

Entitlement Struggles within Citizenship Boundaries: The Case of Occupational Closure through Moral Qualification

Weber's (1987) concept of social closure describes the process of mobilizing power to enhance or defend a group's share of rewards or resources, which entails utilizing and contesting rights. Occupational groups advance their interests through a specific form of social closure: occupational closure through state licensure laws. In so doing, they predicate citizens' "inalienable right to follow a lawful calling"¹ on a set of requirements. Often, securing a license to enter an occupation required a certain citizenship status, attaining skills and experience, or education/training. However, some occupations sought license laws with a moral clause that limited entry to those who could provide a proof of "good moral character." Sociologists of professions have classified occupational groups like lawyers and clergy as normative professions because they use moral discourse to exercise their authority (Halliday 1985). Yet occupational groups that lack a direct link to public morality—including embalmers, barbers, watchmakers—promoted license laws with the moral requirement. The puzzle is *how can we understand when and why certain occupational groups seek social closure through "moral qualification"?*

In this paper, I focus on state barber licensing laws in the nineteenth century, a historical period in which American courts gave ultimate deference to the freedom of contract and the right to follow a "lawful" calling. Barbers offer a good case because of the timing of their licensing laws. Barbers' licensing laws were not the first in statutory law to contain a moral clause, but the laws were put on the books before the moral requirement became commonplace, which avoids any suggestion that the legislation was not adopted purposefully. Indeed, when a group of German barbers drafted the first barbers' licensing bill in Minnesota in 1897, only a handful of occupations—including attorneys, physicians, and teachers—asked applicants to provide a proof of good moral character in the state, which had joined the union in 1858. Other occupational groups were regulated without moral qualifications, including dentists and veterinary surgeons. Barbers had various legal templates from which to draw for their own licensing requirement proposals. Yet barbers opted for the model that included a moral requirement for licensing those "entitled to practice the occupation of barber" in their first test case (emphasis added, *Min. code, 1897*).

I argue that the "moral qualification" was used to construct boundaries while not appearing openly exclusionary. In their official journal, barbers explicitly articulated their need for licensing laws by employing an economic rationale: they advocated the law as a solution for the problem of "too many shops," saturated markets, and excessive competition (*Journal, 1900*). Yet excluding other citizens from the market went against the "spirit of unionism" and burdening fellow barbers with licensing fees seemed questionable. Hence, along with the economic argument, barbers articulated the need for licensing laws as a means to gain respect for the American "common barber" who had become ashamed of his trade (*ibid, 1901*). Thus, I argue that the moral clause requiring that an applicant to become a barber have a "good moral character" provided scaffolding for purely market-based rationales by appealing to social standing.

¹ *Butchers' Union Company v. Crescent City Company*, 111 U.S. 746

Barbers' struggles over market closure emerged on multiple fronts, and the malleability of the moral requirement enabled exclusion on intra-group and between-group levels. Intra-group conflicts took place between journeyman barbers and college barbers. Journeyman barbers sought to exclude college barbers from the market because they threatened the traditional apprenticeship model and would take away supply of "the boys," who were required to spend at least three years in this "training mode." The between-group conflicts emerged along gender and racial lines. Union barbers sought to exclude "lady barbers" on the grounds that "there is not a barber in the business who would like to see his sister or mother standing in such as position" (ibid, 1899). Exclusion along racial lines was more complex. While union barbers explicitly expressed antipathy against "foreign" Chinese and Japanese labor, the union's emphasis that "the American white man must realize that the negro has the same right he has" precluded outright racial discrimination against black barbers. However, the fact that license laws were advanced in states where de facto barbering segregation practices had failed suggests that the ambiguous moral qualification requirement offered a path for racialized practices to be maintained through the moral clause.

This account provides theoretical clarity to important debates. First, this study advances theories of boundary-making and struggle within groups. Traditional accounts of boundary-making employ binary frameworks and neat categories of "us" vs. "them" (e.g., Tilly 2004; Alba 2005; Frank et al. 2010). Yet classification struggles are not necessarily hierarchical and can occur within messy categories that have conflicting features (Rosch 1975; Worthen et al. 1998). In this vein, the study highlights mechanisms through which exclusionary processes occurred in multiple dimensions, including those within bounded categories, such as a group of male barbers with US citizenship.

Second, traditional sociological theories on the relationship between citizenship and rights have depicted rights as an end-goal that social groups attempt to access. But this framework ignores the ways in which rights are an interactive field of negotiations among the individuals who occupy the polity. The question is how rights are used in social groups' mobilizations of new distinctions to promote social closure projects within the boundaries of citizenship. As this paper illustrates, one way is to insert a "substantive" clause into formal rights, thereby qualifying rights and preserving the "entitlement" through a malleable exclusionary legal tool. In the case of occupational closure, groups inserted a moral qualification when "objective" criteria could have led to a more egalitarian market.

Structure of The Paper

I situate occupational closure within social closure theories and the mobilization of rights, Next, I show how and why the historical case of barbers' licensing law allows tracing how groups practice social closure after rights are expanded to include others, as well as how struggles take place between groups and within groups dimensions. I conclude by addressing the theoretical implications.