

(Berkeley and Los Angeles: University of California Press, 1980); Ivan Light and Edna Bonacich, *Immigrant Entrepreneurs: Koreans in Los Angeles, 1965-1982* (Berkeley and Los Angeles: University of California Press, 1988); Eugene Wong, "Asian American Middleman Minority Theory: The Framework of an American Myth." *Journal of Ethnic Studies* 13, 1 (Spring 1985): 51-88.

⁷Such research can build on the work of Loewen and particularly that of Quan. For another account of the Chinese in the South, especially Louisiana, see Lucy Cohen, *Chinese in the Post-Civil War South* (Baton Rouge: Louisiana State University Press, 1984).

Critique

For all intent and purposes the United States of America in 1927 was an apartheid state. The *Plessy v. Ferguson* decision in 1896 determined that the best social policy for this nation to pursue was one which required racial separation. The *Plessy* decision essentially capped a series of Supreme Court decisions which underscored the destruction of Reconstruction and the return of "states rights" to southern governments. Decisions like the *Slaughter House Cases* (1872) and the *Civil Rights Cases* (1883) gave clear evidence of the federal government's hasty retreat from serving as an advocate for the civil rights of African Americans.

The institutional milieu within which African Americans carried out life and living was shaped by the betrayal of federal government and an aggregation of outrageously racist southern state governments. And while living in the United States has not offered particularly "good times" for black people, living in the ex-confederacy was akin to living on the edge of hell for African Americans. In a color conscious society, black was a color which brought the wrath of the Ku Klux Klan, Knights of the White Camelia and other ya-hoo boys in both the North and South.

African Americans were not the only ethnic group on the receiving end of both the *de jure* and *extra jure* racist forces in the nation. Native Americans, Mexican Americans, and Asian Americans also had life experiences shaped by the cruelty of America's racial apartheid policies and practices.

In his paper, "*Gong Lum v. Rice: The Convergence of Law, Race, and Ethnicity*," Malik Simba provides an accounting of how this nation's racial apartheid practices affected the lives of Chinese Americans living in Mississippi during the 1920s. In particular, Simba's essay is about how the Supreme Court arrived at its decision in *Gong Lum v. Rice* (1927) that Chinese Americans, as determined by the dictum of *Plessy v. Ferguson* (1896), were to be relegated to the same social category as black Americans. That is, Chinese Americans were also social pariahs: separate and unequal.

This paper brings into focus the historical role of law as a device for shaping the institutional lives of people of color in this society. Law, its coercive power, can and has extended hegemonic control over the lives of people. Witness, for

example, the long history of relationships between Native Americans and the US government. Law, at least the government's interpretation, has been used to establish and virtually maintain a near stranglehold on Native American affairs. Simba makes particular note of the fact that the rule of law has been the role of law, that is, to separate, divide, and conquer.

Simba employs the tool of "critical legal theory" as a device for analyzing how race conscious law was used to configure America's apartheid *democracy* (my emphasis). This approach focuses on how racist ideology functions as a rationale by the privileged in their attempt to maintain and strengthen their advantaged status in a society while at the same time maintaining a race-based *status quo*.

Simba's discussion of the "Gramscian concept of hegemony" as part of critical legal theory is interesting. I believe that he abbreviates his presentation of its utility as applied to the Chinese American community in Mississippi and the Lum family in particular. For example, I wonder if Simba believes that there are some intrinsic features of the Chinese American community in Mississippi or the Lum family which recommends the use of the Gramscian concept of hegemony. Certainly, as Simba notes, given the social-legal ethos of post-Plessy America, there is little reason to believe that people of color were going to be satisfied with a status quo based on ascribed inferiority. Is there really any reason to believe that minimization of social antagonisms would occur under such conditions? These are not offered as criticisms; the questions are prompted by the discourse on the subject.

Overall, I think this paper provides an important conceptual window through which we can view the development of what has been described as a juridical society. This society may be law-based. But as Simba reminds us, it has been one where law has been used to reward some and punish others. And those on the receiving end of the punishment have too often been people of color. The irony of this is that people of color, as did the Lums, seek to use a legal process fashioned by the privileged as a tool for prying themselves free from the clutches of the privileged.

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