



“Two Wongs Can Make It White”: Charlie Chan and the Orientalist Exception
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In the pursuit of wrongdoing, one steps away from God.

Sister Aloysius Beauvier in *Doubt* (2008)

Of the dozens of Charlie Chan films made in the U.S., only one is set in the fictional detective's putative homeland. Released in 1935, *Charlie Chan in Shanghai* makes much of the “homecoming” aspect of Chan's arrival on the scene, beginning with a characteristically sing-song remark by the grammatically challenged detective: “Most anxious to renew acquaintance with land of honorable ancestors.” The plot, however, unfolds in a fashion typical to the series, which features the peripatetic detective solving criminal cases in a smorgasbord of familiar and exotic locations. Nonetheless, this film casts into relief a contradiction underlying the entire Charlie Chan franchise: Here, a soft-spoken, diffident, and roly-poly “Chinaman” is cast in the role of the classic detective hero in pursuit of a band of white miscreants in the notorious Shanghai badlands. He accomplishes the mission with a minimum of gumshoeing, but evidently a great deal of ratiocination and cunning, all the while disarming and mystifying those around him with his aphoristic circumlocutions.

This article seeks to make sense of the enigma of Charlie Chan by situating him at the intersection of critical legal studies, genre studies, cognitive psychology, and postcolonial critique. It contends that Chan is more than a shameful chapter in the history of American racism and Orientalism, rather a product of the legal Orientalist imagination's exploitation of a peculiar

genre schema of detective fiction. As such, he is a figure of ambivalence, equivocation, and exception. On the one hand, Chan fits the stereotype of the maverick detective who must operate within the penumbra of formal judicial apparatuses—in the zone of the exception—in order to match wits with the master criminal. On the other hand, it is his “race” that reifies the power of the exception, making him the unctuous twin of the insidious criminal mastermind Dr. Fu Manchu. Building on the works of Luc Boltanski, Judith Shklar, Teemu Ruskola, and others, I propose to see Chan as an auratic figure that feeds on the anxiety engendered by law’s inevitable intercourse with the extra-legal and its inadequacy in relation to or non-identity with justice. I invoke two examples from the Chan repertoire, one novel and one film, primarily for the purpose of illustrating my arguments rather than offering new readings of them: *The House without a Key* (1925) and *Charlie Chan in Shanghai*.

The Exception in Detective Fiction

In his historical-sociological study of English and French crime fiction, Luc Boltanski (2014) links the genre’s birth and boom to the emergence of a liberal-capitalist political order that he calls “the state of law.” The state of law presupposes an objectively and empirically knowable reality that is nonetheless vulnerable to subversion. The mystery and suspense that lie at the heart of the genre are anchored in an orderly reality that is guaranteed by the state of law and eventually restored after being called into question, not so much by petty criminals as by an elite that is never wholly sold on the universalist pretensions of the rule of law. The whole point of crime stories is to dramatize the state of law and the contradiction that it encounters when it is superimposed on a class-based society (2014, 71). He points to these stories’ near exclusive preoccupation with elite crime and offers a class analysis of “the regime of the exception” in which the genre operates. The maintenance of order necessarily takes the agents of the state

beyond the realm of legality, thereby sidestepping or suspending the law, in doing so exposing the inherent instability, fragility, and limitation of the state of law itself.

Boltanski begins by asking why, in classic detective fiction, the policeman is never the sole or chief investigator, instead always playing second fiddle to the detective hero, who is typically not an agent of the state (or, if so, is acting in an ad hoc capacity in relation to a given case) and is, moreover, marked by a host of eccentricities. While the former is naïve, obtuse, and rule-bound, the latter is endowed with an outsized intelligence, taking frequent liberties with the letter of the law, in order, it is believed, better to serve the spirit of the law. He writes:

The detective's action is situated both on the near side of legality – he often acts before the policeman, the agent of the legal order, has been able to intervene – and on the far side. His acts are based on a moral support structure treated as superior or even transcendent with respect to the legal structure, as attested by his numerous infringements of the legal order in pursuit of his goals. The detective justifies these infringements by referring to moral considerations of which legal forms are only a rough approximation, when they are not in direct contradiction. Nevertheless, his failures to respect the rules to the letter are never sanctioned by the policeman, who closes his eyes to them, as if for him it were a self-evident truth that the detective's acts remain within the spirit of the rules, no matter where circumstances may take them (and this may be quite far). (Boltanski 2014, 52-53)

The proverbial distinction between the letter and the spirit of the law points to troubling gaps—between law and morality or between immanent justice as the *raison d'être* of the judicial system and transcendent justice as the *summum bonum* of the moral-political order. While law formalizes and solidifies moral norms, the moral-political order exceeds legality per se in its preoccupation with legitimacy and its tolerance of tensions, ambiguities, and dilemmas. We will return to this point in the next section. In a class-based society, broadly divided into a dominant (master) class and a subordinate (servant) class but nonetheless upholding the rule of law, formal equality is often a fig leaf for equality with respect to crime—i.e., everyone is a potential suspect in the eye of the state—but not with respect to justice. The servile class filling the manual and menial occupations (as cooks, maids, chauffeurs, and common laborers) is believed to be ruled

by elemental passions and prone to committing crude criminal offenses. The master class, by contrast, counts among its ranks the nobility, the landed gentry, state officials, and the nouveau riche. Highly educated and often holding important political posts, members of the elite every so often find themselves caught between multiple loyalties and obligations, having to bend rules and settle for the lesser of two evils. Their transgressions come with a touch of the tragic as they struggle with moral dilemmas and weigh private interests against the public good which they have been entrusted to safeguard. They turn to the private detective in the hope of keeping certain matters from ballooning into public scandals that threaten to ruin their good name and undermine, to the extent that they are its backbone, the political order.

In calling attention to the contradiction between the state of law and the class-based society, Boltanski builds off Roberto Unger's seminal insight that the modern state is marked at birth by a central paradox: "The state, which is the child of the social hierarchy, must also be its ruler; it must be distinct from any one social group in the system of domination and dependence. Yet it has to draw its staff and its purposes from groups that are part of this system" (Unger 1976, 61). Its laws must simultaneously serve the power interests of the dominant groups *and* appear to embody some inherently right order that is universally binding. The resultant fissure is both registered and camouflaged in crime fiction by a cast of special, liminal characters.

Boltanski notes that the special in-between status of elite servants, such as butlers and governesses, accounts for their prominent role in the detective genre, but they are rarely grouped together with the detective. It seems that the only thing that sets the latter apart from the former is his (sometimes her) labile positionality vis-à-vis the law: whereas elite servants, when implicated, are almost always on the far side of the law as culprits, accomplices, or pawns, the detective ventures to the far side only to return to the near side after freeing the masters from the binds they have found themselves in while discreetly shielding them from the prying eyes of the

press and the penal instruments of the state. The true counterpart of the detective, therefore, is not the high-class servant, however deviously clever or conniving he or she may be, but the elite (professional) criminal, although they rarely share the fictional stage to the same extent. The detective and the master criminal have much in common, most notably their superior intelligence, facility in subterfuge, dogged perseverance, and disdain for rules.

In his philosophical reading of the film, *The Usual Suspects* (1995), Joshua Landy (2012) argues that the figure of the criminal mastermind is a modern secular incarnation of the Devil. In his evil genius and omnipotence, the arch-villain re-enchants the world by turning everyday objects into potential clues and endowing random suffering with meaning and purpose: “The slightest incident gains infinite significance, inasmuch as our eternal destiny may turn on it; the slightest action gains infinite weight, inasmuch as it may turn out to be a move in a cosmic struggle between good and evil. What is more, human suffering thereby gains an explanation and loses, accordingly, the best part of its sting” (Landy 2012, 45). In the film, we watch the primary suspect, Roger “Verbal” Kint, walk away from the police station a free man with the pleasurable realization that he *is* Keyser Söze, the shadowy ringmaster of a transnational criminal empire responsible for engineering many a legendary heist. Landy maintains that the sense of satisfaction we derive from seeing Kint/Keyser once again elude the grasp of the law resides in his ability to re-enchant the world, notwithstanding all the blood on his hands. Landy also notes the amoral nature of our siding with such a colossal wrongdoer in a rejoinder to those who believe in the power of fiction to improve our morals.

Extending Landy’s insight, we might say that both master criminal and master detective are fabulously monstrous beings born of law’s inherent limitations that operate in the realm of the exception, where they play fast and loose with the rules. Both take on “the task of re-enchanting a derelict world” (Landy 2012, 47), and it is only the genre—noir or whodunit—that

determines who claims our primary sympathies in a given story. Note that the chief investigator in *The Usual Suspects*, customs agent Dave Kujan, is indeed no Sherlock Holmes, being so handily fooled by his quarry, who masquerades as a small-time crook with a glib tongue but a palsied left arm and limp. He is, rather, a mere functionary, like the obligatory ham-fisted cop in the classic detective story, “a good sort but limited to his job description; his actions and his intelligence are confined within the limits of legality” (Boltanski 2014, 49).

The Exception in Law

It may come as a surprise that stories about law and order should overwhelmingly locate their attraction in the realm that lies beyond legality, as embodied in the auratic figures of the master-detective and the master-criminal. We can approach this preoccupation with the extra-legal from both a cognitive-psychological angle and a sociological one. Cognitive and evolutionary psychologists (Bloom 2013, Greene 2013, Haidt 2001, 2012, Kahneman 2011, Wilson 2015), going beyond traditional moral philosophy’s normative preoccupations, have given us a much fuller, empirically grounded, and experimentally tested picture of moral life. Using different terminologies, they generally converge on the idea that the bulk of our cognitive-emotional processes take place on an automatic, intuitive, and subconscious level, and that our conscious mental life constitutes a much smaller part of the overall brain process than previously thought. Whereas the former is fast, efficient, “hot,” but inflexible (Haidt likening it to an elephant), the latter is slow, laborious, “cool,” and flexible, but cognitively expensive and tending to abide by the principle of the least effort (the elephant’s rider, according to Haidt’s vivid analogy). Evolutionarily speaking, our intuitions are biological adaptations of the increasingly social nature of human existence, and are socially and culturally reinforced. More specifically, we are endowed with moral intuitions that help maintain group cohesion and

survival: kin attachment (parent-child bonding and pair bonding), reciprocal altruism, a sense of fairness, righteous anger toward anti-social behavior, a thirst for revenge, a fear of strangers, and so on. We experience these intuitions as spontaneous emotions more or less independent of our conscious control—indeed, we refer to them as our “conscience,” whose dictates we must heed. For much of human history, our intuitive morality (what Greene calls our “point-and-shoot” morality) has served us well, but it has a critical flaw: it rarely extends beyond the close-knit kin group and the face-to-face community. As human societies expanded from bands of hunter-gatherers to settled agrarian empires and then industrial nation-states, interactions between strangers could no longer be entrusted to intuition alone. Indeed the inherent myopia, biases, and prejudices of intuitive morality are at the root of never-ending group conflicts. Impersonal laws and institutions have thus emerged to govern large-scale cooperation where trust cannot be presumed. Or, as Margaret Gruter (1991, 53) sees it, law mediates between our self-interested considerations related to personal and kin survival and our recognition of our interdependence with respect to others and the need for reciprocal altruism.

Along with the legal mediation of human relationships comes a sense of moral alienation. Law is regarded as a *sui generis* realm standing apart from intuitive morality, governing vast swaths of formal public life, while morality is increasingly confined to the personal and informal domains. Judith Shklar (1986) outlines the commonly perceived differences between law and morality: Law is concerned with external action, demanding mere conformity of behavior, while morality is about inner states of mind, requiring action to follow the dictates of conscience. As such, law is more modest in its demands, insisting only on abstention from what is forbidden, while morality urges that one do the right thing, even if this involves going beyond the call of duty. “In any case, *much of law is morally indifferent*, while the truly moral act cannot be legally enforced even if the content of individual moral and legal rules is the same” (Shklar 1986, 44,

emphasis added). This indifference, or moral neutrality, is held as a point of pride and jealously guarded by most legal champions. For Unger (1976, 69-70), law's generality and autonomy is critical to its ability to stand above the fray of clashing customs and mores borne of the modern condition of group pluralism.

The relationship of law to morality is a contentious topic (Posner 1999). Limiting our consideration to the cognitive dimension for the moment, we might say that because law extends our deliberative, reflective faculty to the regulation, checking, and even contravention of our moral intuitions and tribal passions, we regard law with profound ambivalence. While most of us recognize its necessary and salutatory role, especially in pacifying a world that might otherwise be mired in violence and vigilante justice, we chafe against its many counter-intuitive safeguards and measures that appear to side with wrongdoers while turning a cold face toward victims. From the right to remain silent, the presumption of innocence, plea bargaining, and the exclusion of impermissible evidence, to the very adversarial structure of judicial proceedings where the defendant is placed on an equal footing with the plaintiff, our moral common sense constantly bumps up against a system that seems perversely distrustful of our most deeply held values. Small wonder then that popular culture, though fascinated by the moral dramas that unfold in courtrooms, holds defense lawyers in such low esteem (Weisberg 1992, 79-80); we watch in disbelief, intermingled with fascination, their zealous efforts to get criminal suspects "off the hook" through what appear to be legal casuistry and meaningless technicalities. How can they, in good conscience, defend "those people"?¹ As often as not, we feel that justice has been defeated when the accused, whom the court of public opinion has overwhelmingly found guilty, is

¹ This rhetorical question is derived from the identical title of two books: *"How Can You Defend Those People?" The Making of a Criminal Lawyer* by James S. Kunen (New York: Random House, 1983) and *How Can You Defend Those People?* by Mickey Sherman (New York: Lyons Press, 2008).

acquitted or handed a lenient sentence, or when a sympathetic defendant is unable to win over the judge and jury, even if the trial has been carried out in an exemplary manner.

Wai-chee Dimock (1996) names this lingering sense of discontent the “residues of justice.” Literature about crime and punishment, in her view, speaks two languages. First and foremost, it speaks a utopian language that presumes the transcendent universality and ethical primacy of justice, however imperfectly it may be implemented on the ground. Yet it is also powerfully drawn to “the losses as well as the residues occasioned by the exercise of justice” (Dimock 1996, 7), and in so doing speaks the language of poetic justice. Generically, these losses and residues find expression in the master-criminal and the master-detective, their villainy and heroism taking them to the far side of legality and back again in a symmetrical duality, though Dimock sees the dynamic play out in a far wider range of genres concerned with justice broadly construed. In these texts, “the problem of justice is given a face and a voice, a density of feature that plays havoc with any uniform scale of measurement and brings to every act of judicial weighing the shadow of an unweighable residue. In the persistence of that residue, in the sense of mismatch, the sense of shortfall, that burdens the endings of these texts, we have the most eloquent dissent from that canon of rational adequation so blandly maintained in philosophy and law” (Dimock 1996, 10).

That crime stories are centrally preoccupied with the residues of justice would not surprise Bruno Latour, who offers us a sociological explanation of the apparent paradox. In his latest work, *An Inquiry into Modes of Existence* (2013), he continues the project begun in *We Have Never Been Modern* (1993) that regards the self-narrative of the moderns as more an aspiration than a description. Many of the vaunted institutions of modernity, such as politics, law, and the economy, which the moderns use to distance themselves from the ancients, turn out to be shot through with not-so-modern elements and patterns. Rather than discrete entities or

domains, these institutions are more appropriately understood as interpenetrating “networks.” The legal system, for example, is no more made of “law” than gas pipelines are made of gas. A person pursuing a legal action must needs pass through a course of action that is full of small interruptions and hiatuses of a non-legal nature. “Let us say that it involves a particular *pass*, which consists...in passing *by way of another* through the intermediary of a step, a leap, a threshold in the usual course of events” (Latour 2013, 34). Law is thus riven between its “astonishing force” and its “remarkable weakness”:

But we feel the weakness every time we despair at seeing that the ‘legally justified’ decision is not necessarily just, opportune, true, useful, effective; every time the court condemns an accused party but the aggrieved party has still not been able to achieve “closure”; every time indemnities have been awarded but doubts still remain about the exact responsibilities of the respective parties. With the law, we always go from surprise to surprise: we are surprised by its power, surprised by its impotence. (Latour 2013, 361)

What makes law so hard to grasp is that as soon as it has been defined as a separate world, carefully delimited by its own tautologies, we notice how *flexible* it is, and with what confounding agility it absorbs all sorts of injunctions from other regions: politics, the economy, trends, fashions, prejudices, media. As a result, just when we think we have discovered it as a particular sphere, with its own regulatory modes, we notice that the legal institution is so porous that its decisions look like so many weathervanes, turning with every breeze. (Latour 2013, 362)

There is perhaps no more poignant testimony to law’s pliability than the trial scene in *To Kill A Mocking Bird* (1962). Here, merely hours after Gregory Peck, playing defense lawyer Atticus Finch, has delivered a rousing speech about the law being a great leveler and a black defendant standing equal to his fellow men in a court of law, the all-white jury returns a guilty verdict for the defendant. Even so, those sitting in the whites-only part of the courtroom would be the last to own up to the weathervane nature of the law, or its hijacking by racism.

This is precisely why Latour refuses to take the moderns’ self-narrative at face value. In this, he is extending a long line of critiques of the modern myth of legal purism stretching from the 19th-century Marxists and early 20th-century American Realists down to contemporary

postcolonial critics. According to this myth, law is a kingdom unto itself, autonomous, objective, internally coherent, self-sufficient, bounded, and deriving its strength from its principled detachment from politics, religion, morality, ideology, and the market. Embraced by legal theorists and legal professionals alike, it holds up judicial independence as the lynchpin of the rule of law and democracy. Shklar calls this outlook “legalism,” identifying its essential ingredients as: “the dislike of vague generalities, the preference for case-by-case treatment of all social issues, the structuring of all possible human relations into the form of claims and counterclaims under established rules, and the belief that the rules are ‘there’” (Shklar 1986, 10). She criticizes the single-minded faith in legal rectitude, or what she calls the “policy of justice,” which despises arbitration, negotiation, and bargaining, as mere “politics.” The insistence on law’s imperviousness ostensibly protects the diversity of private morals and individual freedom from ideological or religious tyranny, but it also allows legalism to hegemonize the political imagination: “Adjudication of private *lites inter partes* will remain the model for public rectitude, the best way to solve all social conflicts, and ‘the law’ will remain ‘there’” (Shklar 1986, 19).

Marxists have long sought to expose this formalistic and ultimately conservative ideology as a tool of class oppression. Without quite going along with the radical Marxist rejection of the rule of law *tout court*, critical legal studies has jettisoned the aforementioned legalist fictions and interrogated law’s imbrication with morals, ideologies, sectional interests, and political goals. In a nutshell, the critique of legalism exposes the fundamentally hollow nature of the liberal definition of law: in excluding goodness and other extra-legal desiderata and admitting only morally neutral principles, “such as the fact it is enforced by someone” (Shklar 1986, 52), one is nonetheless confronted with the difficulty of pinning down that “someone” in the age of popular sovereignty and constitutional democracy. However resoundingly “we the people” may be invoked, in the final analysis, we are left with a mere tautology: “the law is what the sovereign

says it is, and the sovereign is he who says what the law is” (Shklar 1986, 52-53). This is the crux of what critics commonly speak of as law’s fundamental contradiction or aporia: to wit, its self-image as a disinterested and independent universe is predicated on a disavowal (simultaneous recognition and denial) or abjection (simultaneous acceptance and rejection) of the sovereign exception.

Advancing a critique of the liberal state of law from a right-wing perspective, Carl Schmitt (2005) impugns this disavowal/abjection of the sovereign exception and seeks to reverse the exclusion of politics from law and the fireproofing of moral passions with cold, hard rules. For him, because the rule of law admits only the distinction between the legal and the criminal, it is wholly inadequate in coping with the existential conflict between “us” and “them,” or between friends and enemies. When Schmitt defines the sovereign as he who decides on the exception, he underscores and celebrates the arbitrary, contingent, and essentially theological foundation of law. Coming from the left, Hannah Arendt considers the irony of the French Revolution’s proclamation of natural rights alongside the assertion of national sovereignty. She writes: “the same nation was at once declared to be subject to laws, which supposedly would flow from the Rights of Man, *and* sovereign, that is, bound by no universal law and acknowledging nothing superior to itself” (1968, 230). The idea of universal human rights, in her view, is dubiously grounded in the human species being (as innate or God-given), when rights can only ever be guaranteed by virtue of membership in a political community. By implication, rights can also be revoked by sovereign decision—a fate that often befalls vulnerable groups. Examples of such groups being cast into what Giorgio Agamben (2005) has called the state of the exception are legion, from black slaves in the antebellum American south to Jews in WWII Europe and Japanese-Americans in internment camps. “National sovereignty, accordingly, lost its original connotation of freedom of the people and was being surrounded by a pseudomystical aura of

lawless arbitrariness” (Arendt 1968, 231). This is precisely the point of Schmitt’s project of political theology: to re-enchant secular liberal politics dedicated to the “policy of justice” by reasserting the transcendental status of the sovereign exception. In the next section, I turn to Charlie Chan, a fetishistic figure who, in his Oriental obliquity, also enables an underhanded celebration of the sovereign exception’s pseudomystical aura of lawless arbitrariness.

Charlie Chan, the Exceptional Oriental

At the turn of the last century, according to Teemu Ruskola, the sovereign exception found the most virulent and absurd expressions in America’s de-territorialized empire, stretching from Asia to Central America and from Alaska to the South Seas and including the native-American “domestic dependent nations” in the heart of the homeland (Ruskola 2013, 118). Ruskola focuses on two China-related manifestations: the establishment of the U.S. District Court for China in 1906 and the Chinese exclusion laws of the 1880s and 1890s. Both were buttressed by a racist conviction in the radical incompatibility between the law and China. The latter barred Chinese laborers from immigrating to the U.S. mainland and (for those already here) from obtaining American citizenship through naturalization on the grounds that the Chinese, reared in a land of Oriental despotism, were incapable of assimilating democratic values and obeying the law of the land. The former followed upon the unequal Wanghia Treaty of 1844 between the U.S. and China that asserted extraterritorial rights for American citizens. In passing this act, Congress envisioned a “District of China,” where American citizens would come under the jurisdiction of consular courts instructed to apply an improbable patchwork of laws, including pre-Revolutionary English common law, the municipal code of the District of Columbia, and the territorial code of Alaska, among others. The exceptional nature of this juridical act is further accentuated by the fact that the U.S. Constitution itself did not apply in the

District of China; hence “there was no right to a jury trial nor to constitutional due process, among other legal niceties” (Ruskola 2013, 7).

Even so, for a “civilized” American, this was considered far superior to being subject to the jurisdiction of Chinese law. In the legal Orientalist discourse, Chinese law was seen as predominantly penal in emphasis, with few provisions for due process. Civil law was virtually non-existent, nor was there any constitutional check on state power. In place of the rule of law, China had the rule of man, a conclusion that seemed to be amply supported by Confucian ideology, according to which the legitimacy of the Chinese political order rested on the moral excellence of the ruling class (Ruskola 2013, 14). In the Orientalist imagination, this normative, indeed highly idealized self-image translated straight into despotism, providing a convenient receptacle for the outward projection of law’s aporia. Hence “it is precisely the laws at the margins of a liberal democratic state that define its center” (Ruskola 2013, 8).

I submit that Charlie Chan, the unassuming Oriental detective of a beloved American popular culture franchise, is a product of the convergence of two regimes of exception: legal Orientalism and detective fiction. Detective fiction, to recall Boltanski’s point, pointedly exploits law’s aporia in the duo of the detective and the policeman. Whereas the latter acts *on behalf of* the state, the former acts *in lieu of* the state in order to achieve what a liberal-democratic state cannot accomplish without exposing the very aporia that inhibits it: “The detective is the state in a state of ordinary exception” (Boltanski 2014, 72). The question of why an “Oriental” should come to assume this peculiarly powerful role, however, still remains. Yunte Huang (2010) sets out to answer this question in his group biography of the key players in the Charlie Chan franchise: Earl Derr Biggers (1884-1933), author of the original six Chan novels; Warner Oland (1879-1938), a Swedish-born actor and Chan’s best known screen avatar, and Chan’s real life model, Chang Apana (1871-1933), a swashbuckling police sergeant in the employ of the

Honolulu Police Department. Chang Apana was Hawaiian born and conversant in several local languages. Though illiterate, he was an energetic and relentless crusader against petty crime, mostly involving smuggling and gambling. He was known for carrying a bullwhip—a relic of his earlier career as a cowboy—on the job. In contrast to the corpulent and phlegmatic Charlie Chan, who was perpetually sniffing out murderers, he had a lean physique and a hot temper, and was involved in very few murder cases. After Biggers publicly acknowledged Chang as his inspiration (from reading local newspaper accounts), Chang came to be called Charlie Chan by the local media, eventually meeting with Biggers and Oland to much media fanfare.

Rubbing against the grain of vocal denunciation from the Asian American community, Huang, himself an immigrant scholar from China, professes his attraction to the character and credits Biggers for creating an overall positive image of a “Chinaman” in a deeply racist era out of a desire to counteract the pernicious discourse of the “yellow peril.”² He is particularly fond of what he calls “Chanisms”: “Interestingly, Chan’s troubles with grammar—or what he calls ‘my reckless wanderings among words of unlimitable English language’—enable Biggers to craft some Chanisms that border on comedy, absurdity, and poetry. ‘Endeavoring to make English language my slave...I pursue poetry’” (2010, 155).³ He recognizes how remarkable it is

² While not the most accomplished among golden age detective fiction writers, Biggers clearly did not share their conservative mindset. Julian Symons thinks “it would have been unthinkable for [most of them] to create a Jewish detective, or a working-class one aggressively conscious of his origins” (1972, 104). But, of course, the detective genre is all about playing with rules and confounding expectations. Today we would take even an autistic child for a detective (see Mark Haddon, *The Curious Incident of the Dog in the Night-Time: A Novel* [New York: Random House, 2004]).

³ Huang characterizes Chan’s mangled English as “Chinese pidgin,” pointing to its lack of subjects, delinquent articles, and randomly conjugated verbs (2010, 154-155). Yet in larding Chan’s speech with pseudo-Confucian aphorisms, Biggers gives it a quaint elegance. In *The House Without a Key*, the author tells us forthright that Chan takes pains to rise above pidgin: After a false telephone call lures the Bostonian newcomer John Quincy (who becomes Chan’s understudy in the investigation of the murder of his uncle) to a shady Chinese shop, he realizes his error: “For he knew now that Charlie Chan had not called him on the telephone. It came to

that Charlie Chan's "rendezvous" with American culture should have coincided with one of the worst paroxysms of xenophobia in American history (2010, 147). Indeed, given that the first Chan novel, *The House Without a Key*, from which the above choice Chanisms are taken, was published merely a year after the passage of the 1924 Johnson-Reed Act that denied American citizenship to foreign-born "Asiatics," the birth of an Asiatic star seems nothing short of a miracle. In a largely appreciative review in *The New Yorker*, Jill Lepore (2010) registers a note of disappointment: "The trick of Huang's book, which he doesn't quite pull off, is to explain why so many Americans became so enamored of Charlie Chan at just this moment. Why, hating and fearing the Chinese, did they love the Chinese detective? Was he—so unmanned, so obsequious, so humbly offering his services—reassuring? Or was something else going on? On this question, Huang dodges." Before Huang, others (Song 1999, Doherty 2004) have also sought to explain Charlie Chan by recounting Chang Apana's hardboiled career. To me, identifying a historical prototype goes only so far toward unraveling the enigma of Charlie Chan, especially when the icon is separated from the prototype by a yawning gap.

Instead of seeking answers in history and authorial intention, Charles Rzepka (2007) looks to genre in order to crack the enigma of Charlie Chan. He points out that Chan has a relatively minor role in *The House Without a Key*, and that it was in response to enthusiastic demands from his readers that Biggers made Chan the protagonist of the subsequent titles, thereby creating the first nonwhite popular detective hero in American literary history. Being the first to swim against the prevailing sentiment against Chan among Asian Americans, Rzepka acknowledges the racist and racialist dimensions of the character: obsequious, self-effacing,

him belatedly that the voice was never Charlie's. 'You savvy locality?' the voice had said. A clumsy attempt at Chan's style, but Chan was a student of English; he dragged his words painfully from the poets; he was careful to use nothing that savored of 'pidgin'" (Biggers 1925, 256). Evidently, Biggers wants his fictional sleuth to be different, but not *déclassé*.

effeminate, asexual; fortune-cookie English; “a personality reduced to a Chinese takeout menu”; “an Asian Uncle Tom, the bastard offspring of ‘racist love’” (2007, 1464). Aside from the odd coupling of racism with love in place of the more familiar sentiments of hate and fear, to argue that “racist love” was enough to keep the franchise afloat for decades would be a tough proposition. There is indeed something else going on, as Lepore intuits, beyond the author’s progressive impulse and the readers’ retrograde pleasure. And Rzepka believes that attending to genre allows us to bridge that gap.

Rzepka points to two innovations Biggers brought to bear on the classic detective genre: anti-Chinatown South Seas exoticism and the racial outsider status of the detective. He calls our attention to the South Seas setting of *The House without a Key*: “By choosing Honolulu as his inaugural mise-en-scene, Biggers decisively rejected Chinatown regionalism as a generic context for the debut of his Chinese American detective, replacing the ‘architectural uncanny’ of its dark alleys, tunnels, and opium dens with sunshine, fresh air, and broad sandy beaches” (Rzepka 2007, 1469). Coming from the buttoned-down East, Biggers found the racial intermixing in Hawaii refreshing, and was especially struck by the degree of integration into local political, social, and economic life on the part of Chinese Hawaiians—thanks to the continuous influx of Chinese immigrants, particularly women, to the islands until 1898, the year of Hawaii’s formal annexation. He was then able to introduce “a utopian prototype of assimilationist multiculturalism” (Rzepka 2007, 1469) to his white middle-class readers on the mainland, who had hitherto known only racial segregation and animosity.

Hawaii’s racial melting pot, however superficial, suggests Rzepka, gave Biggers both the inspiration and license to take the final bold step in rule subversion that is requisite of the genre: Instead of merely endowing his detective hero with features “distinctly at odds with Doyle’s keen-eyed, sinewy, and slightly Bohemian sleuth [that is, Sherlock Holmes]” (2007, 1472) in the

molds of Father Brown, Miss Marple, and Hercule Poirot, by subverting expectations of looks, class, nationality, and gender, Biggers crossed the final barrier of race, giving us the first “Oriental” detective who pursued crimes in both the metropolitan precincts of the Occident and its far-flung empire. Charlie Chan is the bastard offspring of detective fiction and legal Orientalism: As a man of law, he faithfully executes his office within the broad framework of law and order; he adopts the scientific method of gathering evidence, following clues, and probing suspects; he interacts with his law-enforcement collaborators in a dignified, professional manner; he conducts business in an impeccable white linen suit, never losing his cool while in the line of duty. Overlaying this bland, staid persona are his Oriental quirks: his usual sidekick is his Number One Son Lee Chan, a plot contrivance apparently alluding to the Orient’s inability to maintain a wall of separation between impersonal law and nepotistic loyalties; he buries the inductive method in a florid verbiage that leaves his interlocutors more mystified and awed than enlightened; he has no qualms about using deception and trickery on anyone, whatever their relationship with the law, guided only by what he calls, in deadpan manner, the “psychic” abilities of the Chinese people (Biggers 1925, 125).

In *The House Without a Key*, John Quincy Winterslip, a Bostonian fresh off the boat, puts his finger on the key to Chan’s attraction: “John Quincy laughed. ‘Damned clever, these Chinese!’ he quoted [his interlocutor]. ‘You don’t mean to say you’ve fallen for that bunk. They seem clever because they’re so different’” (Biggers 1925, 119). A few pages later, he too would fall for the “bunk,” as would countless fans of the novels and the films. The pleasure of the Charlie Chan mysteries is overdetermined, but the central ingredient is indeed difference, as required by genre and by Orientalism. At the climactic conclusion of the murder case investigation, when a handsome lawyer named Harry Jennison is exposed as the culprit, the prosecutor hits a stone wall when trying to extract a quick confession from the former. In a

moment of apparent oblivion, Chan stoops to pick up a casually dropped pencil. The accused murderer, sitting close by, spots a pistol protruding from under his coat, promptly seizes it, and shoots himself in the forehead.

“That’s it!” cried [the prosecutor] triumphantly. “That’s my confession, and not a word spoken. I’ve witnesses, Jennison—they all saw you—you couldn’t stand the disgrace a man in your position—you tried to kill yourself. With an empty gun.” He went over and patted Chan on the shoulder. “A great idea, Charlie,” he said. “Chan thought of it,” he added to Jennison. “The Oriental mind, Harry. Rather subtle, isn’t it?” (Biggers, 309)

The spin-off film series following on from Biggers’ novels greatly magnified the slapstick aspect of the entire conceit: Fan commentary makes it plain that these stories invite a bemused, indulgent attitude among members of the audience as they are taken on around-the-world rides with Chan, who always intervenes in an unofficial capacity as a visiting detective, dispensing far more colorful Chanisms than those found in the novels with far greater frequency as well. The somewhat circus-like feel, however, papers over an implicit recognition of the racist displacement of law’s aporia, particularly as it pertains to the Chinese exclusion laws and America’s “jurisdictional imperialism” (Ruskola 2013, 20) in Asia. This is perhaps best illustrated when Chan is brought to imperialism’s wild west, Shanghai. In *Charlie Chan in Shanghai*, the film with which we began this article, the honorable detective is summoned to the city to help bust an international opium smuggling ring. As the ringleaders are all non-Chinese, this is not a case of bringing in an ethnic “insider” to deal with restless “natives.” Rather, Chan’s services are requested due to the reputation that he has built up combatting white criminality in such cinematic locales as London and Paris, as well as in his native Hawaii. Granted, there is a brief reference to the soundness of this idea on the grounds that Chan might excel even more in his ancestral land, but the plot turns out to hinge very little on his “native” sensibility or affinity, with much of the action confined to the International Settlement jointly governed by the British and the Americans. Even minor characters, such as chauffeurs and telephone operators, are non-

Chinese. A telling instance comes early in the film: at the welcome banquet, the British police commissioner Colonel Watkins and a Chinese businessman make complimentary speeches about Chan. Chan then gives a long reply in Chinese (or whatever can be managed by Warner Oland). When a foreign reporter asks a Chinese colleague for a translation, he is told that Chan said his customary ‘Thank you so much!’” (Mitchell 1999, 100-101). What Chan has to say to the Chinese banquet attendees clearly is of no import to the film audience. He is not in Shanghai to reconnect with his Chinese roots, but to solve murders and other crimes. In other words, his Chineseness is merely a marker of his difference/cleverness, without any substantive significance. Obliging, a murder follows in the very next scene: a booby-trapped pistol shoots dead Chan’s host, Sir Stanley Woodland, a Scotland Yard officer who, we learn in an intertextual reference to *Charlie Chan in London* (1934), has previously had the pleasure of collaborating with Chan on a tough case.

But murder is merely an appetizer in the Shanghai badlands. A seething entrepôt that has lent its very name to criminality (as in the verb “to shanghai”) calls for something less tame and neatly wrapped than a country-house whodunit. The main course is, instead, opium smuggling. Smuggling is arguably a far messier criminal activity, one that challenges the modern state’s ability to underwrite its version of reality and claim total knowledge of a bounded society. It plies the byways of the global capitalist network just as international finance and trade travel its highways; both “pass through”—in Latour’s sense of the phrase—the network of laws and regulations, leaping over many gaps and hiatuses. During the gilded age, quite a few of the commercial powerhouses in the U.K. and U.S. (including the Delano and the Forbes families) were knee-deep in the enormously lucrative opium trade and smuggling business. The opium trade, forced upon the Qing empire at gunpoint, may well be the original sin of Western capitalism in Asia. The mid-century wars fought over the right to export opium violently

propelled dynastic China into the global capitalist orbit, inaugurating the era of unequal treaties, missionary proselytizing, foreign control of customs and railways, and extraterritoriality—an era indignantly summed up in Chinese history textbooks as “the century of humiliation.” In this light, opium smugglers are merely the foot soldiers of a global crime syndicate known as colonialism. However much smuggling is treated as a scourge that temporarily eludes the policing powers of individual nation-states, it is only the shabbier-clothed twin of starch-collared global capitalism, sometimes sharing personnel with the latter and constituting a glaring sphere of exception internal to the Westphalian legal order.

It seems logical that smuggling should become Charlie Chan’s bailiwick whenever he is called to the margins of the Occidental empire. In *Charlie Chan in Egypt* (1935), for example, he goes after the colonial plunderers of Egyptian archeological treasures.⁴ In *Charlie Chan in Shanghai*, he and his son Lee Chan are kidnapped by Russian mob boss Ivan Marloff’s minions and brought to a dimly lit house, where he parleys with Marloff as if addressing his opponent during a game of chess. He concedes temporary defeat, but fends off Marloff’s gruff queries with a Chanism: “Cold omelet like fish out of sea, does not improve with age. If answer known, question seem unnecessary.” Father and son then bluff their way out of the gang’s lair and, after a few more maneuvers, track them to their warehouse in a riverfront café. By this point, Chan has survived three attempts on his life, whereas Woodland promptly falls victim to the fatal trap at the banquet, leaving Chan to receive and work with the American secret agent James Andrews, who arrives on the scene shortly after the murder.

When Chan and Andrews reach the café and discover the opium stash in the cellar, Chan comes within a hair’s breadth of an ambush laid by gun-toting gangsters who are waiting under a

⁴ See Huang’s engaging reading of this film as a racial parable with its unusual multi-ethnic cast (2010, 239-244).

trap door. Just as he is about to descend the stairs below the trap door, his flashlight goes out and he offers a charming Chanism to Andrews, who is crouching behind him: “Insignificant offspring of searchlight seems to have internal trouble!” This brief stall buys him just enough time for the police to arrive by boat and burst in on the gang. In the final scene of reckoning, Chan outs Andrews as a member of the smuggling ring who bumped off the real secret agent back in San Francisco and assumed his identity. The police, of course, were summoned by Lee on his father’s secret instruction. We are greatly relieved to learn, *ex post facto*, that Chan had seen through the American imposter and known that the latter’s telephone call requesting police backup was a put-on. We smile at the recollection of the timely malfunctioning flashlight and Chan’s obfuscating remark that conceals so much cunning behind a façade of Oriental clumsiness with technology (even something as crude as a flashlight), puerile flight of fancy (big searchlight siring miniature flashlight), maddening fondness for indirectness (“internal trouble”), and incurable respect for rank and hierarchy (“insignificant offspring”).

The flashlight episode calls to mind another regime of exception that R. John Williams calls “Asia-as-technē.” He points out that the golden age of the Oriental detective genre also coincided with an era of deep technological anxiety in the West. Contrary to the prevailing Orientalist depiction of Asia as a land of tech-less irrationality, Asia-as-technē projects a more organic way of living with technology. Charlie Chan (as well as spin-off figures like Mr. Moto and Dr. James Lee Wong) is “constantly involved in reframing and even undoing the dangerous intrusion of technology into modern life” (Williams 2011, 100). “Charlie Chan’s stereotypical ‘Asianness’ is consistently portrayed as a cultural asset in solving the problems created by modern technology. Chan understands and yet crucially stands apart from the dangerous Western technological systems he is called in to remedy” (Williams 2011, 101). In other words, he knows his way in technoculture well enough to know when to “permit” it to stand aside for the sake of a

higher goal—just as he knows when to sidestep the law for the sake of justice. He carries a handgun, but rarely fires it; he has an authoritative command of forensic science, but scarcely needs to rely on it; he surrounds himself with state-of-the-art tech gadgets, but has no qualms about coming off as a klutz. In a parallel fashion, he defends the law by taking nonchalant liberties with it. In his infinite wisdom, the Oriental detective offers a therapeutic salve to the West's anxiety of reason, legal as much as technological.

Conclusion

The majority of the Chan films had Caucasian actors in the leading role, the most influential among whom was Warner Oland, who played the rotund and amiable detective in all sixteen Twentieth-Century Fox productions. Perhaps not so coincidentally, Oland's credentials as a "yellowface" actor were cemented in his title role in three *Fu Manchu* films between 1929 and 1931. The history of cross-racial casting in Hollywood cinema is a complex one; suffice it to say that both the blackface and yellowface conventions have come to be seen as demeaning and offensive to African Americans and Asian Americans. In my view, however, Charlie Chan can really only be portrayed by a non-Chinese actor, as he is, through and through, a creature of the Orientalist imagination. But for a convergence of historical factors, he could very well have been a Japanese or a Turk, so long as he fit the bill of the racial outsider exercising the sovereign power of the law by inhabiting the space of ordinary exception.

Let us now return to the driving question poses by this article: why should Charlie Chan emerge in an age of deep racism and xenophobia in American history? I am proposing two parts to the answer to this question: First, the sovereign exception that constitutes law's aporia gives the lie to law's pretensions of generality, neutrality, and autonomy. It is thus disavowed in the liberal state of law. This disavowal finds expression in the genre convention of detective fiction

that requires the detective hero to be a maverick figure who operates in the zone of the exception. Second, because China, in the legal Orientalist imagination, is the epitome of lawlessness, a Chinese detective is in the perfect position to inhabit the dodgy state of ordinary exception and absorb all of the odium attendant on the arbitrary, contingent, and mystical substratum of the rule of law. Made to bear both the aura and the taint of lawless arbitrariness, Chan is but a proxy player in a much larger power game, someone who poses no threat, no matter how much he knows. He belongs to the class of elite servants who are granted special confidences and extra leeway in order to clean up their masters' messes. Chan actually operationalizes this linkage in *The Chinese Parrot* (Biggers 1926), when he is sent on a special errand by his former mistress and then reprises his previous occupation of houseboy, impersonating a Chinese butler as a cover for his investigative work. Being a member of a denigrated and excluded ethnic group, Chan is the fetish that allows the white majority to simultaneously affirm the exclusion/discrimination/oppression of an immigrant/minority/foreign "race" and disavow its guilt and anxiety. By sending Chan on a globe-trotting career of cleaning up the flotsam and jetsam of colonial-capitalist adventures, the legal Orientalist imagination shores up the myth of legalism. In the colonial zone of exception, what is white is what is right. To adapt an apocryphal tagline attributed to a certain Wong Brothers laundry service, it does take two (and many more) wrongs/Wongs to make it right/white.⁵

In the 1976 parody of the classic detective genre cheekily entitled *Murder by Death*, five world-famous fictional sleuths are gathered at the gothic residence of an eccentric hermit. The comedian Peter Sellers plays a Charlie Chan look-alike in the film. Sporting a garish Chinese

⁵ For details on the controversy surrounding an Abercrombie & Fitch's T-shirt design that features the fictitious "Wong Brothers Laundry Service," see <http://www.criticalmediaproject.org/cml/media/abercrombie-fitch-wong-brothers-t-shirt/> and <http://www.theguardian.com/media/2002/apr/19/marketingandpr.race>.

robe that could only have been taken straight out of a Chinatown curiosity shop and uttering insipid lines with all of the articles systematically exiled (prompting the exasperated host, played by Truman Capote, to holler “Use the article!”), he delivers a Charlie Chan mock-up that is barely distinguishable from Fu Manchu. In all likelihood, Sellers was cast in this role by dint of his previous stint playing Fu Manchu in an episode (*The Terrible Revenge of Fred Fu Manchu*, 1955) of the BBC radio program *The Goon Show*. Still worse, four years later, he went on to star in the title role of *The Fiendish Plot of Dr. Fu Manchu* (1980), his last and probably worst film. Though Sellers died shortly after making this disastrous film, the twinning of Charlie Chan and Fu Manchu carried on. In the film industry’s botched and possibly final attempt at reviving Charlie Chan, Peter Ustinov plays the detective in *Charlie Chan and the Curse of the Dragon Queen* (1981), in which he resorts to sinister, feline squeals while stomping about in Chan’s signature white linen suit to blur the line between the evil Chinaman and the good Chinaman. As the Siamese twins of the legal Orientalist imagination, both have thankfully been laid to rest by a popular culture that has moved on and located the regime of exception on new frontiers—where the state of law encounters terrorists, aliens, cyborgs, or animals.

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