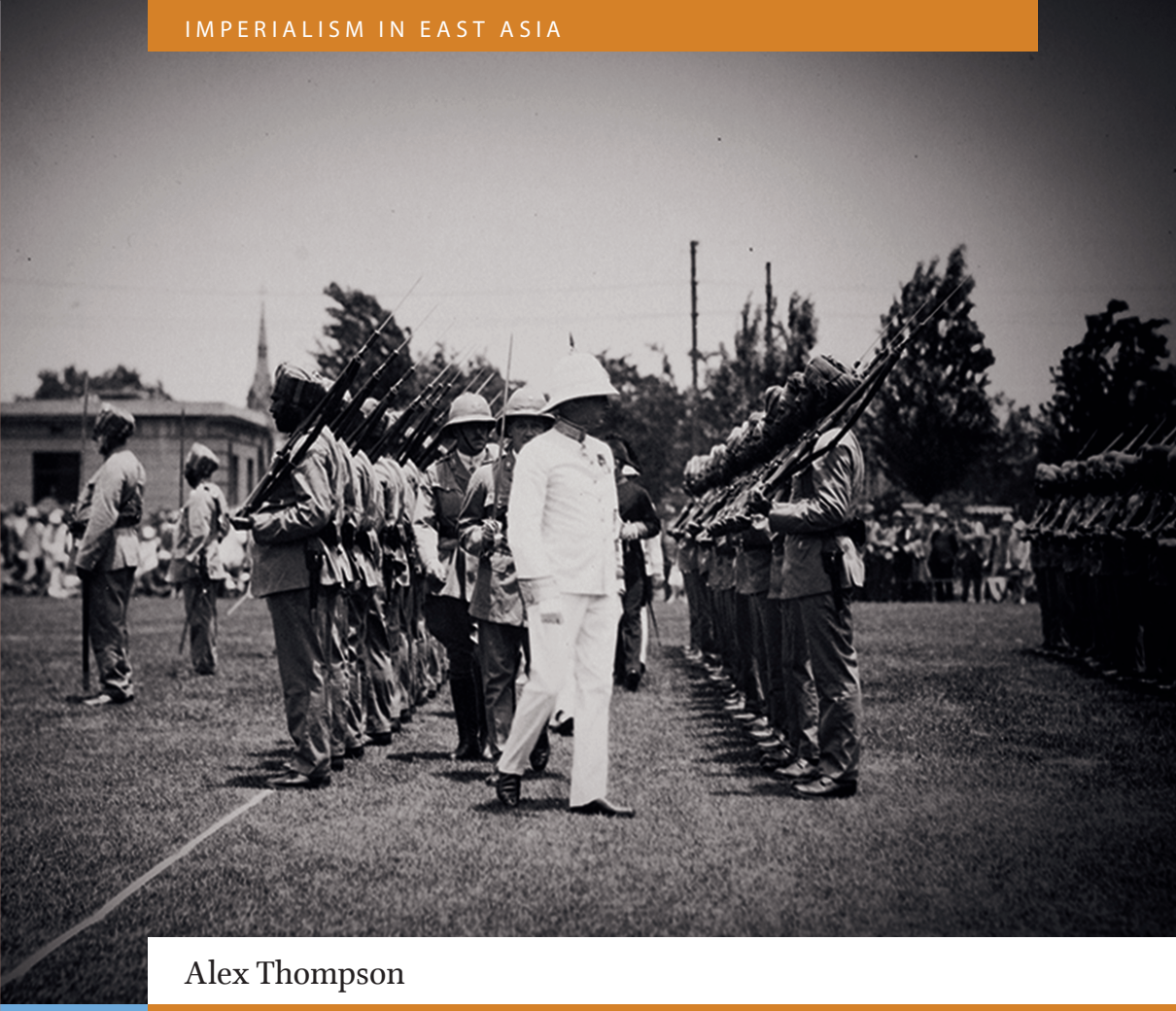
IMPERIALISM IN EAST ASIA



Alex Thompson

# British Law and Governance in Treaty Port China 1842-1927

## Consuls, Courts and Colonial Subjects

Amsterdam University Press

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British Law and Governance
in Treaty Port China 1842-1927

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# Imperialism in East Asia

*Imperialism in East Asia* offers an important new focus on the modern history and enduring legacies of imperialism in East Asia, providing a platform for critical exploration of the histories of imperialism in China, Korea and Japan, comparative studies of the phenomenon, and research tracing the connections between imperialisms in the region. In particular, it seeks to showcase research that brings new or neglected sources before academic and informed readerships, and welcomes contributions by new and established authors.

*Series Editor*
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# British Law and Governance in Treaty Port China 1842-1927

*Consuls, Courts and Colonial Subjects*

*Alex Thompson*

Amsterdam University Press

Cover photo: Sir Sidney Barton, British Consul-General, inspects a detachment from the Sikh Branch of the Shanghai Municipal Police at the empire day parade held at the British Consulate General, Shanghai, in 1926. Photograph by Eugene Kobza (Kobza Jenõ). Special Collections, University of Bristol Library (www.hpcbristol.net).

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# Abbreviations

| | |
|---|---|
| BaFSP | British and Foreign State Papers |
| BPP, HC | British Parliamentary Papers, House of Commons |
| FO | Foreign Office |
| HChT | Hertslet's China Treaties |
| HCoT | Hertslet's Commercial Treaties |
| *NCH* | *The North-China Herald* |
| OIC | Order in Council |
| SCC | Her Britannic Majesty's Supreme Court for China (and Japan) |
| SMC | Shanghai Municipal Council |
| SMP | Shanghai Municipal Police |
| TNA | The National Archives, Kew, UK |

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# Glossary

| | |
|---|---|
| Concession | an area of land leased from the Chinese government to a single foreign government, which adopted measures for the administration of the area. The foreign government sublet plots of land to its own nationals (and in addition, in some cases, to nationals of other countries). In the British case, concessions were governed by a municipal council of which the Chair was usually the local British consul. Important examples were the British concessions at Tianjin and Hankou. |
| Settlement | an area of land allocated by the Chinese government for foreign residence at an open port. In some cases, municipal councils were created by foreigners to administer settlements. The land in a settlement was not leased and then sublet by a foreign government (as it was in the case of concessions). Land was leased directly from Chinese landholders. The most prominent example was the International Settlement at Shanghai. |
| Treaty port | a place open to foreign trade according to treaty. Five ports were opened as a result of the 1842 Treaty of Nanjing (Fuzhou, Guangzhou, Ningbo, Shanghai and Xiamen) but dozens more were created in the following decades. The most important treaty ports were host to foreign concessions or settlements, but some treaty ports had no such area. |

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# Preface

The nature of the European presence in China during the treaty port era (1843-1943) remains problematic and continues to warrant detailed examination: problematic, because scholars find it difficult to agree how best to define that presence, recognising that the short-hand term, 'informal empire', fails properly to explain its nature; warranting examination, because the inquiry itself requires us to focus on the way in which colonial practices were slowly and subtly insinuated into the country's sovereign territory. As Alex Thompson shows in this penetrating study, the process by which the British state and other European-controlled institutions, principally the Shanghai Municipal Council (SMC), achieved this was both novel and complex, frequently leading to tensions between the various agencies and to outcomes which were certainly not pre-determined and would no doubt have much surprised the architects of the Treaty of Nanjing (1842) which ended the First Opium War.

Underpinning the British and wider foreign presence were extraterritorial provisions in the portfolio of Sino-foreign treaties that would eventually come into force. Although this degradation of China's sovereignty has attracted a great deal of political and scholarly attention, it has not yet been adequately studied or understood. Exploring how it actually worked in practice for British subjects living and working in China and how it impacted on the Chinese, Thompson emphasises that extraterritoriality was introduced not only to prevent British nationals being subjected to what were portrayed as barbarous judicial practices but also to ensure that their conduct would be properly subject to British control. By the late 1850s, it was becoming clear that this aim was far from being achieved with 'rowdy' seamen, whom Consul Alcock described as drawn from "the lowest class of London and Liverpool seafaring men", being particularly troublesome, and the first British Minister, Bruce urging the government to introduce a more effective system of control.[1]

With the opening of the British legation in Peking and of a British Supreme Court in Shanghai five years later, a more effective system was certainly introduced but it was one which also made greater inroads into Chinese sovereignty. If the problem of rowdy seamen righted itself, there were other nationals who were brought before the court system, Indian traders, seamen or security personnel being one particular example. All British subjects were

1 Coates, *The China Consuls*, pp. 47-8.

not alike or equal in practice in the eyes of this British legal apparatus and colonial practices and prejudices, including racial differentiation, pervaded the judicial process. By focussing on these elements, Thompson shows that, however rowdy they may have been, these 'in-between peoples', formed a crucial element in the making of this 'hybrid colonial state'.[2] And although the Chinese fell outside the remit of extraterritorial jurisdiction, with over one million residing in the International Settlement by the early 1930s, they inevitably formed a key part of that process.

An additional value of Thompson's study is that it can, as he says, lead to further lines of inquiry; for example, exploring other ways in which these institutions furthered Britain's colonial presence, particularly in relation to its commercial aspects. It can also provide a basis for examining what T.G. Otte has called the 'Foreign Office mind' and its impact in this colonial context. Although officials in London necessarily played an important role, it was the British state institutions in China which took the lead. And whilst particular personalities stand out in this process, most obviously Ministers Bruce and Alcock and Chief Justice Edmund Hornby in the early days, it is the British consular officials who were the men on the spot responsible for implementing these practices, whose 'mind' also needs to be examined. Generally little- considered, save by P.D. Coates in his monumental study, they had a wide discretion, subject to overall control from the legation, when dealing with the SMC in Shanghai or with less formal bodies in other treaty ports, such as Chambers of Commerce, as well as with Chinese officials, and thus played a key part in shaping the British presence. As we see in the following chapters, these men faced considerable challenges in their day to day tasks – many mundane in themselves but which, taken cumulatively, would often have far-reaching consequences.

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2 Cf. England, *Fortune's Bazaar*, pp. 12, 15, *passim*.

# Chinese geographical names and note on romanisation

Chinese words in this book have been rendered using the *pinyin* system of writing Chinese with the roman alphabet, which is the standard used in the People's Republic of China (PRC) and most new academic writing. This has been done to assist readers using other sources, especially sources published in the People's Republic of China. The only exceptions are Hong Kong and Macao (which are rarely encountered written using the *pinyin* forms Xianggang and Aomen respectively, even in PRC English-language texts).

Alternative romanisations of place names and geographical features mentioned in the text are given below in the Wade-Giles format, used in many older academic texts, as are common forms used in contemporary texts such as newspapers, where the latter usage differs (as it often does) from the Wade-Giles. Common transliterations of Chinese place names given are often those formerly in use by the Chinese Post Office.

| Pinyin/Chinese | Wade-Giles | Common form |
|---|---|---|
| Beijing 北京 | Peiching | Peking |
| Fuzhou 福州 | Fuchou | Foochow |
| Guangzhou 广州 | Kwangchou | Canton |
| Hankou 汉口[1] | Hank'ou | Hankow |
| Hongkou 虹口 | Hungk'ou | Hongkew |
| Huangpu 黄埔 | Huangp'u | Whangpoo / Hwangpu |
| Humenzhai 虎门寨 | Humenchai | Hoomun-Chae |
| Jinan 济南 | Chinan | Tsinan |
| Nanjing 南京 | Nanching | Nanking |
| Ningbo 宁波 | Ningpo | |
| Niuzhuang 牛庄 | Niuchuang | Newchwang |
| Qingdao 青岛 | Tsingtao | |
| Shanghai 上海 | Shanghai | Shanghae |

1 Hankou is now part of the city of Wuhan.

| Pinyin/Chinese | Wade-Giles | Common form |
|---|---|---|
| Shantou 汕头 | Shant'ou | Swatow |
| Tianjin 天津 | T'ienchin | Tientsin |
| Xiamen 厦门 | Hsiamen | Amoy |
| Yangzi 扬子[1] | Yangtzu | Yangtze / Yangtse |
| Yantai 烟台 | Yant'ai | Chefoo[2] |
| Zhenjiang 镇江 | Chênchiang | Chinkiang |
| Zhoushan 舟山 | Choushan | Chusan |

1 Yangzi (扬子)/Yangtzu refers only to the lower part (from Nanjing to Shanghai) of the river known in Chinese as *Changjiang*. The name Yangzi (扬子)/Yangtzu is obsolete in China.

2 Chefoo was the name widely used for Yantai by foreigners in the treaty era is a rendering of Zhifu (芝罘), the name of the harbour at Yantai.

# 1 Britain and colonialism in China

**Abstract**
This chapter introduces the key argument that the role of the British state in the development of the treaty ports has not been well understood and places it in its historiographical context: existing historical work on the British empire, on colonialism in China and on imperial networks. It traces the lack of clarity over the role of the British state in treaty era China to problems with the deployment of the term informal empire. It then describes the sources used and the structure of the book.

**Keywords:** colonialism in China, imperial expansion, informal empire

> I am not the first who has been compelled to remark that it is more difficult to deal with our own countrymen at Canton, than with the Chinese government.[1]
> John Francis Davis, 1846

John Francis Davis was Britain's leading official in China — the plenipotentiary and superintendent of trade — when he wrote these lines of complaint to Lord Palmerston, only a few years after the end of the First Opium War. His complaint was prompted by feelings of extreme frustration while in the midst of a dispute surrounding violent behaviour towards Chinese people in Guangzhou by British merchants.[2] Later superintendents and subordinate British officials would also expend significant amounts of time and energy on dealing with challenges that they saw as arising out of their commitment to control British subjects in China. Their attitudes and practices, and the policies and legal measures they adopted in dealing with these issues, influenced the shape of the British state's presence in

1 Quoted in Morse, *The International Relations of the Chinese Empire: Vol. 1*, p. 384.

2 The city of Guangzhou was referred to as Canton by foreigners at the time. See pages 15-16 for more information on the rendering of Chinese place names in western languages.

Thompson, Alex: *British Law and Governance in Treaty Port China 1842-1927. Consuls, Courts and Colonial Subjects.* Amsterdam: Amsterdam University Press, 2024.
DOI: 10.5117/9789463720397_CH01

China, and moreover had profound effects on the wider development of the Chinese treaty ports.

Some aspects and effects of Britain's intrusion into China in the nineteenth century are well known. There was of course the transfer of sovereignty over land and people that took place at Hong Kong and Weihaiwei, which became British 'possessions'. We also know much about the limitations placed on the Chinese government's sovereignty within its own borders through both legal treaties and the accretion of established practices. We know that Chinese state control over parts of its territory was taken away, so that cities or portions of cities in China became effectively micro-colonies governed by foreigners. We know that China's state finances were taken to a large extent out of Chinese hands, and especially we know that under the principle of extraterritoriality, foreigners in China were removed from Chinese jurisdiction, in a clear degradation of Chinese sovereignty, as understood (both then and now) in western international law. We might characterise this process as one of the relentless erosion of the power of the Chinese state, of the removal of mechanisms for order and control which are hallmarks of state power. This is an accurate picture, which has been painted in many ways by many different writers.[3] But it gives an incomplete picture of foreign expansion in China, at least in the British case, if we fail to give serious consideration to the steps which were taken by the British state to put in place an apparatus for order and control — consular jurisdiction — over its subjects in China. This is a step which we must take if we are to understand the way that the treaty ports operated. The research presented in this book interrogates for the first time the British state's project of governance in China and connects it with the institutions, practices and culture which grew up in the Chinese treaty port world.[4] As others have noted, this was a colonial world dominated by Britain, but the roles played by British officials, through regulations,

3 See especially Bickers, *The Scramble for China*; Feuerwerker, *The Foreign Establishment in China*; Hevia, *English Lessons* and Jürgen Osterhammel, 'Semi-Colonialism and Informal Empire in China: Towards a Framework of Analysis'.

4 Others have described aspects of the British state's involvement in China, including certain institutions, but there is no existing work which aims to analyse the British state's project of governance in China. See Cassel, *Grounds of Judgment*; Whewell, 'British Extraterritoriality in China; Coates, *The China Consuls*; Fairbank, *Trade and Diplomacy on the China Coast*; Feuerwerker, *The Foreign Establishment in China.* Cassel and Whewell examine extraterritoriality and the courts, Coates and Fairbank both give a good deal of information about consuls, and Feuerwerker provides a valuable overview of the working of the Shanghai International Settlement within which Britain was dominant. However, none of these works provides a survey or detailed analysis of the British state's project of governance as effected through the range of institutions and practices, and over the time period, encompassed by this book.

institutions and everyday practices, in creating, shaping and perpetuating this world have remained largely unexplored.[5]

This book examines a key aspect of the expansion of the British state in China, which was undertaken to implement consular jurisdiction following the conclusion of the Treaty of Nanjing in 1842, and it shows how this project of governance unfolded in subsequent years, up to 1927. This period covers the decades when the British machinery of governance was being established and also the years in the early twentieth century which can be considered to have been the 'apogee' of the foreign presence in China, before the treaty system began to be dismantled beginning in the late 1920s.[6] I show that the British state engaged in a substantial project of governance in China, and, to achieve this, deployed resources towards a settled, institutional presence which has hitherto been only weakly acknowledged in the historical writing on Britain in China. The lack of prominence given to this process has meant that the nature of imperial expansion in China has been misunderstood or misrepresented.

A key focus of the book is the structures and institutions developed to manage and control British subjects, especially two marginal groups: white Britons who committed violent crime, and 'martial' British Indian colonial subjects. It uncovers and evaluates the factors which lay behind official British attitudes and practices towards them. The attention of state actors was intensely focussed on these groups in the course of the implementation of the British state's project of governance in treaty port China. Examining attitudes and practices towards these marginal British subjects brings to the surface processes and everyday practices which were sometimes incoherent, or even illegal, and reveals connections and collaborations with other organisations both within and beyond China which developed without fanfare and could otherwise be easily overlooked. An analysis of the actions of the state, and the effects of those actions, explains aspects of the development of the treaty ports and reveals their nature as distinctively colonial settings in new ways.

## Analysing empire and colonialism in China

Foreign expansion into China in the treaty century (1842–1943) was complicated, and historians continue to grapple with the best way to understand

5 Osterhammel, for example, makes the case for British domination of this colonial setting succinctly and convincingly, but, like others, does not direct significant attention towards the actions of the state. Osterhammel, 'Britain and China', pp. 146–69.

6 Feuerwerker, p. ix. Although the system was dismantled from the 1920s, and British influence waned, Britons retained extraterritorial treatment until the 1940s.

various aspects of it. It was an extensive, influential, destructive, creative, exploitative and profitable set of processes, which has cast a long shadow in Chinese minds, especially in the Communist Party official view of China's modern history as written in China, particularly from the 1980s onwards, in which the 'unequal treaties' forced on China by foreign powers are very prominent.[7] But despite its clear and obvious importance, it is hard to pin down the nature of foreign and British expansion in China conceptually, since on the one hand the situation in China does not fit in many ways alongside patterns seen in most examples of nineteenth-century European colonial expansion elsewhere in the world, yet on the other hand many features of the foreign presence, when examined carefully, look colonial from a historian's perspective, and have been shown clearly to have been experienced as colonial from the perspective of both foreign and Chinese contemporaries.[8] In this book I will show that, when the range of the British state's actions in China are properly examined, we can see that it behaved as a colonial power in many ways which stretch the meaning of the word 'informal' to its limits, and that these actions had serious consequences for the development of the treaty ports, places which were in turn hugely influential in the development of modern China in the late nineteenth and early twentieth centuries.

Given that most of China remained under Chinese sovereignty, it is unsurprising that many writers have turned to the concept of 'informal empire' to help to explain the case of treaty era China, but this has perhaps encouraged misconceptions. 'Informal empire' is generally used within a conceptual framework which posits two broad types of imperial expansion, drawing on the work of John Gallagher and Ronald Robinson, who suggested that the British state's approach to empire could be summarised as 'trade with informal control if possible; trade with rule when necessary'.[9] This theory has played a useful role in drawing the attention of imperial historians towards places which fell under varying degrees of external control without becoming formally politically subsumed within or attached to the imperial polity, including China.[10] Although Robinson and Gallagher

7 Bickers, *The Scramble for China*, pp. 4–6; Feuerwerker, pp. 110–11.

8 Jurgen Osterhammel provides a useful (and extensive) list of foreign phenomena in China which could be classed as imperial in his 'Semi-Colonialism and Informal Empire in China', pp. 290–91.

9 Gallagher and Robinson, 'The Imperialism of Free Trade', p. 13.

10 Historians who have made use the theory of informal empire effectively to incorporate studies of China into the British empire world include especially Robert Bickers and Jurgen Osterhammel. See for example, Bickers, *Britain in China*; Osterhammel, 'Semi-Colonialism'.

themselves argued that 'the difference between formal and informal empire has not been one of fundamental nature but of degree,' an awareness of this latter insight has not however always been evident in some subsequent work, so that 'informal' and 'formal' empire can appear as two clear and bounded categories, alternative modes of expansion with clear lines of distinction between them.[11] In this kind of framework, informal empire is all too easily cast as necessarily a diminished or secondary variety of empire. Formal empire is then seen as 'full' empire, whereas informal empire — and sometimes the alternative term 'semicolonialism' — is a lightweight, perhaps even 'light touch' alternative. For example, John Darwin sets out the contrast between formal and informal empire by describing the latter as 'nearly invisible', and stresses the importance of 'influence' in the exercise of control.[12] Darwin applies the label of informal empire to China and yet the expansion of Britain — including the British state — into China in the treaty era can only have appeared to be somewhat invisible when viewed from selected points, such as perhaps at times from within the walls of the Colonial Office in London; it was by no means invisible to the foreigners and Chinese living in or passing through the treaty ports.

This misleading dualism has also appeared in more specialist work focussing specifically on China. For example, in their discussion of colonialism in China, David and Bryna Goodman describe places such as Hong Kong, Qingdao and Weihaiwei, as 'clearly colonized pieces of China, each of which was governed by a single colonial power', and contrast them with the treaty ports, which they call 'a more restricted type of colonial formation."[13] Clearly, differences in modes of governance should be recognised between kinds of colonised space, but the implication of the use of the term 'restricted' seems to be that the treaty ports, including even Shanghai, represented a type of more limited or less active colonialism, a position which is not supported by the evidence.[14] To take the most stark example, why should Weihaiwei, in which under British rule traditional village hierarchies and legal procedures were maintained more or less intact, and in which Britain invested very little administrative labour or capital, be a less 'restricted' example of colonialism than the International Settlement of Shanghai, in which officials of foreign governments, especially Britain, together with the

11 A point made recently by Isabella Jackson in relation to China: see her *Shaping Modern Shanghai*, p. 17.

12 Darwin, *Unfinished Empire*, pp. 391–92.

13 Goodman and Goodman, *Twentieth Century Colonialism and China*, p. 2.

14 Isabella Jackson argues forcefully for a recognition of Shanghai's International Settlement as a fully-fledged site of colonial governance. Jackson, *Shaping Modern Shanghai.*

Shanghai Municipal Council (SMC), a large foreign administrative body, instituted procedures of governance which clearly replicated asymmetrical colonial relations in a wide range of areas and in ways which bore a close resemblance to sites of colonialism elsewhere in the world? If the crucial point of difference is that the Chinese residents of Weihaiwei, numbering around 160,000 in 1918, were placed under Britain's sole authority, whereas the Shanghai International Settlement's approximately 630,000 Chinese residents in 1916 were still nominally under the control of the Chinese government, this fixation on tracing sovereignty can severely distort our understanding of specific conditions, arrangements and their effects.[15] When we consider that in the early part of the twentieth century the Shanghai Municipal Council oversaw what was thought to be the world's largest prison (Ward Road Gaol), its thousands of inmates being almost all Chinese citizens, the seriousness of this sort of distortion becomes obvious.[16]

When we study the British state in China, we must examine multiple institutions across a wide geographical area which engaged in both a colonial project and a diplomatic one. This multiplicity and blending of purposes is one of the most challenging features for writers seeking to explain British state actions and their effects in nineteenth- and early twentieth-century China. In the existing literature on the foreign presence in China, the role of the British state has often been examined in limited ways as most historians have focussed on its role in terms of actions, especially diplomatic and military, towards the governments of China and the other treaty powers, from the aggressions of the forcible opening of the Qing empire to trade in the nineteenth century, via the various crises of the last decades of the Qing dynasty, through to the turbulent years of republican China.[17] The existence of extraterritoriality and consular jurisdiction in China is generally noted in such writing, but the workings of the system and the administrative role played by the British state through its consuls and courts have not been explored in great detail.[18] Published works which have looked in more detail

15 For a study of British governance in Weihaiwei see Tan, *British Rule in China*. See also Atwell, *British Mandarins and Chinese Reformers*.

16 Dikötter, *Crime, Punishment and the Prison in Modern China*, p. 311.

17 A fairly comprehensive survey of such work up to 1990 can be found in Wang, *Anglo-Chinese Encounters*. For more recent literature, see Bickers, *Out of China*.

18 Whewell's 2015 thesis is a recent exception, although by making criminal law under extraterritoriality (rather than governance more broadly) the focus of her attention, she gives only a partial picture of the project of governance which was effected by the British state through a range of institutions and collaborations with other bodies in China. Whewell, 'British Extraterritoriality in China'.

at extraterritoriality in China have tended to focus on the international relations aspect of this issue. So, for example, both Pär Cassel and R. Randle Edwards focus much of their attention on the process of negotiating the contours of extraterritoriality which took place between Chinese and foreign officials.[19] However, relatively little research has been conducted which examines British consular jurisdiction as it was in fact practised following the Opium War, and the implications of this practice for the treaty ports and China more broadly. This book addresses this omission by examining how, on the basis of extraterritoriality, the British state engaged in a project of governance in China through its involvement in the day-to-day ordering of British activities in China, in ways which strongly influenced treaty port life, principally through the British consuls and the courts which administered justice to British subjects and corporate bodies. It was not only British subjects whose lives were shaped by the attitudes and practices of agents of the British state in China. Chinese in the Shanghai International Settlement lived for many practical purposes as though they were colonial subjects under foreign government, and I argue that the British state played a substantial role in the ambitious and elaborate project of governance exercised over them there, albeit in concert with other foreign governments and the SMC.[20]

Ann Laura Stoler has made a powerful critique of terms like 'informal empire' which she calls 'unhelpful euphemisms', and argues that instead we should think in terms of 'scaled genres of rule that produce and count on different degrees of sovereignty and gradations of rights'.[21] She prefers the expression 'imperial formations' to encapsulate all forms of empire, and thus advocates a more flexible framework which could help avoid the problems discussed above. Other scholars, some working in the field of Chinese history, have also advocated moving away from the use of multiple terms to particularise forms of empire. James Hevia, for example, proposes that we think of 'all the entities produced in the age of empire as forms of semicolonialism', a formulation which may at first appear perplexing, but which would in fact allow us to acknowledge that colonialism, however initiated or described in legal and political or administrative terms, was never a completed project, and was always a complex set of relations which need to be analysed as they unfolded in everyday life as much as in the lives

19 Cassel, *Grounds of Judgment*; Edwards, 'Ch'ing Legal Jurisdiction Over Foreigners'. See also Kayaoglu, *Legal Imperialism* and Ruskola, *Legal Orientalism*.

20 Feuerwerker, p. 5.

21 Ann Laura Stoler, 'On Degrees of Imperial Sovereignty', pp. 136, 128.

of imperial and local leaders.[22] Isabella Jackson argues for the uniqueness of Shanghai, and advocates using the description 'transnational colonialism' to fit the specific case of the Shanghai International Settlement, emphasising the variety of nations and nationalities involved in governance of the Settlement — but, as I argue in this book, the overwhelming importance of British influences (and especially the British state), at least in the period covered by this book, must be understood.[23] The adoption of a framework which emphasises the transnational aspect of Shanghai's governance could easily lead us too far from this fact.

The obvious counter-criticism to such moves is that without analytical tools to classify broader categories of empire or colonialism, attempts to make comparisons and draw conclusions on a larger scale are made very difficult. But if the tools used to distinguish lead to distortions such as those outlined above, we may be better off seeing the situation as too nuanced and complex to allow for the development of straightforward categories or shorthands.[24] Informal empire may be useful in metropole-oriented studies seeking to understand the various modes of expansion of a particular empire, and in drawing attention to expansion not definable in terms of the transfer of specifically demarcated territory, but it is of limited use for, and may in fact be unhelpful to, scholars whose primary aim is to explain, in Alan Lester's words, 'the nature of colonial relations in any one or more places, and how those relations shape those places'.[25] Instead of making sovereignty over territory the starting point and key to the defining framework of histories of empire, a focus on colonial relations, and the colonial practices which established and perpetuated them, can avoid the blind spots created by the older models discussed above.

## The Foreign Office archive and other sources

In the course of their engagement in the processes described above, British officials in China, at other posts in Asia, and of course in London, produced a rich archive of documentary material, much of which was well looked after, and a good deal of which has been gathered together and preserved at the

22 Hevia, *English Lessons*, p. 26.

23 Jackson, *Shaping Modern Shanghai*, p. 6.

24 John Comaroff has made a similar argument against distorting generalisations of the colonial state: 'Reflections on the Colonial State', p. 336.

25 Lester, 'Imperial Circuits and Networks', p. 131.

National Archives, Kew, London. Despite the relative completeness of these records and the ease with which they can be accessed, this resource has been under-exploited by historians of British colonialism. These materials, together with (to a more limited extent) the India Office records at the British Library in London, have made up the key primary sources deployed in the research for this book. The research has entailed an examination of a wide range of records, reflecting the extensive range of state actors at different locations who played a role in British governance in China, and the aim to present a history of the British state in China which integrates the full range of official agents who played significant roles in the British project of governance. These archival sources have been read in two ways: first, as documents which can help us to determine what actions were taken by the British state in China; and second, as documents which contain evidence of the attitudes, often not explicitly articulated, of British officials dealing with processes connected with British expansion in China, and especially the management of marginal British subjects. The most important file series consulted were those containing records of key institutions engaged in the state's project of governance in China: the superintendent of trade/minister (FO 228), the FO in London (FO 17, FO 97 and FO 371), the law officers of the Crown (FO 83 and FO 96), the Shanghai Consulate (FO 671) and the British Supreme Court for China (FO 656). A complete list is given in the bibliography.

A further source of official documents which has been used extensively is published collections of British state papers, including laws, treaty texts, orders in council (OICs), and regulations. The key collections are *Hertslet's China Treaties* (two volumes), *Hertslet's Commercial Treaties* (31 volumes) and *British and Foreign State Papers* (170 volumes). British Parliamentary Papers have also been used, especially those which collect correspondence relating to China at moments when British actions were under scrutiny by the legislature.

Newspaper articles and editorials, mostly from the Shanghai-based English language press, have been used extensively for their reports of court cases, to supplement the details of cases contained in official papers held in the archives referred to above. As much as possible I have based analysis of court cases on both reports of proceedings published in the press and documents circulating between officials, which often reveal the ways in which practices deviated from legal procedures and are therefore highly revealing of official attitudes. However, although press reports sometimes reveal information lacking in official documents (and vice versa), it must be acknowledged that this will always be an incomplete picture, particularly

where performative aspects of legal practices are concerned — there can only be a very partial reconstruction of what went on in the courtroom, in particular in areas such as bodily practices and ways of speaking.

## Book structure

In this book the British state in China emerges as an important force of governance at the treaty ports, not always coherent but highly influential, driven to expand and collaborate by the impulse to control British subjects, especially marginal British subjects who were, to British officials, problem populations. The first of the following chapters examines the framework, in terms of laws and organisational structures, which was developed by the Foreign Office (FO) from the early 1840s following the end of the Opium War. This is an overview of British governance in China which is not to my knowledge available in any other recent published work. Having presented this overview, the remaining chapters delve into the primary causes of changes to British governance which were made over the course of the second half of the nineteenth and early part of the twentieth century: the response to British problem populations, namely 'rowdy' Europeans and 'martial' Indians.[26] Each chapter examines the wider effects on China of British state governance, especially the consequences at Shanghai, where British state support for the Shanghai Municipal Council, which governed the International Settlement, is shown to have been crucial.

Together the chapters that follow demonstrate that, in implementing British jurisdiction in China, the British state created structures and institutions, deployed personnel, and created or enabled practices in ways that combined to have profound consequences for the development of the treaty ports, especially Shanghai, as key sites of colonialism in China. Any analysis of the treaty ports which fails to incorporate an understanding of this influence is in danger of providing a distorted account, by failing to explain an essential feature of the treaty port world and furthermore an

26 A further important group of marginal British subjects who attracted a not insignificant amount of British official scrutiny and intervention were Chinese British subjects, often people who had obtained British nationality as a consequence of birth or naturalisation in the colonies of Hong Kong or the Straits Settlements. The story of British official engagement with members of that group who returned to China is not included in this book, because although they were a significant British problem population, there is no evidence that the development of the British state's structures and institutions in China were influenced to a great extent by the existence or actions of this group.

important factor affecting developments in China more widely up to at least the 1920s.[27]

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27 It is widely acknowledged that Shanghai, which had developed into China's most important urban centre in many respects by the early twentieth century, has had an enormous influence on China's twentieth-century development in a vast range of areas. See Yeh's *Shanghai Splendor* for a description of the way that Chinese lived experiences within and beyond Shanghai were affected by the social formations which grew up in the city.

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