

The British-Chinese Socioeconomic Relationship as Seen in the Civil Case Files of Shanghai International Settlement

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International Mixed Court at Shanghai before 1927 (public domain).



Chinese history since the latter half of the 16th century has exhibited a peculiar pattern. This pattern first appeared during the 11th to 13th centuries when the Southern Song dynasty government exported most of its copper cash stock to Japan and Southeast Asia due to the prevalence of inconvertible paper money. In addition, the northern nomadic states, which invaded and conquered China, exported most of the silver bullion they had accumulated through taxation to the Middle East. As a result, China's bullion currency stock was depleted, and it could not sustain its state economy without importing silver bullion and copper cash from Latin America and Japan via export trade.

The de facto opening-up policy of the Ming dynasty government in 1567 brought about a period of economic prosperity that lasted until the early 17th century when the dynasty plunged into turmoil, leading to its eventual collapse in 1644. The newly established Qing government opened the country's ports to the world again in the 1720s, which had contributed to its economic growth. However, to feed the growing population, the dynasty had to expand land reclamation, resulting in reduced stocks of forestry and degraded soil. Coupled with rebellions by environmental refugees, the Chinese economy fell into a second period of turmoil between 1795 and 1865.

After the Qing dynasty succeeded in suppressing the rebellions with the help of Western mercenaries in 1864, the third period of prosperity started. However, as is well known, it ended with the outbreak of the Second Sino-Japanese War in 1937, ushering in a third period of turmoil that lasted until 1978. In retrospect, China has exhibited a pattern characterized by a period of prosperity followed by that of turmoil, and this has repeated itself three times. None of the periods of prosperity lasted more than seventy years.

Interpreting the history of China from the late 16th century onward as a repetition of such a pattern and supposing 1979 as the beginning of the fourth period of prosperity will make it easy for us to understand the importance of inquiring how the third period of prosperity started and ended.

Just as the beginning of China's fourth period of prosperity was deeply bound up with the fortunes of Japan and the US, the beginning and ending of the third period of prosperity was heavily influenced by the

UK and Japan. There are large numbers of records produced in English and Japanese about the third period. While the Japanese government records, especially the records of the Japanese Foreign Office (Nihon Gaimushō Kiroku 日本外務省記録), have been digitized and made accessible to the researchers around the world, quite a few English language records of the British Foreign Office have yet to be digitized, making it hard to understand what happened between the British residents in China and the local Chinese during China's third period of prosperity.

The *Gale Primary Sources* collection titled *China and the Modern World: Records of Shanghai and the International Settlement, 1836-1955* contains priceless records that shed light on the British-Chinese socioeconomic relationship during the period. Of particular note are a number of civil case files involving Chinese and British residents living within the Shanghai International Settlement. These files can be found in two series of British Foreign Office files: FO 656 Supreme Court, Shanghai, China: General Correspondence and FO 1092 Shanghai Courts, China: Judges' & Magistrates' Notebooks.

To understand the British-Chinese socioeconomic relationship, we should consider the unique character of personal relationships in the Chinese society, as described by Fei Xiaotong (費孝通). In "Chaxugeju: The Differential Mode of Association," Fei explained the Chinese personal relationships as follows:

In Chinese society, the most important relationship – kinship – is similar to the concentric circles formed when a stone is thrown into a lake. Kinship is a social relationship formed through marriage and reproduction. The networks woven by marriage and reproduction can be extended to embrace countless numbers of people – in the past, present, and future. . . Everyone has this in a kinship network, but the people covered by one network are not the same as those covered by any other. We all use the same system of notation to identify our relatives, but the only thing we hold in common is the system of notation itself. This system is merely an abstract pattern, a set of categorical concepts. . . In our rural society, this pattern of organization applies not only to kinship but also to spatial relationships. . . This pattern of organization

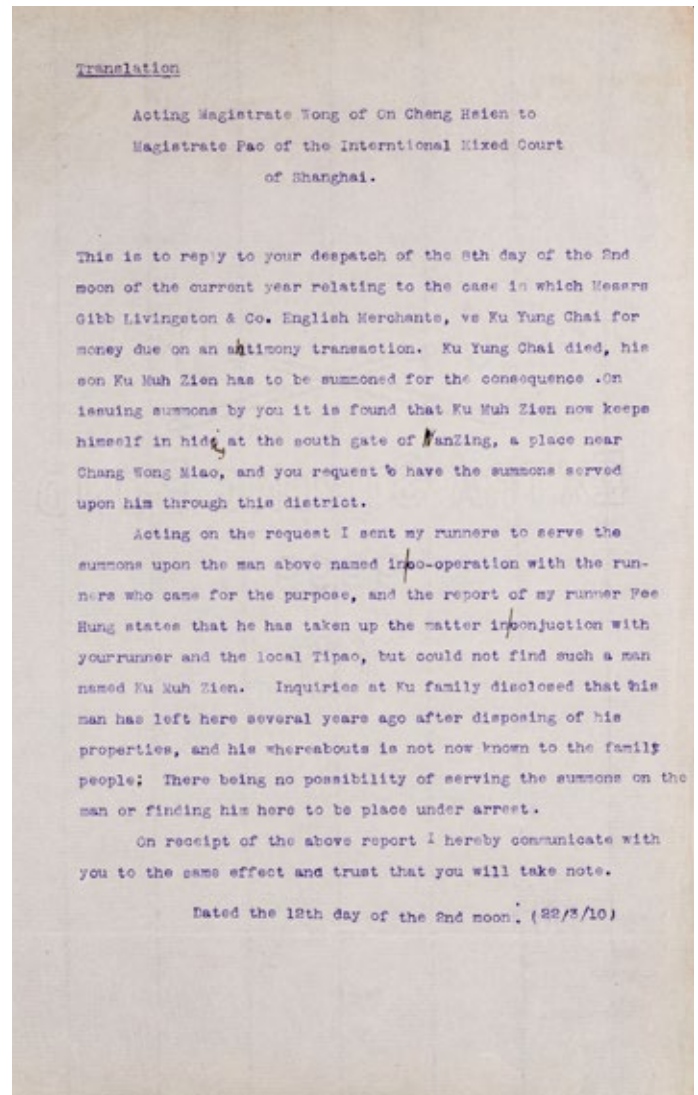
in Chinese traditional society has the special quality of elasticity. In the country, families can be very small, but in the wealthy landlord and bureaucratic classes, families can be expanded or contracted according to a change in the power of the center, cause the Chinese to be particularly sensitive to changes in human relationships.¹

This “special quality of elasticity” of traditional Chinese society is particularly relevant here. Just like the wealthy landlord and bureaucratic classes, certain Chinese residents within the Shanghai International Settlement could also expand or contract their quasi-family organizations, to the point of including and placing British firms or individuals at the center of such organizations. The only difference from ordinary Chinese family organizations was that the British firms and individuals were totally unaware of the meaning or even the existence of such organizations at least until the end of the 1880s.

The Chinese put the British firms or individuals at the center of their organizations because they wanted to use the property of the British firms as a shield and armor to maintain and protect their own commercial profits.

Until the collapse of the Qing dynasty government, the Chinese mercantile residents in the International Settlement, taking advantage of such organizations, clandestinely set their British employers or trading partners as their sureties behind their back and borrowed huge sums of money from other Chinese. Once they fell into bankruptcy, their Chinese creditors rushed to the British “sureties” to guarantee the debt repayment. However fiercely the British firms denied their responsibility, they were forced to pay the debts in the end. By contrast, they could refuse to pay the debts or reduce their amount when the British creditors tried to collect debts from them.²

How could the Chinese do this? Basically, they were taking advantage of the corruption of the Mixed Court.



Letter from the acting magistrate of On Cheng Hsien to the Mixed Court on the escape of the Chinese defendant's son relating to a case of Messrs Gibb Livingston & Co. English Merchants, vs Ku Yung Chai for money due (FO 656/118/14).

FO 656/118 provides a good example by featuring a list of seventeen Chinese who avoided paying their debts to British or other Western creditors from December 1908 to January 1909. They managed to abscond before the runners (chayi 差役) of the Mixed Court delivered warrants or summons to them, because they obtained such information from the runners in advance via bribery.³

FO656/111 contains case files relating to several

1 Fei, Xiaotong (translated by Gary G. Hamilton and Wang Zheng), *From the soil, the foundations of Chinese society: a translation of Fei Xiaotong's Xiangtu Zhongguo, with an introduction and epilogue* (Berkeley, University of California Press, 1992) pp. 63-64.

2 For typical examples, see my “A Study of the Legal Status of the Compradores during the 1880s with Special Reference to the Three Civil Cases between David Sassoon Sons & Co. and Their Compradores, 1884-1887,” *Acta Asiatica*, No. 62, Feb. 1992, pp. 44-70; “H. A. Giles v. Huang Chengyi: Sino-British Conflict over the Mixed Court, 1884-1885,” *East Asian History* No. 12, December 1996 [printed in July 1998] pp. 135-157; “A Burden of British mercantile firms doing business in China: A Myth of Extraterritorial System in China, 1902-1907,” *Cheng Kung Journal of Historical Studies* (Department of History, National Cheng Kung University) Vol. 47, Dec. 2013, pp. 113-154.

3 See my “Reorganization of the Mixed Court system in the early 20th century, 1906-1913” in A. J. H. Latham and Heita Kawakatsu (eds.), *Asia and the History of the International Economy* (Routledge, 2018), pp. 143-144.

Chinese merchants who infringed the trademark of an imported British soap. They sold inferior local-made soap packed in a box printed with an imitation trademark of the British soap imported by A. R. Burkill & Sons from 1900 to 1906. This was one of the earliest cases of British-Chinese trademark infringement.⁴

Burkill and Co versus Lung Chi Lung Mao Te Peng and the vendors of imitations of their soap. Statement of case as sent to the Magistrate.

One case of soap was found on the premises of Mao Hsun Chang, Master of the Lung Chi Firm—On one side a beehive, and the words FRAGRANT HONEY SOAP in English—on the other the characters Hsiang Sheng Yang Hang.

Chiang Tang Fu of the Yu Jen Hsiang in Kuangtung Road stated that he had bought from Lung Chi Soap on one side of which was in English KUONG YI HONEY SOAP, and a beehive—on the other the characters Chuang Chi Yang Hang.

Ku Ch'ing Hsun of the Jen Ta Firm in the Fukien Road stated that he had bought from Lung Chi this Chuang Chi Soap (the detective produced this in Court—one side was marked in English YEE YUN BEST SOAP with a beehive, and on the reverse the characters Chuang Chi Yang Hang.

Shao Hsun Yuan of the Ch'eng Ch'ang Firm, 43 Hupei Road had also soap bearing Chuang Chi Yang Hang.

Thus the soap sold by Lung Chi with which this case has to do is of three kinds, and all of inferior quality. The first kind has on one side an exact copy of the design and English characters of Burkill's soap, except that there are two characters "Cheng Hao" on each side of the design in the one case, which do not appear in the other. On the reverse are the characters Hsiang ^{Sheng} Yang Hang, and the Hsiang is that of Hsiang Mao (Burkill and Co), and the ^{Sheng} Yang is so written to resemble a Mao.

The second kind sold by Lung Chi has on one side KUONG YI HONEY SOAP and on the reverse Chuang Chi Yang Hang, and the Chuang is so written as to resemble a Pei (Pei Chi being meant, ^{this is} used on Burkill's soap for the name Burkill). The object of this resemblance is to deceive the public by using a character which is both like and unlike "Pei".

The third kind sold by Lung Chi has on the face of it in English YEE YUN BEST SOAP, and on the other side Chuang Chi Yang Hang.

Now these soaps are made, sold and bought entirely by Chinese, and it is not necessary that English characters or the words "Yang Hang" should be used.

A page from the case file of *Burkill and Co versus Lung Chi Lung Mao Te Peng* and the vendors of imitations of their soap (FO 656/111/147)

The files include not only English language documents but also a Chinese language document issued by the Shanghai Daotai (上海道台).

Having realized how the Chinese had utilized the property of British firms or the extraterritorial system, the British firms and the consular body in

Shanghai led by the British consul-general took every effort to deter such attempts, especially after the revolution of 1911 when the consular body administered the Mixed Court. As a result, the British and other Western firms could collect debts from Chinese debtors or their sureties.

Let us consider two debt-related cases in FO 1092/142. The first case was "The China Mutual Life Insurance Company Limited (中華保壽合作社) v. Yang Shun-Lin (楊順麟)" (British Civil Case No. 24 of 1916). The Chinese *bona fide* defendants of the civil case were three brothers, although only the name of Yang Shun-Lin, the eldest brother, appeared in the file. Yang succeeded his uncle as the comprador of Elias David Sassoon & Co. Since this seemed to be a very lucrative business, his two younger brothers also joined him. However, Yang failed to fulfill the sales contract of "5,000 cases of goods" to a certain dealer, Hong Chang (鴻昌) and was thus liable for 19,000 taels. In order to pay the debt, the Yang brothers were forced to sell their mortgaged property. Although the case records do not reveal exactly what the "5,000 cases of goods" were, it is reasonable to assume they were opium because Elias David Sassoon & Co. was a well-known opium trading company. Beyond this, Yang Shun-Lin also failed in the insurance business and was unable to pay \$4,209.94 and 2,500 taels to his employer, which was the plaintiff of the case. It needs to be noted that the youngest brother, Yang Kuan-Lin (楊寬麟), later became a prominent architect.

One highlight of the second case—"Denham & Rose (美昌洋行) v. Hsiao Ching-Chi (蕭景記)" (British Civil Case No. 54 of 1915)—is Chen Kuangfu (陳光甫), founder of the Shanghai Commercial and Savings Bank. In the case file, he acted as the comprador of the British plaintiff. According to the proceeding, he was looking for a piece of land suitable for building a steel godown, for his employer, and found one plot owned by the defendant, one of the proprietors of a Chinese joint-share partnership (合股) firm. Since the plaintiff could not speak and read Chinese while the defendant could not speak and read English, Chen took advantage of them. Although the defendant initially refused to do so, Chen succeeded in making him sign the English language form and agree to pay

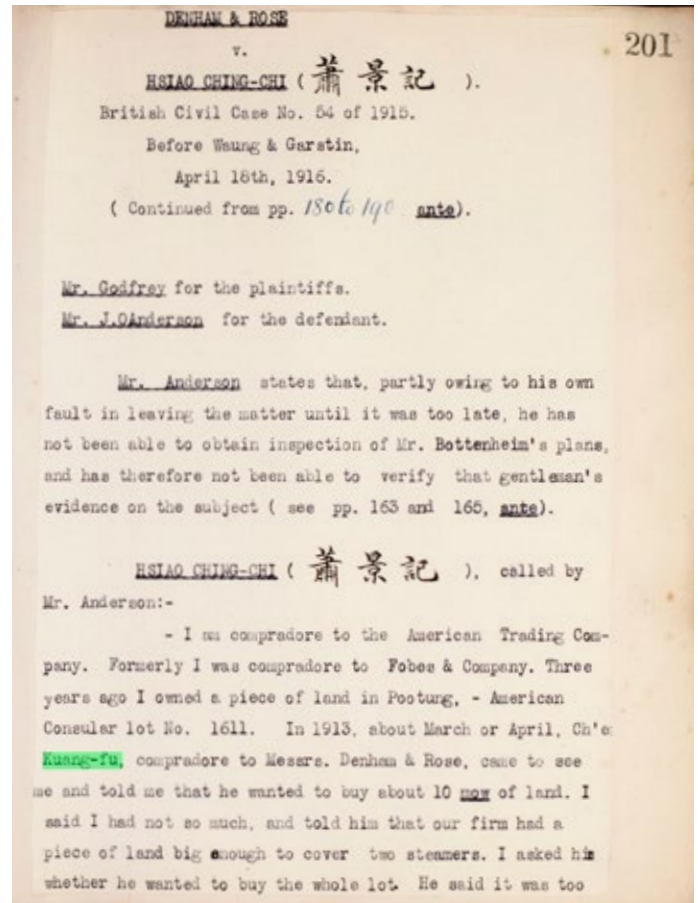
⁴ On the series of the British-Chinese trademark infringement, see my 『盗用から模造へ、1880-1931年—中日英米商標権侵害紛争—』 (早稲田大学出版局、2023年) Chapters 6, 8, and 9.

Chen a 5% commission.

This was uncovered in the proceeding. However, even though Chen himself admitted it, the defendant himself refused to testify that he was swindled by Chen at the final proceeding despite his solicitor's urging him to do so. It was apparent that the defendant was scared of Chen Kuangfu so much that he could not tell the truth.

As these two civil cases reveal, British firms also employed prominent Chinese as their compradors so that they could make up for their commercial loss by suing the latter in the Mixed Court. The Yang brothers were typical victims. Meanwhile, the Chinese compradors tried all means to transfer these risks to other Chinese or to collect commission from them.

Most of the civil cases contained in FO 1092 are not between British creditors and Chinese debtors or their sureties, but rather between the Chinese. Why did these Chinese prefer the Mixed Court to the Chinese court to settle their disputes? What were the common causes of these cases? These case files call for more in-depth study by scholars around the world researching Chinese legal and business history.



A page from the case file of Denham & Rose (美昌洋行) v. Hsiao Ching-Chi. (FO 1092/142/205)

