameron, matron of the Presbyterian Mission Home, whom he described as "a professional rescuer with the white police and the U.S. government at her back."[674] Cameron used her police and judicial contacts to obtain legal guardianship of Leong, telling Chin Deh that after six months, he could marry his bride. Yet six months later, Cameron refused to release Leong Sai Moy, claiming that Chin would be an inadequate husband and likely sell her back into prostitution. Chin filed a habeas corpus case against the Mission Home for holding Leong, which revealed that Cameron had not even kept her in the home, instead of sending her to a friend's lodging home in Santa Barbara where she cleaned rooms for a mere 8 dollars a month. When a judge ordered Leong's release and transport back to San Francisco, she and Chin Deh married the next day. Cameron and Tye Leung of the Mission Home submitted a backdated confession of sexual immorality from Leong to immigration officials and recommended her deportation as a prostitute who planned to return to work after escaping the home. The tip-off helped authorities coordinate a raid that ultimately resulted in Leong's arrest in a house of ill-repute where she claimed to be running an errand.[675]

Leong Sai Moy's case shows the precarious status of many Chinese women in the United States, often made more acute by the considerable authority private

[674] "Brief Statement of the Defense," p. 7, 53019/154, Entry 9, NARA-DC.

[675] "Brief of Respondent Leong Sai Moy: Main Points of the Case," 53019/154, Entry 9, NARA-DC.

reformers like Donaldina Cameron wielded over them as their alleged rescuers. Even among the Chinese community, Cameron enjoyed a local reputation as someone who could protect women in need. However, Cameron's rescue missions required Chinese women to agree to detention for some time, ostensibly for their safety. This arrangement granted Cameron a captive audience for the home's rehabilitation model, which included rigorous domestic labor and classes on converting to Christianity.[676] Cameron also outsourced the labor of the home's residents, sometimes to local garment manufacturers or to private homes where residents worked as domestic servants; in Leong's case, Cameron arranged a longer-term of domestic labor in another city entirely.[677] Cameron's care offered an aggressive path of American assimilation through manual labor and moral education, which local state officials especially encouraged because it kept these women separate even from other "wayward women." A coalitional state supported this model, which granted Cameron extensive authority to deal with Chinese women who the state had plenty of legal jurisdiction over but little regard for their humanitarian interests. The local San Francisco government and federal immigration officials did not advocate for or devote resources to aiding Chinese women directly or allocate a substantial amount of resources to arrest and deport Chinese prostitutes en masse, despite encouragement from zealous anti-Chinese officials. Cameron's home appeared to offer an effective,

[676] Peggy Pascoe, *Relations of Rescue: The Search for Female Moral Authority in the American West, 1874-1939* (New York: Oxford University Press, 1991), 81.
[677] Pascoe, *Relations of Rescue,* 83.

privately funded way to aid those who actively sought to escape situations of bondage and minimize the visibility of Chinese prostitution in San Francisco.

Like many women in the home, Leong faced a challenging set of limited options and likely had little choice between them. To stay in the home meant remaining under Cameron's watchful eye; menial labor in Santa Barbara meant little to no contact with Chin Deh or others in her community and with little if any, access to the measly monthly wages she earned. Leaving the mission home and breaking with Cameron's legal guardianship would make her vulnerable to arrest and deportation or abduction into another brothel.[678] When Leong finally asserted her desire to leave the home's guardianship and marry Chin Deh, with or without Cameron's blessing, it threatened Cameron's legal and spiritual leadership–two sources of power dangerously intertwined because of the Mission Home's position within the local coalitional state.

Leong and Chin's determination to marry and stay in the United States led them to enlist attorneys Catlin & Catlin to represent Leong through multiple writs of habeas corpus and deportation appeals. Their legal strategy emphasized how Cameron abused her extralegal authority and took advantage of her government contacts, writing:

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[678] Testimony of Donaldina Cameron, p. 14, Hearing of U.S. Immigration Service in the matter of Leong Moy, December 2, 1910, 53019/154, Entry 9, NARA-DC. According to Cameron, Leong requested to work for an American family and was not restrained by her employer, working in "one of the loveliest homes in Santa Barbara." Because she often worked in the gardens, Cameron speculated that Leong could have run away if she so desired.

> "The most striking feature of this case is the position which the Government of the United States has been compelled to assume as the champion of the Presbyterian Mission Home in the enforcement of its rules concerning the marriage of the Chinese women who find refuge within the Mission and maintenance of the Mission's control over the person and actions and over the labor of such women."

The lengthy brief qualified critiques of Cameron by recognizing benevolent intentions and the home's good standing in the community but argued, "no institution is above error, no person is infallible." Cameron's strongest case for deportation came from a confession supposedly acquired months before, which suggested Leong's recalcitrance would lead her back to a brothel if she left the home. Leong's defense argued that Cameron and Bureau of Immigration leadership uncritically accepted a flawed confession from Leong because they wanted to condemn her, regardless of fact.[679] Tye Leung, Cameron's aide, provided conflicting translations of Leong's supposed confession, allowing immigration officials to choose the most damning testimony. When asked about why Cameron did not immediately report Leong's damning confession to immigration officials for review, Cameron asserted her independence from government policies: "I am not pledged to the Government to report these cases; I am pledged to help these girls personally to the best of my

[679] "Brief Statement of the Defense," p. 15, 53019/154, Entry 9, NARA-DC. Catlin and Catlin write, "but we say further, and with no intention of reflecting upon the honesty of Mr. Strand or the sincerity of Miss Cameron, that they both desired a confession of prostitution from Leong Say Moy, and consequently construed her words as such without any analysis."

ability." Asserting the separation between private mission home and the state released Cameron from standard procedures and allowed her a greater degree of discretion to engage with the state only when she saw fit. The argument from Leong's attorneys attempted to drive a wedge between two parties who usually benefited from respecting one another's selective enforcement of immigration and local laws.

Leong's other line of defense against deportation challenged the state's assumptions about prostitution and consent. Leong claimed that although she never had sex while captive at the brothel, her captors forced her to do other immoral acts. Her attorneys argued that acts of prostitution performed under the threat of death qualified as rape and could not count as prostitution and further described Leong as valiantly resisting her condition because she "was not of the stuff which slaves can be made."[680] This interpretation of Leong's character as above prostitution or even white slavery conflicted with a half-century of American rhetoric that depicted Chinese women as particularly servile and the contemporary white slavery laws that assumed women to be victims of prostitution.

Despite the state's expansive authority and stereotypes about Chinese women, Leong's deportation was not straightforward. Because she entered the United States in 1909 as a legal wife with no intent to work as a prostitute, she was not deportable under the Immigration Act of 1907. By the time Cameron and San Francisco's Commissioner of Immigration called for her deportation in fall 1910, the Immigration

[680] "Brief Statement of the Defense," p. 16, 53019/154, Entry 9, NARA-DC.

Act's amendment expanded deportation for prostitution beyond considerations of intent, though courts still debated whether it could apply retroactively to women who entered before the law changed earlier that year.[681] Deportation still rested on administrative discretion, especially when Leong's defense claimed that San Francisco's Commissioner of Immigration improperly questioned her without counsel. The U.S. Attorney on the case refuted this objection, citing *Ekiu v. the U.S.* (1892), *Yamataya v. Fisher* (1903), *Ju Toy v U.S.* (1905), and other immigration cases which confirmed the right of immigration officials to question immigrants without legal representation.[682] Even as multiple judges entertained Leong's appeals, the Bureau of Immigration sought to protect their administrative discretion to deport regardless of the quality of evidence. Their fight upheld the Mission Home's authority as well. The courts sided with immigration officials and deported Leong in early 1912 after the Circuit Court for Northern California denied her final appeal.[683]

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[681] *Bugajewitz v. Adams*, 228 U.S. 585 (1913). For more analysis of the decision, see Siegfried Hesse, "The Constitutional Status of the Lawfully Admitted Permanent Resident Alien: the Pre-1917 Cases," *Yale Law Journal* 68 no. 8 (July 1959), 1607 as well as the final chapter of this dissertation, "Vigilance and Removal."

[682] In the matter of the application of Chin Deh for a Writ of Habeas Corpus for Leong Sai Moy, Case 15116, Box 902, Admiralty Case Files 1851-1934, U.S. District Court Northern District of California, R.G. 21, NARA San Bruno (hereafter Case 15116, NARA-SB).

[683] Leong Sai Moy's case appears in Tang's table of habeas corpus cases involving Chinese women between 1888 and 1924, reporting her arrest in September 1910 and deportation in 1912. Vincente Tang, "Chinese Women Immigrants and the Two-Edged Sword of Habeas Corpus" in *The Chinese American Experience: Papers from the Second National Conference*

Leong Sai Moy's case offers an exceptional view of how aggressively federal immigration control punished women for prostitution, even with faulty evidence or when women actively sought to leave the work. The extensive details remain because Leong and Chin Deh hired legal representation, which most Chinese women could not do. Many details of her case, rather than exceptional, suggest recurring conflicts between Chinese San Franciscans and Cameron, who garnered power as a private citizen within carceral state structures to dictate immigrant women's options for survival further. Since the Chinese Mission Home's founding in 1874, twenty-six years before Cameron joined the home, it operated as part of the coalitional state that combined the authority and resources of missionaries, local police, and federal immigration agents. As discussed by other historians, this rendered the home into much more than a site for charitable rescue work or even social control.[684] By offering to detain immigrant women awaiting arrival investigation or deportation after arrest for prostitution, alongside women like Leong who sought a haven, the Chinese Mission Home served as an immigrant detention center. This living arrangement put Chinese immigrant women applying to enter the United States in a unique position, interacting with women accused of prostitution, those escaping prostitution, and missionaries making assumptions about their sexual character and potential fate even

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on Chinese American Studies, ed. Genny Lim (San Francisco: Chinese Historical Society of America and the Chinese Culture Foundation of San Francisco, 1984), 55.

[684] Pascoe, *Relations of Rescue,* 75; Judy Yung, *Unbound Feet: A Social History of Chinese Women in San Francisco* (Berkeley: University of California Press, 1995), 36.

before completing their entrance interrogation to be landed. The home's multi-functionality also granted them additional power over Chinese women's labor and their daily existence with the threat of state punishment–including debarment, deportation, or continued detention as Cameron's ward–looming over those, like Leong, who asserted other goals besides following Cameron's agenda for domestic labor, conversion, and arranged Christian marriage.

Cameron went beyond collaborating with the state in mutually beneficial ways; her actions directed how local and federal agents enforced laws and challenged a hierarchy of authority that immigration officials assumed placed them at the top. In 1913, San Francisco's Immigration Commissioner Backus requested advice from the Commissioner-General about actively enforcing immigration laws against prostitution in Chinatown. Immigration officials usually required the aid of the Chinatown police squad to enter suspected brothels using "the axe, the crowbar, the sledge, and the wedge."[685] Because women often escaped or hid during these raids, Backus did not always find such raids worthwhile. He complained Cameron made a habit of calling on local police to raid suspicious buildings with or without the Bureau of Immigration's order, forcing them into a position of following her lead to avoid public accusations of negligence. The coalitional state survived through mutual

[685] Backus to Commissioner-General, March 14, 1913, *White Slavery Memos, Correspondence, Laws, Regulation; Prostitution and White Slavery Immigration Investigations*, file 52809/7-E, Accession #001742-006-0735, Series A: Subject Correspondence Files, Part 5: Prostitution and White Slavery, 1902-1933, R.G. 85, NARA-DC.

dependence on different discretionary authority. This dependence undercut the coalitional state's cohesion and forced even more aggressive interpretations of the law to avoid outside scrutiny from the public or other agencies. This arrangement compounded the harms of sexual policing on immigrant women, who the state prioritized more when citizens like Cameron and John D. Rockefeller applied vigilance pressure to law enforcement agencies.

The Chinese Mission Home provides just one example of the charitable homes which offered the coalitional state carceral structures to punish women for prostitution under the guise of benevolence. Reformers did not limit mission homes to a single region or a religious affiliation. Judges in various cities often ordered prostitutes to Magdalen Homes for rehabilitation as an alternative to serving time in a local jail not designed for women. With funding from John D. Rockefeller's Bureau of Social Hygiene, Katharine Bement Davis pioneered a women's prison outside New York City called the Bedford Hills Reformatory, promising the Chinese Mission Home to change women's sexual character through a highly structured daily routine and manual labor.[686] Even the Jewish-run Clara de Hirsch Home for Working Girls in

[686] Anne E. Bowler, Chrysanthi S. Leon, and Terry G. Lilley, "What Shall We Do with the Young Prostitute? Reform Her or Neglect Her?" Domestication as Reform at the New York State Reformatory for Women at Bedford, 1901-1913," *Journal of Social History* 47 No. 2 (Winter 2013), 460. Through managing this prison, Davis became an outspoken expert on women's sexual delinquency. This action furthered an illustrious career with a spot on the Board of Social Hygiene, as the first woman appointed to lead a New York City agency as Commissioner of Corrections in 1914 and a leader in the Commission on Training Camp Activities (CTCA) campaign against prostitution in the armed forces during World War I.

New York City, and other settlement homes like it, offered housing and employment to young women as a preventative measure for those most susceptible to prostitution or white slavery.[687] The state's reliance on detention homes exemplifies the coalitional state's coercive reach into the lives of accused prostitutes. Vigilance groups and anti-white slavery activists promoted education as a path to moral uplift, while state and citizen-led sexual policing targeted women who rejected the white slavery narrative that assumed their subjugation. Thus, rehabilitating women became a coerced, carceral project rather than a voluntary, emancipatory one. Their stay at mission homes was short for immigrant women, as many of the bonds between local police, charities, and federal immigration agents overcame any intent to rehabilitate them. These models for criminalization and incarceration provided the logistical foundation for aggressive antiprostitution measures during World War I and against "delinquent girls" well into the 1920s.[688] Rehabilitation homes continued to segregate women criminals from men and youth from more established "professional prostitutes" to instruct more impressionable inmates about acceptable family, sex, and

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[687] Nancy B. Sinkoff, "Educating for 'Proper' Jewish Womanhood: a Case Study in Domesticity and Vocational Training, 1897-1926," *American Jewish History* 77 No. 4 (June 1988), 584.

[688] Mark Thomas Connelly, *The Response to Prostitution in the Progressive Era* (Chapel Hill: University of North Carolina Press, 1980), Barbara Meil Hobson, *Uneasy Virtue: The Politics of Prostitution and the American Reform Tradition* (New York: Basic Books, Inc., 1987), 171; Mary Odem, *Delinquent Daughters: Protecting and Policing Adolescent Female Sexuality in the United States, 1885-1920* (Durham: University of North Carolina Press, 1995), 5.

economic practices.[689] This segregation between the young, ostensibly vulnerable innocents and more experienced prostitutes responded to the fears–and some observed reality–that savvy women instructed one another in survival techniques to outwit sexual policing efforts.

Leong Sai Moy's case also provides an interesting companion to the immigration experience of Josefa Sánchez, the grandmother discussed in the introduction who was barred at the U.S.-Mexico border in 1920 for "living openly and notoriously" with men she did not marry. In many ways, Leong and Sánchez's stories look different on paper: the former a young, Chinese woman seeking refuge within the Christian Mission system and attempting to marry the Chinese man who helped rescue her; Sánchez, an older, single woman seeking only daytime entry to chaperone her granddaughter to school. Yet both the women were widowed at a young age and spoke of their economic insecurity, which caused their incriminating circumstances. Both women spoke openly about sexual relationships, which the state deemed immoral without identifying them as willing prostitutes. And both women emphasized that their migrations were consensual, not dictated by a man. Neither woman fit into the white slave or professional prostitute tropes, which fueled antiprostitution immigration laws. And yet, state officials enforced sexual policing laws against these women without nuance, even when officials had the discretionary authority to decline deportation or exclusion. Leong and Sánchez became victims of

[689] Lisa Pasko, "Damaged Daughters: the History of Girls' Sexuality and the Juvenile Justice System," *Journal of Criminal Law & Criminology* 100 No. 3 (2010), 1100.

circumstance and victims of state sexual policing, claiming to protect the nation and women themselves from sexual exploitation.

The framework for sexual policing built around immigrant women across the nineteenth and early twentieth century continues to shape the criminalization of the sale of sex today. As with a century ago, citizens and legislators today claim to protect women from sexual exploitation by criminalizing their participation in the sex industry. Yet, the sexual policing apparatus traced by this dissertation shows the ethical and practical follies of protecting vulnerable populations through increased surveillance and policing. Policing increases the exploitation sites, which come not just from pimps and procurers but also from the carceral state and capitalism itself. Today, sex workers fight to replace prostitution with sex work to reflect the labor of sex commerce, arguing that selling sex is a legitimate form of labor rather than a status of morality.[690] This conceptual shift competes with other popular understandings of sex work as uniquely exploitative. The specter of white slavery reappears in contemporary monikers like trafficking and sex slavery–despite much international trafficking involving non-sexual labor.[691] As in the early twentieth century, immigrant women were prominent in public debates about sex work and

[690] Scholars credit Sex worker activist Carol Leigh with first using the term "sex work" in the late 1970s. Emily Kenway, *The Truth About Modern Slavery* (Pluto Press, 2021), 68.
[691] Denise Brennan, *Life Interrupted: Trafficking into Forced Labor in the United States* (Durham: Duke University Press), 12. On the difficulties of calculating actual statistics of trafficking, see Jo Doezma, *Sex Slaves and Discourse Masters: The Construction of Trafficking* (London: Zed Books, 2010), 6.

trafficking, although policymakers and concerned citizens rarely consider their first-hand voices and perspectives. Immigrants face some of the harshest convictions for trafficking and sex work, suggesting the continued importance of international migration in sex commerce. Immigrants caught in the United States face heavy prison sentences, fines, and deportation.[692] Yet, sex workers continue to migrate in search of new opportunities, even at higher risk. Although international migration brings one closer to states, sex workers and traffickers continually seek ways around this policing.

Contemporary sexual policing relies heavily on international collaboration and states' coalitions with groups led by private citizens. Women's sexuality remains a volatile topic for public discourse and fuels state policies that lack critical attention to how sexual policing perpetuates further harm and exploitation. As with the early twentieth century, groups that consider all sex work exploitative and seek its abolition align most easily with the United States government and successfully influence national and international policy. When delegates from across the United Nations developed the 2000 Protocol to Suppress, Prevent, and Punish Trafficking in Persons, Especially Women and Children (also known as the Palermo Protocol), non-

[692] Brennan, *Life Interrupted*, 5; Jessica Pliley, *Policing Sexuality: The Mann Act and the Making of the FBI* (Cambridge: Harvard University Press, 2014), 209. Pliley details the 2007 Chong case, which deported the massage parlor operator under Mann Act charges. The case unintentionally exposed several local politicians as customers of the massage parlor, suggesting the hypocrisy of punishing brothel operators and not the clients of such establishments.

governmental organizations (NGOs) such as the Coalition Against Trafficking in Women (CATW) could not participate in the negotiations between delegates, but took place in many "informal sessions" with delegates to clarify language in the Protocol, during which they influenced the revisions made.[693] Two camps attempted to lobby the delegates, which the Human Rights Caucus distinguished as a "human rights approach," focused on trafficked people as victims and distinct from consensual sex workers, versus the "law enforcement approach," supported by CATW, which prioritized states' criminal investigations as a more expedient, if less victim-centered, attack on trafficking.[694] At least some reticence in adopting a less punitive, more human rights-focused international framework stemmed from many countries' views toward immigrant sex workers as undesirable threats to their nation, even when also victims–which Jo Doezma finds eerily similar to the debates about migration which shaped the 1904 Agreement on White Slavery.[695] Identifying victims of international trafficking as in need of protection could open doors to asylum, repatriation, or other forms of protected status that would require proactive government actions, which many states were unable or unwilling to fund. Instead, the Protocol encouraged participating states to develop stronger border controls as a detection tool to prevent trafficking and no doubt watching for all prostitution-related migration.[696] This policy

[693] Does, *Sex Slaves and Discourse Masters,* 113.

[694] Does, *Sex Slaves and Discourse Masters,* 116.

[695] Does, *Sex Slaves and Discourse Masters,* 117.

[696] Doezema, *Sex Slaves and Discourse Masters,* 121.

put those who migrated consensually for sex work at greater risk and ignored sex workers themselves who identified migration for sex work as a source of opportunity rather than degradation.[697] Policies that encouraged surveillance and arrest pitted pro-policing organizations like CATW, which claimed to speak for women victims, against the alleged victims themselves.

NGOs that supported more criminal, carceral policies found more eager support from participating governments, even if their motivations or understandings of sex work and trafficking varied. CATW's influence is visible in U.S. leadership in the Protocol following the group's pressure on the Clinton Administration and subsequent Bush Administration. Doezma explains CATW's support of a criminal rather than human rights-based vision for state response as rooted in the overlap between abolition and prohibition. Prohibiting and punishing prostitution and trafficking rendered it less visible, if not abolished, thus inflating the group's sense of validity.[698] This approach follows the trajectory of anti-white slavery activism in the 1910s to 1920s, as red-light abatement laws closed vice districts and scattered prostitution into underground enclaves rather than dismantling it. Contemporary self-identified abolitionists also replicate the moral urgency and slavery comparisons of the earlier white slave panic and activists like Donaldina Cameron, encouraging policymakers and the public to act swiftly rather than rationally.[699]

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[697] Pliley, *Policing Sexuality,* 211.

[698] Does, *Sex Slaves and Discourse Masters,* 131.

[699] Brennan, *Life Interrupted*, 63.

The abolitionist influence also shaped the construction of the international Palermo Protocol itself, emphasizing its intention to protect "especially women and children," rather than a more gender-neutral framework suggested by the Human Rights Caucus.[700] This language echoed 1920s international activism and CATW's recent influence with its emphasis on women and children, which infantilized women while erasing that men could also be sex workers or trafficked for sex–a reality that did not fit neatly within the CATW conception of sex work as a violation of women.[701] As further evidence of the influence of abolitionist NGOs, the Protocol encourages the conflation of sex work and sex trafficking by declaring that consent was not "legally determinative" (as in, a relevant factor) when evaluating a case of trafficking.[702] This conflation remains central to U.S. policies developed in the past twenty years, most prominently in the federal Allow States and Victims to Fight Online Sex Trafficking Act and Stop Enabling Sex Traffickers Act, commonly known as FOSTA/SESTA.

As with the immigration acts which targeted prostitution over a century ago, FOSTA/SESTA responds to the challenges to policing sex by increasing state authority to arrest, regardless of negative consequences for sex workers or victims of sex trafficking. The laws, which passed in April 2018, ban internet discourse related to the sale of sex, especially discouraging websites like backdoor.com and Craigslist

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[700] Does, *Sex Slaves and Discourse Masters,* 129, 132.

[701] Does, *Sex Slaves and Discourse Masters,* 132.

[702] Pliley, *Policing Sexuality,* 211.

Personals, both of which shut down to avoid further legal consequences.[703] Sex Workers Outreach Project (SWOP USA) decried the bill's structure as out of touch with the realities of how sexual services and erotic materials–including consensual, non-commercial acts such as cruising or sharing nude photos–circulate across the internet, and not just among sex workers.[704] Websites like Backdoor and Craigslist facilitated not only the purchase of sex; they also provided a platform for community among sex workers through which to report dangerous customers and communicate standards of pay and treatment with one another. Without this resource, more sex workers and those forced to sell sex had to work offline, with less community and more dependence on pimps for protection from police and client harassment.[705] Further criminalization thus increased the vulnerability of both trafficking victims and willing sex workers by cutting off one of the most useful resources for independent

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[703] Aja Romano, "A New Law Intended to Curb Sex Trafficking Threatens the Future of the Internet as we Know It," *Vox,* July 2, 2018, https://www.vox.com/culture/2018/4/13/17172762/fosta-sesta-backpage-230-internet-freedom; Elliot Herman, "How Congress Censored the Internet," *Electric Frontier Foundation*, March 21, 2018, https://www.eff.org/deeplinks/2018/03/how-congress-censored-internet.

[704] Big House, "SWOP-USA stands in opposition of disguised internet censorship bill SESTA, S. 1963," 8/11/17, https://swopusa.org/blog/2017/08/11/call-to-actionpress-release-swop-usa-stands-in-direct-opposition-of-disguised-internet-censorship-bill-sesta-s-1963-call-your-state-representatives-and-tell-them-to-fight/

[705] Multiple studies suggest that police are more likely to exploit sex workers for sex than arrest or help them. Anne Paglia, "Sex Trafficking vs. Sex Work: What You Need to Know," *Human Trafficking Search,* July 25, 2017, https://humantraffickingsearch.org/2017725sex-trafficking-vs-sex-work-what-you-need-to-know/

work and self-advocacy, even as the law claimed to target exploitative traffickers and pimps.[706] And like the vast majority of antiprostitution legislation throughout U.S. history, FOSTA/SESTA criminalizes the sale of sex–by the sex worker or a third party–but not the purchase of sex, leaving clients anonymous and without punishment.[707] One headline decried: "Lawmakers failed to Separate Their Good Intentions from Bad Law."[708] But even the alleged "good intentions" of these laws, which passed 97-2 with rare bipartisan support in the Senate, reflects a vigilance mentality, attempting to punish unsightly and allegedly immoral acts in public view rather than prioritizing the actual needs of trafficking victims or sex workers.

FOSTA also encourages states to legislate against prostitution and trafficking as they see fit, allocating more resources to law enforcement agencies rather than social services, which might provide alternatives to sex work or support those leaving a trafficking situation.[709] For all its supposed moral urgency to combat trafficking, federal prosecutors have only used FOSTA/SESTA for conviction once in its three

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[706] "Academics United Against FOSTA/SESTA," online petition submitted to the U.S. Senate ahead of their vote in Spring 2018. https://survivorsagainstsesta.files.wordpress.com/2018/03/academics-united-against-fosta_sesta1.pdf

[707] Pliley, *Policing Sexuality,* 213.

[708] Herman, "How Congress Censored the Internet."

[709] Pliley, *Policing Sexuality,* 214.

years on the books.[710] The Justice Department blames criminal networks, which have quickly adopted new online platforms and international operating methods–not unlike the adaptations that prostitutes and procurers made against encroaching immigration laws in 1903, 1907, and 1910. Yet, the law's impact cannot only be measured by conviction rates; making sex work more precarious on the internet continues to harm sex workers and victims of trafficking, even in the absence of high-profile cases. Nor is FOSTA/SESTA the only tool for state sexual policing. The 1910 Mann Act remains in effect today, selectively targeting businesses and sex workers, especially those who travel across state or federal boundaries.

The concentric federal, state, and local laws which criminalize certain forms of sex perpetuate a fantasy of abolition, or at least invisibility, that remains popular with vigilance-minded citizens but makes it difficult for those who sell sex to do so with autonomy, security, or respect. Despite the carceral state's rhetoric of protection, liberation from exploitation can only come from listening to the needs expressed by sex workers themselves, who overwhelmingly call for decriminalizing prostitution today and would have benefited from decriminalization and freedom of movement a century ago.

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[710] Jonathan Greig, "FOSTA-SESTA trafficking law used once since 2018: GAO [Government Accountability Office] report," *ZDNet,* June 26, 2021, https://www.zdnet.com/article/fosta-sesta-trafficking-law-used-once-since-2018-gao-report/.

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