The Treaty Port Economy in Modern China

Empirical Studies of Institutional Change and Economic Performance

Edited by
Billy K. L. So
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CHINA RESEARCH MONOGRAPH 65

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Institute of East Asian Studies
University of California, Berkeley

A publication of the Institute of East Asian Studies, University of California, Berkeley. Although the institute is responsible for the selection and acceptance of manuscripts in this series, responsibility for the opinions expressed and for the accuracy of statements rests with their authors.

The China Research Monograph series is one of several publication series sponsored by the Institute of East Asian Studies in conjunction with its constituent units. The others include the Japan Research Monograph series, the Korea Research Monograph series, and the Research Papers and Policy Studies series.

Send correspondence and manuscripts to

Katherine Lawn Chouta, Managing Editor
Institute of East Asian Studies
2223 Fulton Street, 6th Floor
Berkeley, CA 94720-2318
ieaseditor@berkeley.edu

Library of Congress Cataloging-in-Publication Data

The treaty port economy in modern China : empirical studies of institutional change and economic performance / edited by Billy K. L. So and Ramon H. Myers.
p. cm. -- (China research monograph ; 65)
Includes bibliographical references and index.
Summary: "Through eight empirical studies, this volume explores the interplay between institutional change and economic performance in a constructed model of the treaty port economy in late-Qing and Republican China"--Provided by publisher.
ISBN-13: 978-1-55729-099-1
ISBN-10: 1-55729-099-7
1. Free ports and zones--China--History. 2. China--Commerce--History. 3. China--Economic conditions--1644-1912. 4. China--Economic conditions--1912-1949. I. So, Billy K. L. (Billy Kee Long), 1952- II. Myers, Ramon Hawley, 1929-
HF1418.3.C6T74 2011
330.951'03--dc22
2011009958

Front cover: The banks of Guangzhou's Pearl River. 1920s. (Courtesy of the Missions Étrangères de Paris.)

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Acknowledgments

This volume grew out of two symposia organized by the Chinese University of Hong Kong's Department of History in spring 2004 and summer 2006. There are many organizations and individuals whose input and assistance have been instrumental to the outcome of this volume. First and foremost, we are grateful to the Chiang Ching-kuo Foundation for providing a generous conference grant, making the symposia as well as the publication of this book possible.

There were scholars who attended the symposia and provided important insights on the chapters and the overarching thesis. They include David Faure, Philip Leung, Hamashita Takeshi, Chi-cheung Choi, Liang Zhiping, Chi-kong Lai, Edmund S. T. Kwok, and Kent Deng. We thank them for their contributions to this volume. We are indebted to Sherman Cochran for reading an earlier version of the manuscript and to Paul Cohen for reading an early draft of the introduction. Their critical comments greatly improved our arguments. Wen-hsin Yeh provided important advice on how we might proceed on the winding path of revision. To her, we owe much for the completion of the project. The anonymous reviewers of the China Research Monograph series gave very critical and constructive advice for revision. The final version incorporates many of their valuable inputs. Finally, we thank Christopher Mattison for editing the final draft of the introduction and Katherine Lawn Chouta for her very professional handling and copyediting of our entire manuscript.

We are able to provide our readers some figures useful for visualizing the treaty port economy as discussed in the chapters herein, which date to the beginning of the twentieth century. Thanks must be given to the Hoover Institution of Stanford University, Société des Missions-Etrangères in Paris, John Swire and Sons, Ltd., the Historical Photographs of China Project at the University of Bristol, and Ho Pui-yin of the Chinese University of Hong Kong. Despite all the generous support, errors will likely remain; for these deficiencies, the editors are solely responsible.

B. K. L. S., R. H. M.
20 February 2010

Contributors

Nansheng BAI (Bai Nansheng) has been a professor of the School of Agricultural and Rural Development at Renmin University, China, since 2004. Prior to this post, he was a research fellow at China's Research Center for Rural Development, of the State Council, and the Research Center on Rural Economy, in the Ministry of Agriculture. His current research interests are surplus rural labor, social inequality, and poverty alleviation in China. His recent publications include *Return Home or Go to Town: Research on the Return of Rural-Urban Migrants* (2002) and *Out of the Village: Research on Rural Labour Migration in China* (1997), both in Chinese. He has also contributed to a study edited by Loraine A. West and Yaohui Zhao titled *Rural Labor Flows in China* (Institute of East Asian Studies, University of California, Berkeley).

Kai-yiu CHAN (Chan Kai Yiu) graduated from the University of Oxford (D.Phil.) and is an associate professor of history at National Cheng Kung University, Taiwan. His research interests include Chinese business institutions, organizational structures, accounting systems, and cross-cultural business practices. He is the author of *Business Expansion and Structural Change in Pre-War China: Liu Hongsheng and His Enterprises, 1920–1937* (Hong Kong), as well as several articles on Chinese business institutions and finance, such as the comprador system, private banking, trade associations, and grain trade networks, and on the migration, social and economic history, and costume business of the Taiwan aborigines. He is currently conducting a research project on Chinese grain-trade networks and transformations in business organization.

Stephanie Po-yin CHUNG (Chung Po-yin or Zhong Baoxian) is a professor in the Department of History at the Baptist University of Hong Kong. She holds a D.Phil. from the University of Oxford and focuses her research on social and economic history, business history, and the history of business laws and customs, as well as migration and enterprises in south China and Southeast Asia. She is the author of *Chinese Business Groups in Hong Kong and Political Changes in South China* (Macmillan), of published articles in major journals such as *Modern Asian Studies* and

Asia Europe Journal, and of chapters in books such as *Corporate Globalization: Business Cultures in Europe and in Asia* and *Chinese Transnational Enterprises: Cultural Affinity and Business Strategies*.

James Kai-sing KUNG (Kung Kai-sing or Gong Qisheng) is a professor of social science at the Hong Kong University of Science and Technology. He completed his doctorate in economics at the University of Cambridge. With a broad research interest spanning China's political economy and economic development and history, Kung has published in *Economic History Review, The China Quarterly, China Journal, Modern China, Economic Development and Cultural Change*, and the *Journal of Comparative Economics*, among others. He has also contributed to several volumes, including *Property Rights and Economic Reform in China*.

Albert S. LEE (Lee Shu Yuan) is an independent researcher of law and social sciences. He received his B.S. from the California Institute of Technology in Electrical Engineering and Economics and a J.D. from Harvard Law School. He was a British Marshall scholar and earned his Ph.D. in Law at Trinity College, Cambridge University. His academic interests are in the area of interdisciplinary study that includes economic and systems theory, socioeconomic and political institutions, business organizations, law reforms, comparative law, and legal history. He is a member of both the California State Bar and the United States Patent and Trademark Office.

Daniel Yiu-fai LEE taught at the Hong Kong University of Science and Technology. His research on household economic behavior in rural China focuses on income distribution, female labor supply, and family-planning policy. He published in *Economic Development and Cultural Change* and *China Economic Review*.

Debin MA has been a lecturer in the Department of Economic History at the London School of Economics and Political Science since the summer of 2006. He received his doctoral degree from the University of North Carolina at Chapel Hill and has done research and published extensively on economic history, comparative economic systems, and international economics. His works have appeared in the *Journal of Economic History, Economic History Review, Explorations in Economic History, Economic Development and Cultural Change, Review of Income and Wealth*, and others, and he has contributed to various edited volumes and encyclopedia entries.

Kentaro MATSUBARA is an associate professor of legal history at the University of Tokyo. He holds an L.L.B. from the University of Tokyo and a D.Phil. from the University of Oxford. His research has centered on traditional Chinese property rights and lineage social structuring, especially on the interaction of these with the colonial legal system in Hong Kong. His publications include "Sozoku to Zokusan wo meguru

Dentou Chugoku Shakai: Honkon chiiki no sho-jirei ni rikkyaku shita kozo bunseki" (Lineage property holding and social structures in traditional China: An analysis based on cases from the Hong Kong region), serialized in the *Hogaku kyokai zassi.*

Ramon H. MYERS, senior fellow at the Hoover Institution, is currently also curator of the East Asian archives. He received his Ph.D. in economics from the University of Washington. His areas of expertise include international relations, the economic history of East Asia, and the political and economic development of East Asia. The author of more than one hundred journal articles and book reviews, he was associate editor of the *Journal of Asian Studies* and also edited *Ch'ing-shih wen-t'i*. Myers's major works on Chinese economic history are *The Chinese Peasant Economy*, *The Chinese Economy: Past and Present*, and two essays in *The Cambridge History of China* (in volume 9, part 1, and volume 13, part 2). He has coedited books on the history of the Republic such as *Storm Clouds over China: The Memoir of Ch'en Li-fu, 1900–1993*, *Last Chance in Manchuria: The Diary of Chang Kia-ngau*, and *Prescription for Saving China: Selected Writing of Sun Yat-Sen*. On post-1949 China, he has coedited *The New Chinese Leadership: Challenges and Opportunities after the Sixteenth Party Congress*, *Making China Policy: Lessons from the Bush and Clinton Administrations*, and *Understanding Communist China: Communist China Studies in the United States and the Republic of China, 1949–78*.

Tomoko SHIROYAMA received her Ph.D. from Harvardand is currently a professor in the Graduate School of Economics, Hitotsubashi University, Tokyo. Her research interests include business history, the history of finance and banking in modern China, and the world economy in the nineteenth and twentieth centuries, with a special interest in China and other East Asian countries. Her major publications include "Companies in Debt: Financial Arrangements in the Textile Industry in the Lower Yangzi Delta, 1895–1937," in *Contract and Property in Early Modern China*, edited by Madeleine Zelin, Jonathan K. Ocko, and Robert Gardella. She authored *China during the Great Depression: Market, State, and the World Economy, 1929–1937* (Harvard University Asia Center).

Billy K. L. SO (So Kee-long or Su Jilang) is a chair professor of humanities at Hong Kong University of Science and Technology. He earned his Ph.D. at Australian National University and has published extensively in the areas of Chinese social and economic history, historical geography, and legal history. His works have appeared in such journals as *T'oung Pao*, *Journal of Song-Yuan Studies*, *Journal of the American Oriental Society*, *Journal of Southeast Asian Studies*, *Journal of the Economic and Social History of the Orient*, *Lishi yanjiu*, *Journal of Chinese Studies*, *Annales: Histoire, Sciences Sociales*, and *Hong Kong Law Journal*. He authored *Prosperity, Region, and Institutions in Maritime China: The South Fukien*

Pattern, 946–1368 (Harvard University Asia Center), coedited *Power and Identity in the Chinese World Order: Festschrift in Honour of Professor Wang Gungwu* (Hong Kong), and contributed entries to the *Oxford International Encyclopedia of Legal History*.

Hon-ming YIP (Yip Hon Ming or Ye Hanming) received her Ph.D. from the University of California, Los Angeles, and is a professor in the Department of History at the Chinese University of Hong Kong. Her research interests are in the areas of modern and contemporary Chinese social and economic history, the local history of north and south China, the history of overseas Chinese, Hong Kong–mainland China relations and overseas networks, and women's and gender history. She is cocompiler of two editions of *Women in China: Bibliography of Available English Language Materials*, chief compiler of *Indexes of the Dianshizhai Pictorial* (in Chinese), and coeditor of *Tung Chung before and after the New Airport: An Ethnographic and Historical Study of a Community in Hong Kong* and *Gender and Women's Studies in Chinese Societies* (in Chinese). Her publications include *Social History and the Study of Chinese Women*, *In Search of Subjectivities: Historical Studies of Chinese Women*, and *The Tung Wah Coffin Home and the Global Charity Network: Evidence and Findings from Archival Materials* (all three in Chinese), as well as many articles in *Journal of the Hong Kong Branch of the Royal Asiatic Society*, *Journal of Chinese Studies*, *New History*, *Lishi yanjiu*, and *Jindaishi yanjiu*, among others. She has also written chapters in books published by the Institute of History and Philology and the Institute of Modern History, Academia Sinica (Taipei), and the Chinese University Press (Hong Kong).

ONE

Modern China's Treaty Port Economy in Institutional Perspective: An Introductory Essay

BILLY K. L. SO

The eight empirical studies presented in this volume illustrate the complex relationship of institutional change and higher efficiency economic performance within the historical context of modern China. Together they suggest what an institutional approach can offer in assessing China's long-term economic development.[1] These studies also suggest how the discourse on institution and performance can be informed by specific case studies on China.

In this introductory essay, I offer the analytical framework under which the empirical studies are organized so as to address the previously mentioned issues. I draw first on John King Fairbank's classical account of the treaty port system and an extended conceptualization of this historical phenomenon, which leads to the notion of a form of regional economy in modern China that we refer to as the "treaty port economy." Following that, I outline the rise of the treaty port economy based on the well-documented context of China's economic development from the middle of the nineteenth century to the early decades of the twentieth century. The third section contextualizes the institutional framework of Douglass C. North in light of the Chinese treaty port economy. The final two sections give a brief account of each empirical case and organize them under the two themes of performance under institutional change and of dynamics in institutional change. This intodutory chapter then concludes with theoretical reflections that arise from the themes and empirical studies presented in this book.

[1] Naturally, this does not mean that every contributor to this volume shares the same institutional concerns. Rather, the diverse approaches of their individual research agendas on the modern Chinese economy converge in a mutually reinforced institutional conceptualization that is the main task of this introductory essay.

The Advent of the Treaty Port System

The Genesis and Evolution of the Treaty Port System

The treaty port system in China began with the Opium War and the Treaty of Nanjing in 1842. The series of treaties signed between China and various foreign powers during the nineteenth and early twentieth centuries were unprecedented in Chinese history. Fairbank and other scholars have meticulously detailed the evolutionary process of this political structure over the past four decades. This system did not start to decline until the 1930s and was not formally abolished until 1943, primarily as a result of the new China policy formed by Great Britain and the United States in the Second World War (Kirby 2000). The core component of the system was a group of treaty ports, whose number increased from five in 1842 to ninety-two by 1917 (Feuerwerker 1983, 129). Fairbank, in his final synthesis of the treaty port structure, provides a succinct account of its common institutional features (1992, 201–205), as outlined in the following sections.

The treaty port was typically an urban setting, known as a concession or settlement, which was inhabited primarily by foreigners and an ever-growing population of Chinese nationals. The concessions were normally located adjacent to or within a major city and most often in close proximity to a waterway for ease of transport. The treaty port was regulated and governed by a consul or by individuals with similar diplomatic standing. Foreign establishments such as clubs, churches, and racecourses were prominent features of the concessions. In certain major treaty ports such as Guangzhou, Xiamen, and Fuzhou, landed foreign garrisons protected the concessions, and in other cases foreign gunboats regularly patrolled the neighboring waters. Extraterritoriality granted by treaties enabled foreign nationals to avoid being subject to Chinese civil or criminal law. Instead, they were answerable to the laws of their respective countries. In certain larger concessions such as those of Shanghai, the treaty port legal system was so pervasive that even Chinese nationals could be tried in that system (Mühlhahn 2007, 191–193). There was a high concentration of foreign business interests in these enclaves, originally focused in trading, but after the 1890s expanding into areas of direct investment in sectors such as industry and finance. The businesses in treaty ports were first dominated by the foreign taipans and their Chinese compradors. Again following the 1890s, there were increasingly more Chinese business interests either independently run or managed in collaboration with foreign businesses. On the one hand, these concessions contained immense pockets of wealth and prosperity; on the other, they were characterized by crowds of cheap manual laborers (coolies) and the poor. Treaties imposed a fixed, low tariff on China that was implemented

TWO

The Rise of Modern Shanghai, 1900–1936: An Institutional Perspective

DEBIN MA

Max Weber remarked that cities in China or Asia in general, unlike those in the West, had no specific political role. The Chinese city had no city law, no political associations of merchant and craft guilds backed up by independent military power, no privileges or freedoms granted by a charter (Weber 1983, 59). Cities in the West became inseparably linked to the rise of both the modern state and capitalism; but according to Weber, cities in traditional China were often the planned product of administration under a centralized empire (p. 61).

Around the time Weber was musing about the contrasting features of cities in the East and West, the Chinese empire was crumbling. During the latter half of the nineteenth century, the Chinese response to the Western imperialist challenge was timid and conservative. Reforms such as the Tongji Restoration and the Self-Strengthening Movement all aimed at preserving the status quo with minimal or superficial modifications (Wright 1962; Fairbank 1978, chaps. 10–11). But the imperial and bureaucratic stupor was shattered in the 1894–1896 period by China's humiliating military defeat by Japan—long regarded as China's humble student. The Treaty of Shimonoseki, imposed on China after the Sino-Japanese War, in 1896 granted foreigners the right to establish industrial enterprises in the treaty ports and lifted the floodgate for foreign direct investment, which inadvertently legitimized modern Chinese enterprise.

The late-Qing constitutional reform (1904–1911), itself modeled after the radical Meiji reform in Japan, marked a major ideological breakthrough and the beginning of fundamental institutional change. Yet, this reform never had the backing of the Meiji kind of strong state. The Qing

THREE

The Shanghai Real Estate Market and Capital Investment, 1860–1936

TOMOKO SHIROYAMA

From the 1870s to the outbreak of the Sino-Japanese War in 1937, treaty port cities in China—including Shanghai, Tianjin, Guangzhou, and Hankou—were centers of modern industry.[1] All of these cities underwent rapid appreciation of their real estate values, which induced investments in construction and industries. Shanghai was the largest of these cities, and its foreign area was arguably the city center.[2] Although the settlement occupied less than 10 percent of the area of Shanghai in 1935, about 45 percent of the city's population, 70 to 80 percent of its factories, and many of its major shops and banks were located there (Zou Yiren 1980, 90; Zhang Zhongli 1990, 23).[3]

What institutions in the new treaty port cities promoted this concentration of wealth? Marie-Claire Bergère (1989a, 6–10, 279–280) has argued that entrepreneurs living in the Shanghai foreign settlements were able to expand their businesses because of the lack of interference by the Chinese government during the political turbulence of the first decades of the Republican era, particularly the period of World War I and its immediate aftermath. Exploring the institutional context of Bergère's observation,

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[1] *Zhonghua minguo tongji tiyao,* compiled by the statistics bureau of the Nationalist government, regarded Nanjing, Shanghai, Tianjin, Hankou, Qingdao, and Guangzhou as the six largest cities in the country. See Guomin zhengfu zhujichu tongjiju (1935, 601).

[2] Shanghai's foreign area consisted of an International Settlement and a French Concession. This chapter draws cases mostly from the International Settlement. However, the pattern of urban development that this paper found in the International Settlement may also be applicable to the French Concession, which shared with the International Settlement important features such as land regulations and many Chinese residents.

[3] Similarly, in the city of Tianjin, Zhong 中 (Center) Street, which linked the German, French, and British Concessions, hosted most of the modern foreign and Chinese banks in the city in the 1920s (Sheehan 2003, 48).

FOUR

The Rice and Wheat Flour Market Economies in the Lower Yangzi, 1900–1936

KAI-YIU CHAN

The effect of market development on business structure in modern China has institutional implications, as seen in the rice trade and the wheat flour trade of the Lower Yangzi region from 1900 to 1936.[1] That region, for at least the four previous centuries, had a flourishing long-distance private grain trade. As the most industrialized area in pre-1937 China, this region provided a large consumer market and was *the* most important food-processing center. The effect of trade expansion on different market participants in the grain trade was most felt in this region.[2]

I would like to thank the following people for their encouragement, help, and suggestions in the preparation of this chapter: Yeh-chien Wang, Kuroda Akinobu, Linda Grove, Ho Han-wai, and David Faure. The generous assistance of Imai Takako in obtaining valuable materials in Tokyo, and of Huang Shu-yuan, Kao Ya-wen (Wuzu), Lin Jung-ju, and Chien Chi-chung in copying, at various stages, the whole set of the Maritime Customs annual reports from microfilm is gratefully acknowledged. However, the tabulation and selection of all data is my responsibility alone. I would like to thank the National Science Council for their generous financial support for my project collaborating with Professor Yeh-chien Wang, "The Organization and Finance of the Grain Market in Qing China" [清代糧食貿易的組織與金融] (NSC89-2411-H-001-062), and for my own project, "Development of Grain Trade Networks and Changes in Business Organization in Modern China, 1870–1936, I and II" [近代中國糧食貿易網絡發展與商業組織變遷, 1870–1936, I and II] (NSC91-2411-H-029-011 and NSC93-2411-H-029-007).

[1] The spatial definition of the "Lower Yangzi region" that I use here is based on that of G. William Skinner (1977a, 3–31, 211–249, 253–273, 275–351, 521–553; 1980).

[2] Major Chinese cities and places, organizations, publications, and public figures appear, wherever possible, under the English names by which they are regularly known. Where the English names are not known, the Chinese names have been transliterated into pinyin.

FIVE

The Regional Development of Wei County's Cotton Textile Market Economy, 1920–1937

HON-MING YIP

Late nineteenth-century China was transformed by railway and coastal transportation, as has been well documented. This new communication system rapidly replaced much of the preexisting river and canal transport and ended the traditional courier station communication network. The new system enabled market forces, in which foreign capital played a dominant role, to penetrate rural China on an unprecedented scale. Such a development signifies the enormous impact of the market economy on the configuration of local societies and economic behaviors in modern China. The case of Wei 濰 County illustrates the point.

Wei County and Its Cotton Textiles

In 1898, Qingdao became a treaty port, and later, in 1904, Germans built the Qingdao-Jinan Railway (Jiaoji tielu 膠濟鐵路). Wei County, because of its location in close proximity to the treaty port, became a pivotal station on the trunk line. The county rose to become a large trading center in Shandong Province and eventually grew into one of the more important commercial and transportation centers in northern China (Buck 1978, 22; Skinner 1977a, 342).[1] Owing to its increasingly important position in the regional commercial network, Wei was opened to foreign trade by the Qing government in 1906, together with two other cities on the railway line, Jinan 濟南 and Zhoucun 周村 (Liu Donghou 1968, 134; Hou Renzhi 1941, 26; Waiwubu 1904, 56–57). Convenient transportation facilitated the

[1] G. William Skinner considers the city of Wei a county-level capital that served as a regional metropolis (1977a, 342). See also Ye Hanming (2005).

SIX

Chinese Farmer Rationality and the Agrarian Economy of the Lower Yangzi in the 1930s

JAMES KAI-SING KUNG, DANIEL YIU-FAI LEE, AND NANSHENG BAI

A prominent theme in the economic history of contemporary China revolves around the contentious issue of why China did not experience a qualitative breakthrough or "transformative growth" during at least the two centuries before the Communist Revolution of 1949 (Huang 1985, 1990; Pomeranz 2000; Wong 1997).

One theory has it that China's inability to experience rapid economic growth was because of irrational social constraints on women in the formal labor market (Huang 1990). Not only had social norms perpetuated high wages for men and blocked the formation of capitalist "managerial farms,"[1] the low opportunity costs for women and their struggle for subsistence combined to push them into household production for cash crops. Cotton was grown in the north and sericulture was practiced in the south—both cotton and silk were demanded by the world economy. Whereas income-augmenting activities may have raised total household income, the greater labor intensity they entailed allegedly brought diminishing returns to the marginal product of women's labor. Total output growth only kept pace with population growth, a process described by a historian as "growth without development" or "involution" (Huang 1990), which is against the rationality of the market.

[1] According to Huang (1985), the "managerial farm" resembles capitalistic relations of production in that its owner hired wage laborers and paid them the marginal product. This enabled them to avoid the allegedly sharply diminishing marginal returns that many small peasant farms—which relied on their own family members for labor—typically encountered, to the extent that they applied "excessive" labor to their small plots.

SEVEN

Traditional Land Rights in Hong Kong's New Territories

KENTARO MATSUBARA

One problematic aspect of assessing the development of a productive market economy in late nineteenth- to early twentieth-century China is the significance of traditional land rights and land transactions. Early scholarship in this field explored the relations between these landholding practices and the economy in general and established that one could not link particular patterns of landholding—defined in terms of "owner-cultivators," "part-owners," or "tenants"—to the degree of commercialization or to wealth distribution patterns in the economy (Rawski 1972; Faure 1989).

Moreover, as various kinds of land-related rights have been analyzed through land deeds, it has become apparent that this variety hinged on the diverse arrangements among local social groups, and such groups were not limited to the signatories of a particular deed. Many rights established in a deed could be explained only by referring to the involvement of wider social groups, often unmentioned in the deed. For example, rights to *zhaojia* 找價, that is, additional payment after a sale, appear to have involved the role—within the local community encompassing both vendor and purchaser—of the previous owner, that is, the vendor, in somehow guaranteeing the land rights of the current owner, that is, the purchaser (Kishimoto Mio 1997b). The various rights related to settlement in a particular area were closely connected to the formation of local groups based on the extended family, that is, the lineage (Faure 1986). In examining how land rights were related to the workings of the market and the economy, it is useful to begin by outlining some basic features of how these social groupings of lineages worked, both in holding property and in forming local communities. It was in the context of these social processes that land transactions were agreed on, performed, and secured.

EIGHT

Chinese Enterprises across Cultures: The Hong Kong Business Experience in the Early Twentieth Century

STEPHANIE PO-YIN CHUNG

Colonial Hong Kong was a "frontier society" on the border of two cultures and trading communities. By using both Chinese and British business institutions, various groups of traders entered Hong Kong at different stages of their business ventures. Western business laws and traditional Chinese business customs also converged in the "mixing vessel" of colonial Hong Kong. The narrative here illustrates how acute political instability in southern China accelerated this mixing process in the early twentieth century.

Company Law and Its Migration to the Far East

Hong Kong's story has been told in many ways and from many perspectives. One way to view that story is through the lens of economic history, especially the making of its hybrid business traditions. Born of an encounter during the Opium War between the British and Chinese empires, Hong Kong's story is vividly told through the plot of how Western business laws migrated to the East. For instance, with the passing of the Joint Stock Companies Act in 1844 in Britain, British firms were given legitimate channels to incorporate themselves as companies without a royal charter. In 1855, the Limited Liability Act was introduced. New and old company statutes were consolidated into the English Companies Act of 1862. With this legislation, incorporating companies into new business enterprises with limited liability became a legal vehicle accessible to the general public. Companies could be incorporated not only by charter or a special act of Parliament but by registration under the company law. This institutional

NINE

Legalization of Chinese Corporation, 1904–1929: Innovation and Continuity in Rules and Legislation

BILLY K. L. SO AND ALBERT S. LEE

In the early twentieth century, China tried to adopt two Western institutions—company law and the corporate form of the joint stock company with limited liability (*gufen yuxian gongsi* 股份有限公司, referred to here as the "Corporation Model" or, simply, the "Corporation"). These institutions have been widely perceived as among the most crucial in China's quest for economic modernization. This chapter examines the evolution of company law in relation to the Corporation Model.

The Corporation Model is generally considered the foundation for the separation of ownership and management in modern business history. This company model first flourished in the West, especially in the United States and Great Britain from the nineteenth century. It embodies what we today commonly term "an open corporation," or the Berle-Means type of corporation in its pure form (Berle and Means 1932). It is also widely viewed as a modern business practice that would have been impracticable had there not been the corresponding third-party regulating mechanism of an impartial state, manifested in a corporate governance framework under the rule of law. There is an intrinsic assumption of a close relationship between the law and the model (Easterbrook and Fischel 1991), in which the first is a precondition for, and an inducement of, the second; this view is common across disciplines from legal studies to economics and history, and in studies of different areas, including China (La Porta et al. 1998, 2000; Bebchuk 1999; Black 2001a, 2001b; Gugler, Mueller, and Yurtoglu 2001).

However, as Faure (1996, 265, 277–278) once observed, this assumption, which was largely derived from rigorous theoretical inference and

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