


RESEARCH ARTICLE

Surveying, mapping, and translating: how property rights were created in Shanghai, 1860–1900?

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Abstract

From 1860 to 1900, a modern system of property rights emerged in the International Settlement in Shanghai. This paper examines the largely overlooked process by which the Shanghai Municipal Council (SMC) brought about a system of well-functioning property rights through land surveys, mapping, and assessments. These methods worked hand-in-hand with road planning and construction in facilitating the expansion of the International Settlement to the Chinese-controlled area. Colonial officials, merchants, and Chinese intellectuals worked collectively and sometimes separately to generate knowledge about land and property by translating terms in the Chinese tradition. It argues that the efforts in institution-building and translation helped normalize the definition of property rights as things exclusively owned, strengthening the SMC's control over the land in Shanghai. These processes illuminate the relationship between empire-making and property rights by showing how property rights emerged and functioned in a semi-colonial context where multiple foreign authorities coexisted with the local government. The relatively secure system of property rights, which both foreign and Chinese merchants exploited, formed the foundation of a prosperous Shanghai in the twentieth century.

Keywords: land; law; property rights; semi-colonialism; Shanghai

Travelers to Shanghai in the late nineteenth and early twentieth centuries were struck by “the banks, offices, and warehouses along the Bund.” When seen “from the deck of an ocean liner steaming up the river,”¹ the numerous western-style banks, office buildings, and hotels were evidence of Shanghai's enormous wealth and prosperity. What those travelers would not have apprehended, however, was the system of private property rights that made possible the city's conspicuous opulence and glamor. The institutionalization of a modern property rights system was almost a half-century in the making. Both the foreign consulates and the Shanghai Municipal Council (SMC) were keen on building a set of legal and political norms that safeguarded owners' rights in the foreign enclaves. Land surveys, assessments, mapping, road construction, and translation projects were key features of the SMC administration of land tenure in the second half of the nineteenth century.

Difficulties the Municipal Council faced in the process of working out a well-functioning system of enforceable property rights illuminate the intricate relationship between empire-making and the protection of property rights in a semi-colonial context. Scholars of empire and colonialism have extensively studied the relationships between imperialism and property rights and their work has generated fruitful discussions. Lauren Benton reminds us that changes in the law of property were not simply about property rights, but were intertwined with the control of the colonial

¹Feetham 1931, p. 317.

authorities.² In colonial Berar, for instance, the drive for cotton cultivation pushed the British colonial state to carry out systematic surveys and assessments to arrive at a classification of land that ensured private property rights.³ The Bengal Tenancy Act of 1885 called for detailed surveys of land holding that made the sale of tenancies more straightforward.⁴ Scholars have also centered their analyses on interactions between local norms and the conception of “modern” property rights introduced by colonial forces. In British Palestine, colonial land policies were informed more by Ottoman practices than by idealized notions of private property.⁵ In the process of imperial conquest, mapmaking was at the center of the construction of colonial space. In the British conquest of South Asia specifically, military and civilian officials of the East India Company undertook a massive campaign to transform a land of “incomprehensible spectacle into an empire of knowledge.”⁶ After the 1860s, Britain shifted from its early policy of imposing Western property institutions to the selection of communal property in India.⁷

The International Settlement⁸ in semi-colonial Shanghai, where governing structures were “fragmentary,” exhibited some essential features of land policy seen in other colonial settings in the nineteenth century.⁹ Historian Isabella Jackson has suggested “transnational colonialism” as a conceptual framework for understanding the governance of the SMC in the International Settlement. She suggests that while British influence was dominant, members of the SMC and the staff who had worked in various colonial settings in Shanghai were transnational.¹⁰ They cooperated on many levels to bolster the autonomy of the foreign community and the SMC, contributing to Shanghai’s globalism.¹¹ The autonomy of the SMC hinged on its ability to fund its daily operations. Land tax made up at least one-fifth of the municipal income, contributing significantly to that fiscal autonomy.¹²

Despite its centrality to the SMC administration of the International Settlement, the formation of systems of land tenure and property rights remains an understudied topic. Due to the scarcity of and restrictions to primary sources, scholars have yet to reach a good understanding of the land system in the International Settlement.¹³ Chiara Betta has provided an overview of how Silas Hardoon, a Baghdadi Jew, exploited the legal and institutional frameworks of the International Settlement to build a real-estate empire in Shanghai.¹⁴ Rising land values turned real estate into a lucrative sector, which also brought more tax revenue to the Municipal Council. Li Yingchun has studied how a scheme of “rent-in-perpetuity” (*yongzuzhi*) allowed foreigners to acquire land from Chinese lessors in the 1840s. Such private transactions between foreign lessees and Chinese lessors were further guaranteed by the various foreign consulates and the circuit intendant (*Daotai*).¹⁵ Similarly, in Xiamen, a treaty port opened in 1842, Chen Yu shows that foreign subjects’ right to own land on the Bund was established through negotiations between foreign consular and the local Qing authorities.¹⁶ Land registration in the British Consulate allowed owners to subdivide their land and transfer it to other foreign subjects or Chinese.¹⁷ The Amoy (Xiamen) Bund became a business district, while the British consuls and most foreign subjects preferred Gulangyu as their place of residence.

²Benton 2001, p. 2.

³Satya 1997, pp. 59–61.

⁴Robb 2002, p. 76.

⁵Bunton 2007, p. 5.

⁶Edney 1997, pp. 1–2.

⁷Mantena 2010, pp. 144–45.

⁸The International Settlement was formed with the merge of the American Settlement and British Settlement in 1863.

⁹Shih 2001, p. 34.

¹⁰Jackson 2017, p. 8.

¹¹*Ibid.*, p. 9.

¹²*Ibid.*, p. 36.

¹³Betta 2016, pp. 61–62.

¹⁴*Ibid.*, pp. 61–62.

¹⁵Li 2013, pp. 102–3.

¹⁶Chen 2008, p. 35.

¹⁷*Ibid.*, p. 35.

Although the works of Li and Chen shed light on property transactions in the early years of the treaty ports, the story of how a modern system of property rights took shape in the remainder of the nineteenth century is yet to be told. Land transactions did occur sporadically in the International Settlement in the 1840s and 1850s, but the influx of Chinese refugees after the Taiping attacks on the city increased both the volume and scale of those transactions. This process, along with the expansion of the International Settlement, necessitated the establishment of a secure and enforceable property rights system.

This paper takes on this major gap in the literature by investigating how a modern system of property rights emerged, developed, and operated in Shanghai's International Settlement from the 1860s to the 1900s. It was only during the second half of the nineteenth century that the SMC undertook the development of a system to secure and protect property rights in land. Although land was essential to the rapid growth of a modern economy in Shanghai, known worldwide as "the Paris of the East," many questions remain unanswered: How did the system of land registration in the International Settlement come about? What was the rationale behind the British administration of land tenure? How did the property system change as the Settlement expanded in the second half of the nineteenth century? This paper examines how land policies were devised and implemented; it assesses how defining clear boundaries, preparing maps, and compiling records all shaped ownership rights for private individuals, Chinese as well as international sojourners.

My research shows that a secure system of property rights emerged in the International Settlement in Shanghai from 1860 to 1900. Such a property system had many distinct features. Foreign consulates and the SMC devised a series of procedures through titling, assessments, and the registration of land parcels. Those efforts facilitated the normalization of the system of property rights that defined property as things exclusively owned. Through institution-building, the SMC and the foreign communities guaranteed the security of property holding and enforceability of property rights. The existence of multiple legal systems within the framework of extraterritoriality provided flexible legal backing when disputes arose. Lastly, the translation of indigenous concepts generated knowledge of the land that helped legitimize SMC control.

Consuls and their associates were local agents who constructed an information empire that facilitated the foreign control of the treaty ports.¹⁸ It is worth noting that these institution-building and translation projects were not necessarily concerted efforts on the part of foreign communities. However, collectively they brought about a modern property rights system that yielded political and economic benefits for both the authorities and individuals. In the eyes of both Chinese and foreign landowners, the foreign consulates and the SMC fulfilled their charge of protecting legally registered land. Relatively secure land ownership bolstered individual owners' claims to property rights and facilitated the smooth transfer of property.

Land surveys and assessments in the International Settlement in Shanghai

In Shanghai's International Settlement, first the British Consulate and then the Municipal Council devised procedures to map and register land boundaries and rights that formed the heart of SMC land policies in the city. This section looks at British efforts to lay an institutional foundation for gathering information to help formulate their own statutes in the Settlement during Shanghai's first two decades as a treaty port from 1840 to the 1850s. Ratepayers' meetings, organized by those who paid land tax, charged assessment and survey committees with the task of drawing boundaries for every lot, marking its position, and assigning it a number. The administrative clarity imperfectly realized by these early policies led to the SMC's efforts to formalize the regular practice of assessing and surveying after 1869.

Land issues were front and center in the early history of the International Settlement when Shanghai was opened as a treaty port. In 1843, the British Settlement was created as a separated quarter outside the Chinese walled city in accordance with the subsequent Land Regulations of 1845, which

¹⁸Hevia 2003, p. 123.

resulted from negotiations between Captain Balfour and the Shanghai circuit intendant Gong Mujiu.¹⁹ The American Settlement was established in 1848, and the French Concession in 1849.²⁰ The 1845 Land Regulations defined the method by which foreign subjects could acquire land from local owners. With the sanction of the treaties, foreign individuals interested in acquiring land purchased it directly from local owners within the boundaries of the Settlements. For instance, in the British Settlement, buyers acquired land directly from Chinese owners through individual agreements; subsequently, the Chinese sellers reported the transaction to the circuit intendant, and the foreign buyers to the Consul, respectively. In 1846, the Land Regulations also called for the creation of a Committee on Roads and Jetties to supervise public works, improve the roads and structurally shore up the banks of the Huangpu River.²¹

More than a decade of local unrest and rebellion between 1851 and 1864 drastically altered the nature of the Settlements. In 1853, the Small Sword Society (Xiaodaohui), a secret society attached to the Triads of southern China, occupied the office of the circuit intendant. Although the Qing imperial forces succeeded in expelling the Small Sword rebels, the lapse in local administration compelled the foreign consuls and merchants to progressively intervene to defend their own interests. On July 11, 1854, foreign residents and merchants, under the auspices of the British, American, and French Consuls, formed the Shanghai Municipal Council (Gongbujun) and promulgated a new version of the Land Regulations.²² The 1854 Land Regulations granted all foreign residents who owned land the right to form an assembly of land renters and elect members to the SMC.²³ Shortly after the quelling of the Small Swords, the Taiping Rebellion that raged across the entire lower Yangzi area forced waves of Chinese to take refuge in the foreign concessions. The influx of Chinese residents turned the demographics of the concessions upside-down, changing them from places designated exclusively for foreigners to areas where Chinese were the majority. To protect their interests under the threat from the Taipings, the British and American settlements merged in 1863 to form the International Settlement. In the absence of Qing rule, Harry Parks, the British consul, also established a “Mixed Court” in the International Settlement. According to Parks’ plan, Qing officials would present in cases involving Chinese subjects as defendants or foreigners without consular representation.²⁴ This put all the institutional pieces in place for the establishment of a system of property rights in the International Settlement. The SMC, which consisted of staff from a wide range of backgrounds, presided there and its Land Regulations functioned as the supreme law. Landowners could lodge complaints at the various consular courts and the Mixed Court whenever they ran into disputes over property rights.

As the population and territory of the International Settlement continued to grow, the administration of the SMC and management of the Settlement necessitated a stable source of revenue to offset municipal expenditures. In other colonial settings, land was one of the main sources of tax revenue, facilitated by taxes imposed through an efficient system of imperial land registration. The International Settlement was no different. Despite their centrality to tax farming, land records were in a state of confusion in the early decades of British administration. From the 1840s to the early 1860s, each consulate – British, French, and American – kept its own records and conducted only sporadic land surveys.²⁵ For a while, these records served the basic needs of individual owners and were a source of revenue for the consular offices. When land transactions became more frequent, however, both buyers and sellers felt the need to maintain records that clearly defined their rights. It was at this point that they pushed the SMC to assume the task of patching together land registrations and devising a system that guaranteed their rights. The SMC charged an Assessment Committee with the task of

¹⁹Bergère 2009, p. 28.

²⁰Ibid., p. 31.

²¹Ibid., p. 35.

²²Li 2013, p. 22.

²³Bergère 2009, p. 46.

²⁴Cassel 2012, p. 66.

²⁵SMA: U 1-1-1024 1870a.

surveying and assessment. The committee carried out these tasks periodically to maintain an updated record of land values and the status of property ownership.²⁶

Land surveys and assessments were large-scale operations that demanded a significant commitment of human and financial resources from the Settlement's foreign administration. The foreign consuls and SMC staff understood well that the formulation of land policies was an important step toward ensuring a stable source of tax revenue that could be allocated for the management of the Settlement. The SMC's power to conduct land surveys and tax property owners hinged on Article X of the 1845 Land Regulations. That article states, "The foreign consuls aforesaid shall at the beginning of each year convene a meeting of the renters of land within the said limits." In that meeting "it shall be competent to the said renters to declare an assessment in the form of a rate to be made on land and buildings" and "to appoint a committee of three or more persons to levy the said rates and dues and apply the funds so realized to the purposes aforesaid."²⁷ Article X thus laid the legal foundation for the SMC's right to survey and tax Settlement land. The registry kept by the Committee served dual functions. For owners, it guaranteed their property rights. For the SMC, it was proof of owners' tax liabilities. There were two types of owners who were qualified to vote at these meetings: those who owned land worth Tls. 500 and above and paid more than Tls. 10 in land tax annually, and those who occupied a house and paid taxes on assessed rental of more than Tls. 500 per annum.²⁸ Thus, the ratepayer's meetings represented the interests of landowners in the Settlement, protecting the rights of what Robert Bickers has termed the "real estate oligarchy."²⁹

The ratepayers' meeting of 1869 proved a pivotal moment in the history of land tenure in the International Settlement. It was during this meeting that the SMC institutionalized the regular assessment of land that would update land ownership records. W. H. Carter, a renter, emphasized that a re-assessment of all the land within the boundaries of the Settlement was "an imperative necessity."³⁰ The regular and comprehensive re-assessment of land was especially helpful to absentee renters, who were eager to ascertain the value of their land. Through the assessments, renters became cognizant of their land's value. Should they disagree with the assessment, they could appeal to a court that consisted of five members. The meeting also decided on the formation of an assessment committee. Three renters, F. B. Johnson, E. Iveson, and James Hogg, constituted the first assessment committee and carried out those duties the following year.³¹

The 1869 meeting also formalized a tax scheme, an important step in laying down the financial foundation for the SMC. Based upon the eventual re-assessment, the SMC charged two kinds of taxes, a land tax, which was paid by the owners, and a municipal rate to be paid by the occupants of buildings. The land tax was set at 25 percent of the assessed value of a parcel; the general municipal rate at 6 percent for houses inhabited by foreigners and 8 percent on the Chinese who resided in the Settlement.³² It is worth noting that under this system, landowners paid tax based on the assessed value, not the actual or market value of their properties. The assessed rate was set at approximately 75 percent of market value until 1907, after which the land tax was based on the full market value.³³ The assessed value was set at 75 percent of the market value to accommodate market fluctuations and avoid frequent claims for the reduction of the assessed value. In the later decades, some ratepayers proposed abandoning this system and imposing taxes based on the full market value, since the rapid increase in the market value of the land made the wiggle room previously set for fluctuation unnecessary. This change was turned down by the Municipal Council, because the system of

²⁶The North China Herald 1867.

²⁷FO: 228/162 1845.

²⁸SMA: U 1-1-884 1871a.

²⁹Bickers 1998, p. 169.

³⁰SMA: U 1-1-783 1869a, p. 15.

³¹SMA: U 1-1-783 1869b.

³²SMA: U 1-1-783 1869c, p. 2.

³³Feetham 1931, p. 338.

assessment and taxation had functioned without disturbance for many years and it could not be altered without a formal discussion at a public meeting.³⁴

The rationale behind land renters' advocacy to formalize the system of surveying and assessment was best spelled out by Thomas W. Kingsmill, a civil engineer and architect, in his memorandum to the foreign consuls and the body of land renters in 1870. Kingsmill advocated for "a uniform and properly devised system" of land registration in the Settlement.³⁵ Kingsmill's proposal was based upon his observation of the land registration system in place. For him, the flaws in the registration system were twofold. First, there existed four consulates, British, French, the United States, and Russian consulates, with each undertaking independent land surveys and compiling its own records. In theory, subjects of one country were required to register property ownership with their respective consulate; however, cases of cross-registration were commonplace and such practices perpetuated confusion in land records. Also, Kingsmill noted, land lots were often divided, amalgamated, or their boundaries modified, all changes that were not reflected in the title deeds. It became practically impossible to trace changes to a particular property. Second, information on registered properties was often vague or incomplete. Kingsmill gave the example of a lot registered in the American Consulate with the following boundaries: "North, by the land of English Merchants, South, a public road, East, the land of British Merchants, West, the land of British Merchants." Kingsmill predicted that although the boundaries of such a lot might be remembered by still-living individuals who resided in Shanghai, disputes would become inevitable with the departure or death of these individuals. Still, he saw the problems with the land records as fixable and concluded that the Settlement needed a systematic assessment of the land and mandatory registration of lots that clearly defined owners' property rights.³⁶

To make his case for "a better-regulated system," Kingsmill seems to have gone out of his way to exaggerate the problems in the existing land registration system.³⁷ His criticisms were rebutted by the American Consul General, George Seward, who found them to be "at variance with the facts" and stated that "no land is twice registered."³⁸ Suffice it to say that the exaggeration was meant to support his vision for a system that clearly defined the locality and boundary of each lot. He considered such a system of "permanent importance" in countries that had established regulations to protect property rights.

To bolster his argument, he provided examples from the land registration laws of Britain and the United States. Specifically, he cited the English law 25 and 26 Victoria, C. 23, Section 10, which states:

The identity of the lands with the parcels or descriptions contained in the title deeds shall be fully established, and the registrar shall have power by such enquiries as he shall think fit to ascertain the accuracy of the description and the quantities and boundaries of the lands; and except in the case of incorporeal hereditaments, a map or plan shall be made and deposited as part of the description.³⁹

Similarly, in the United States, he found that "the land is divided into blocks of a regulated size, numbered consecutively in a strictly defined series, and again, when subdivided, marked by a second equally defined and regular system."⁴⁰ Based on his reading of American and British law, Kingsmill pressed for the implementation of a similar system in Shanghai. He argued that a system of land registration should show boundaries and units that could be easily identified in a register.

³⁴SMA: U 1-1-831 1904.

³⁵SMA: U 1-1-1024 1870a, 1870b, pp. vi-ix.

³⁶Ibid.

³⁷Ibid.

³⁸Shanghai Municipal Council 1871a, p. 22.

³⁹SMA: U 1-1-1024 1870a, 1870b.

⁴⁰Ibid.

Shifting to Chinese precedent, he noted that such a system of land registration was not simply a Western norm. “By Chinese law, every separate lot of ground is noted, its value assessed, its boundaries, area, and owner, registered... Such a registration system has worked well amongst the Chinese: few cases of disputed title have been known to arise.”⁴¹

If Kingsmill’s reading of the American and British law came close to reality, his account of the Chinese land registration system seems rather idealistic. The flaws he identified in the land registers of the British and American consulates in Shanghai were rampant in the land records of the local magistrates. Historians Philip Huang and Taisu Zhang have shown that land disputes among the Chinese commonly arose due to unspecific boundaries and overlapping claims to the same piece of land.⁴² By comparing land registration systems in Britain, China, and the United States, Kingsmill championed the means by which a clearly marked and regulated registration system could be established in the Settlement. The American and British systems could be boiled down to the concept of individualization of land tenure, a modern practice that allowed one to locate a lot within the Settlement by simply locating its registered number. His end goal was to argue that such a system was not at odds with Chinese practices. Rather, such a system would reduce the number of property disputes and encourage people to own land in the Settlement.

Kingsmill’s proposal paved the way for the formalization of land assessment that ensured owners’ exclusive claims. When the Land Regulations were revised in 1869, Kingsmill’s proposal passed with the sanction of the British, American, French, and Russian consuls. An amendment to the 1869 Regulations stated that during the annual meeting, the foreign consuls should elect an executive committee to carry out assessments of the land and buildings for the “better order” of the Settlement.⁴³ The memorandum was incorporated into the committee’s report and became a reference for the SMC and foreign consuls.⁴⁴ The committee’s report was eventually approved and passed by the rate-payers’ meeting in 1870. With this, the SMC began to institute a property rights system based on exclusive claims over clearly defined boundaries. In February 1870, the secretary of the SMC, Alex Johnston, published a notice in the *North China Daily News*, announcing the completion of the land assessment by the select committee.⁴⁵ SMC officials continued to recognize the necessity of maintaining an accurate measurement of lots “where foreigners desire to possess a clear and indefeasible title to their properties.”⁴⁶ Echoing Kingsmill’s position, the SMC emphasized the importance of making periodic updates to the register “to keep published records in accord with the changes continually taking place in the ownership and incidents of property.”⁴⁷ This represented an important step in generating accurate knowledge about the land in the Settlement. These new regulations also empowered the SMC to use this recordkeeping as an important source of municipal tax farming. As the International Settlement expanded numerous times from 1843 to 1900, land surveys and assessments figured crucially in road planning and construction, especially once the acquisition of extra-settlement roads facilitated the Settlement’s growth.

Extra-settlement roads and land assessments

In the remainder of the nineteenth century, the Settlement expanded significantly with the construction of extra-settlement roads. Each time the Settlement was enlarged, whether by private merchants or with official partners, the assessment and survey committee stepped in to establish the SMC’s control over land outside the extant boundaries. The boundaries between the Settlement and the land still under Chinese control proved an ideal area for the organic growth of the foreign community into the Shanghai suburbs. This expansion unfolded without overall planning: existing boundaries

⁴¹Ibid.

⁴²See Huang 1996 and Zhang, 2017.

⁴³Hartley 1896, p. 670.

⁴⁴SMA: U 1-1-784 1870, p. 13.

⁴⁵The North China Daily News 1870.

⁴⁶SMA: U 1-1-884 1871a, 1871b.

⁴⁷Ibid.

gradually blurred to create a complex fabric of natural, administrative, and property lines.⁴⁸ This section explores the expansion of the Settlement through road planning and construction until the 1890s and how land assessment legalized SMC control of the new land.

In the early years, road construction was already the primary means by which British consuls established control over land inside the Settlement. From 1849 to 1866, development occurred within boundaries set in 1848 and was facilitated by a grid-shaped street plan based on existing paths and creeks. Foreign merchants purchased land along the foot paths and creeks, after which British consuls built streets to access the lots under development.⁴⁹ In some cases, foreign merchants built roads as private initiatives and transferred them to the SMC. For instance, in 1862, the trustees of the Shanghai Riding Course constructed a road to the new racecourse and sold the land along both sides of the road. The new road, which was an extension of Nanking Road, was called Bubbling Well Road. The trustees used revenue from the land sales to construct another road, which was also transferred to the SMC because the trustees were unable to defray the expense of maintenance.⁵⁰ Advocating for the SMC's takeover of Bubbling Well, Wusong, and nearby roads, W. Keswick, consul for Denmark and chairman of the council, emphasized that roads were "the lungs of Shanghai" and must be kept in order for the health of the community.⁵¹ That same logic underpinned the SMC's continued purchase of roads constructed by private merchants outside the Settlement boundaries. By 1866, the road system already reached to the western boundary of the Settlement.

The expansion beyond the 1848 boundaries was facilitated by the construction of extra-settlement roads. Like the establishment of many institutions in Shanghai, the construction of those roads began during the Taiping Rebellion. Amid the hostilities between Qing imperial troops and the Taiping that raged in Shanghai from 1853 to 1860, the foreign community constructed a number of roads along the western and southwestern boundaries for the defense of the Settlement. The Chinese authorities also built roads in the vicinity of the Settlement.⁵² For the transportation of military supplies, Charles George Gordon, who had served as an officer in the British Army during the Crimean War and later commanded the "Ever Victorious Army" that smashed the Taiping, embarked on the construction of major arteries outside the Settlement, including Siccawei Road (Xujiahui Road), Sinza Road (Xinzha Road), Markham Road (now Huai'an Road), and a road to Jessfield (now Zhongshan Park).⁵³ When the fighting ended, some of the roads fell into disrepair, prompting the SMC to take charge of them. The SMC continued to take over and manage the extra-settlement roads even though the original Land Regulations contained no authorization for them to do so.⁵⁴ In fact, whenever the SMC intended to acquire new land, they turned their attention to constructing roads in that direction.⁵⁵

Alongside the construction of extra-settlement roads, the Taiping and Small Sword rebellions also compelled foreign residents to purchase land outside the Settlement, which had become increasingly congested with Chinese residents who flocked there for refuge (Table 1). Foreign subjects began to build residences on land outside the Settlement, an act not sanctioned either by the Land Regulations or the Treaties.⁵⁶

In the decades after the Taiping Rebellion, the SMC continued to acquire extra-settlement roads through two methods. First, it acquired land from foreign owners who had purchased it from Chinese subjects. In those cases, the SMC took over the land through transfers of title from foreign

⁴⁸Li 2013, pp. 95, 114.

⁴⁹Chen and Osamu 2007, pp. 239–44.

⁵⁰Feetham 1931, p. 3.

⁵¹SMA: U 1-1-1247 1931, p. 11.

⁵²SMA: U 1-1-1247 1931, pp. 4–5.

⁵³Feetham 1931, p. 4.

⁵⁴Xu and Qiu 1984, p. 414.

⁵⁵Ibid., p. 64.

⁵⁶SMA: U 1-1-1247 1931, p. 6.

Table 1. Number of foreign residents living along extra-settlement roads

Year	1870	1880	1895	1900	1905	1910	1930
Number of foreign residents	52	164	441	80	505	1,260	9,506

The number fell in 1900 because the Settlement was greatly extended to include areas formerly outside Settlement boundaries.

Source: Report of the Honorary Mr. Justice Feetham, C.M.G., to the Shanghai Municipal Council, Volume I, (Shanghai: North China Daily News and Herald Ltd, 1931), 9.

subjects. Strictly speaking, the SMC paid taxes and managed extra-settlement roads in ways similar to land inside the Settlement, so these areas legally became part of the Settlement.

Second, in most cases, the roads were still held under Chinese title deeds, and the SMC paid the rate of 1,500 cash per *mu* to the Chinese government, the same rate it paid for the land within the Settlement. In 1869 and 1870, the SMC negotiated with the Shanghai circuit intendant and the viceroy of Liangjiang for the remission of taxes on the land of outside roads, but the petition was rejected.⁵⁷ Where the land was held by Chinese owners under native titles (*fangtan*), the SMC acquired it through direct negotiations with local authorities represented by the Tipao or committeemen of the district.⁵⁸ In those cases, the SMC paid no ground rent to the Chinese authorities.⁵⁹ One of the major roads in Shanghai, Yangtszepoo (*Yangshupu*) Road, was acquired through such a method. By 1871, the area of extra-settlement roads under the SMC control had reached 1,171 *mu* (Figure 1).

The Chinese local government and Chinese landowners' reactions to the SMC's acquisition of extra-settlement roads were mixed. For most of the second half of the nineteenth century, scant Chinese administrative control was exercised over lands adjoining the Settlement, leaving a power vacuum for the SMC to fill. The Chinese authorities' opposition rarely became an obstacle to the SMC's acquisition of the lands. Against this backdrop, the organic growth of the Settlement was made practically possible by the separate efforts of foreign merchants and the SMC. Chinese landowners showed mixed attitudes toward the expansion of SMC control beyond the Settlement. Atypically, in 1877, ongoing opposition by local farmers and reluctance to cooperate by the Shanghai circuit intendant forced the Council to abandon a proposed extension of Markham Road.⁶⁰ Similarly, in the French Concession, native-place associations (*huiguan*) organized to resist the expansion of the concession. Historian Bryna Goodman has shown that in 1874, the French Municipal Council devised a plan to build a road that would cross the cemeteries of the Ningbo native-place association (*Siming Gongsuo*), but eventually had to abandon it in the face of resistance from the directors of the association and the Shanghai circuit intendant.⁶¹ Richard Feetham, a judge who had previously served in South Africa and India before assuming the task of ending extraterritoriality in Shanghai, observed that in most cases local Chinese living in adjoining areas welcomed the SMC's construction and maintenance of extra-settlement roads, since they were compensated for the land surrendered. Moreover, the completion of roads drove up the value of their remaining properties and the rents of their houses. Many also received access to municipal utilities such as water, electricity, and public sewers.⁶²

The SMC faced a series of administrative challenges as it assumed control over the extra-settlement roads. Issues of policing, public health, protection, and taxation of properties stood out. Policing of the roads began in 1884 when the disturbances between France and China compelled the SMC to dispatch sixteen Sikh constables to Bubbling Well and other roads.⁶³ The foreign policing of areas outside the Settlement drew no objection from Chinese authorities until 1907.⁶⁴

⁵⁷Shanghai Municipal Council 1871b, p. 25.

⁵⁸Feetham 1931, p. 8.

⁵⁹SMA: U 1-1-895 1882, p. 95.

⁶⁰SMA: U1-1-891 1878, pp. 53–54.

⁶¹Goodman 1995, pp. 158–62.

⁶²Feetham 1931, p. 18.

⁶³SMA: U 1-1-1247 1931, p. 33.

⁶⁴SMA: U 1-1-1247 1931, p. 36.

Bubbling-Well Road (Nanjing Road).....	126
Bubbling-Well to Siccawei.....	134
French Road.....	260
Sinzah Road.....	60
Sinzah Road to Markham's farm.....	25
Bubbling-Well to Jessfield and thence to Fahwah.....	250
Old Woosung Road (Wusong Road).....	285
Yangtzepoo Road not yet surveyed.....	30
Total area.....	1,171 (<i>mu</i>)

Figure 1. List of extra-settlement roads and the area covered in 1871.

Source: W. H. Medhurst, "Memorandum on roads outside of Shanghai Settlement," November 1871, Municipal Report 1871, 25.

As the SMC began to offer protection and municipal services, it encountered the question of how to justify its control over the land outside the Settlement. The legally binding way to establish jurisdiction was to conduct surveys and assessments of the land, so when the Settlement was extended in 1899, the SMC appointed additional surveyors to make sure that each lot within the new limits was properly assessed and registered, like those within the original boundaries. Once a preliminary survey was completed, a formal assessment followed to officially bring the new land under the Council's jurisdiction.⁶⁵ That assessment bolstered the SMC's claim to extensions whenever the boundaries were redrawn. Some members of the Ratepayers' Association contested the SMC's power to collect tax on the extended area, claiming that the SMC had overreached. The discussion was swiftly put to rest by those who affirmed the legality of the SMC's actions.⁶⁶ In the end, most of the ratepayers favored the SMC's control over the extra-settlement roads. From owners' standpoint, the municipal assessment guaranteed the security of their investments. The SMC taxation gave them access to municipal utilities and protection.

Working together, construction of extra-settlement roads and land assessment altered the face of the Settlement. In 1888, two decades after the policy of land assessment was formalized, the SMC reported that all land within the boundaries of the original English Settlement was built on, except for two or three small patches. Building also continued quickly on the Hongkou side of Suzhou Creek, the only outlet within the new boundaries of the Settlement. Developments there consisted of factories, mills, and other industrial enterprises, which constituted a new type of land use in the treaty ports. In the early 1880s, construction of a cotton cloth mill was well under way adjacent to Yangtsepoo Creek.⁶⁷ The construction of factories and mills required more land than residential buildings and their emergence along extra-settlement roads on Shanghai's outskirts demonstrated investor confidence about the security of their immovable properties. That level of confidence was achieved thanks to the land assessments the SMC conducted on a regular basis.

The signing of the Treaty of Shimonoseki in 1895 after the first Sino-Japanese War was a crucial turning point for land usage and the property market in the Settlement. The treaty led to another wave of land grabs by industrialists, investors, and speculators. Specifically, Article Six of the treaty authorized Japanese subjects not only to live in treaty ports for the purposes of trade and residence, but also to engage in industry and manufacturing.⁶⁸ Per the most-favored nation clause, the article was applicable to all the other foreign subjects living in China. Prior to the treaty, foreign merchants could only use land for commercial and residential purposes. After 1895, they could legally acquire land for the construction of factories and did so mostly on the outskirts of the Settlement, though many factories had been active there well before the conclusion of the treaty. The chief industrial area was around Suzhou Creek, in what later would become the Western District of the Settlement, where both foreign- and Chinese-owned factories were erected.⁶⁹ Foreign capital invested heavily in modern industries

⁶⁵SMA: U 1-1-825 1900.

⁶⁶SMA: U 1-1-825 1900.

⁶⁷SMA: U 1-1-901 1888.

⁶⁸Treaty of Shimonoseki 1895.

⁶⁹Feetham 1931, p. 9.

such as naval repair yards and cotton mills, making use of large tracts of land and transforming Shanghai into a major industrial city within two decades of the conclusion of the Treaty.⁷⁰ In the early 1890s, Shanghai was transitioning from a port for the distribution of foreign goods to “a great manufacturing center.”⁷¹ In 1895, the SMC provided a list of fifty-three mills and factories, owned mainly by Chinese, located in the Settlement or adjoining the outside roads.⁷² According to Anatol Kotenev, a Russian émigré author, the provision of utilities (such as water, telephones, and electric energy) had been indispensable to the development of these industries in Shanghai.⁷³

The expansion of modern industries, along with the increasing population, prompted the SMC to seek further enlargement of the Settlement. By “looking at the rapid way in which the native population is increasing within and close to the present boundaries, the number of mills filatures and similar industrial enterprises which are being established, and the certainty of the further steady growth of both houses and their inhabitants,” the Municipal Council decided “the amount of space available within the present limits will not be sufficient to give, without extreme over-crowding, proper accommodation for this expansion.”⁷⁴ It then sought the assistance of the Consular Body to negotiate with Chinese authorities for possible extension. When the matter was put to the Shanghai circuit intendant, it was rejected on the grounds that “the area of Shanghai has been a small one” and foreigners already “rent land and erect houses outside the Settlement.”⁷⁵ Despite the circuit intendant’s opposition, the Council’s extension scheme was approved by the governor-general of Liangjiang in Nanjing in 1898, after numerous negotiations between the viceroy of Liangjiang, J.S. Ferguson, chancellor of Nanyang College, and Yu Lian-yuan, a former Shanghai circuit intendant.⁷⁶ That approval paved the way for the largest expansion of the International Settlement in its history. In 1899, an additional 11,377 *mu* (1,896 acres) to the north of the Settlement and 11,450 *mu* (1,908 acres) to the west were added, which gave the Settlement a total area of 33,503 *mu* (5,584 acres).⁷⁷ Thanks to this extension, roads previously categorized as extra-settlement were included as part of the Settlement and officially came under the jurisdiction of the SMC. Following this extension, the land assessment committee of 1896 revalued every lot in the Settlement.⁷⁸ In 1903, the SMC formalized a rule that all residents who enjoyed police protection, municipal utilities, and public rights in areas beyond the Settlement were subject to payment of the ordinary house assessment rate charged within the Settlement.⁷⁹ The method by which the SMC claimed jurisdiction and imposed taxes on land along the extra-settlement roads was simply an extension of extraterritoriality. Historian Pär Cassel has extensively studied the institution of extraterritoriality and suggests viewing it as a “practice” instead of a “system.”⁸⁰ The extra-settlement roads, like everything involving foreigners, acquired an extraterritorial aspect.⁸¹ Just as foreign subjects were immune from local laws and held accountable only by officials from their home governments,⁸² the extra-settlement roads were protected and regulated by the SMC, which in effect treated them as part of the Settlement.

All in all, land survey and assessment were fundamental to the construction of extra-settlement roads, the expansion of the settlement, and changing use of the land in Shanghai. Through assessment, the area of extra-settlement roads became de facto part of the International Settlement, which increased revenues at SMC’s disposal. Land tax made possible the SMC’s “fiscal autonomy,” which

⁷⁰Bergère 2009, pp. 58–59.

⁷¹Shanghai Municipal Council 1895a, p. 199.

⁷²Shanghai Municipal Council 1895a, pp. 199–201.

⁷³SMA: U 1-1-1247 1931, p. 39.

⁷⁴Shanghai Municipal Council 1895b, pp. 249–50.

⁷⁵Shanghai Municipal Council 1898a, p. 282.

⁷⁶Shanghai Municipal Council 1898b.

⁷⁷Feetham 1931, pp. 29–30.

⁷⁸SMA: U 1-1-909 1896.

⁷⁹Feetham 1931, p. 16.

⁸⁰Cassel 2012, p. 6.

⁸¹Ibid., p. 6.

⁸²Ibid., p. 5.

distinguished Shanghai from other British colonies.⁸³ The rapid growth of foreign communities outside the Settlement, especially the explosion of the new acquisitions in 1899, necessitated the establishment of a land office inside the SMC and the division of the Settlement into manageable districts. The establishment of the cadastral districts represented another institution-building effort in the rationalization of land tenure in Shanghai.

Establishing a land office

The continued expansion of the Settlement meant that the SMC had to meet an increasing demand for land assessment. By the end of the nineteenth century, the Settlement had expanded to the extent that it was impossible for one committee to complete an assessment of the entire settlement. Flaws in land registration and assessment persisted, and the rapid expansion of enterprises in the area compelled the SMC to seriously consider a more sophisticated plan for managing its land records. One measure it devised was to divide the entire Settlement into smaller manageable districts, an important step toward keeping accurate records about the land and ownership.

As the Settlement expanded, the SMC became increasingly concerned with the question of how to accurately record lots across the vast extended areas. By dividing the Settlement into smaller manageable units, it could better oversee the work of surveying. A special meeting of ratepayers was held in June 1888, during which the assessment committee divided the entire area into four districts: Northern, Eastern, Western, and Central.⁸⁴ Thereafter, land assessment would be aligned with these districts. The Central District encompassed the whole area originally designated as the British Settlement. The Northern District, which included the western portion of the former Hongkou area, was extended to 3,000 *mu* (7,269 square). Its northern boundary was set at the Shanghai–Baoshan railroad and its southern boundary at Suzhou Creek and the Huangpu River. To the east, the boundary was set at Hongkou Creek, and a line running north from a point 70 yards west of Defense Creek to the Baoshan boundary was set as the western boundary.⁸⁵ The eastern portion of Hongkou and its extension was designated the Eastern District, with an area of 16,400 *mu*. The boundaries of the Eastern District were set at the Huangpu River to the south and east, Hongkou Creek to the west, and a line from the junction of the Baoshan–Shanghai boundary and Hongkou Creek to the Huangpu River at the mouth of the Ku Ka Pang formed the boundary to the north.⁸⁶ The Western District included the extended area of the original British Settlement and was used mainly for residential purposes. In 1900, four committees were appointed to assess the land in the four districts and present the schedule of their district to the SMC (Figure 2).⁸⁷

By dividing the extended settlement into four districts, the SMC made the work of land assessment manageable. Knowledge about land ownership generated in this fashion was more accurate and closer to reality. By 1900, each district had its distinct identity. The Central District, where all the headquarters of the major banks and trading companies were located, was the most well-developed area, with the highest real-estate prices. Most of the factories were spread out in the Eastern and Western districts, where land was much cheaper.⁸⁸

The massive expansion of the Settlement rekindled discussion about establishing a Land Office under the SMC. Flaws in land registration that Kingsmill had noticed in the 1870s re-emerged as the council began to carefully weigh the problem. As Kingsmill suggested back in 1869, inconsistencies in land registration often occurred because each consulate had its own land office. Sometimes the same piece of property was registered under separate title deeds at different consulates. Without a consistent method of recording newly registered lots, the SMC stood to lose a considerable amount of tax

⁸³Jackson 2017, p. 22.

⁸⁴SMA: U 1-1-913 1900.

⁸⁵Ibid.

⁸⁶Ibid.

⁸⁷Ibid.

⁸⁸Ibid.

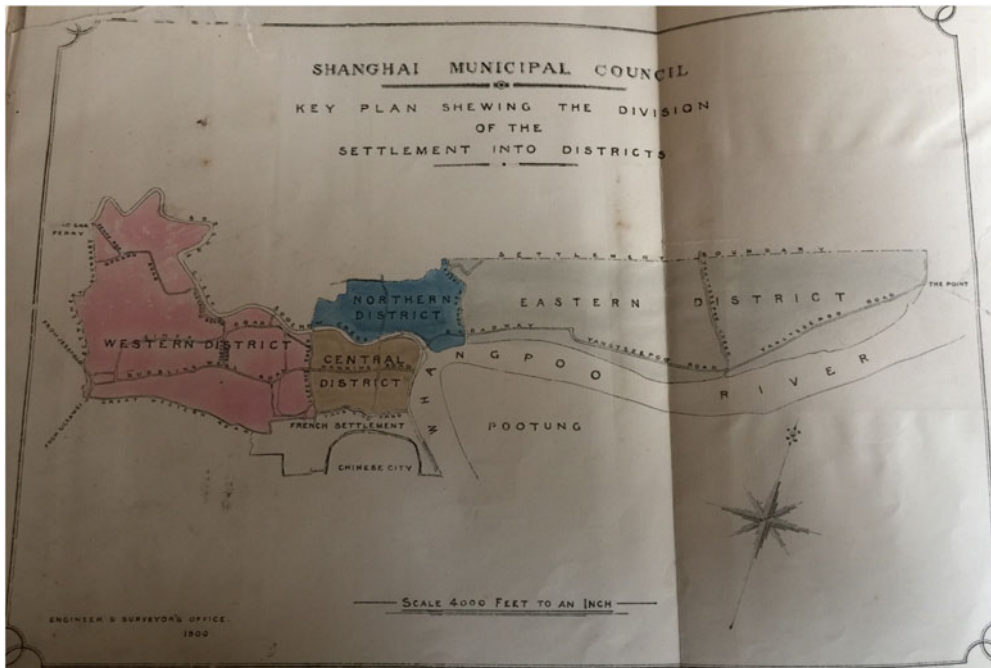


Figure 2. Map showing the Central, Northern, Western, and Eastern districts of the International Settlement in Shanghai, 1900. Source: Shanghai Municipal Council Land Assessment Schedule, 1900, SMA U 1-1-1033.

revenue.⁸⁹ This necessitated the establishment of a municipality-wide Land Office, one that was separate from the consular and Chinese land offices. When F. Anderson, chairman of the SMC, presented the new land office proposal in 1899, he largely echoed Kingsmill's memorandum, highlighting the need for a "uniform and clearly defined procedure in the important matter of Land registration."⁹⁰ Anderson aimed to eliminate the current inconsistencies in land records and create a unified registration system. His proposal received support from the Shanghai Consular Body. Pelham Warren, British consul general, suggested naming the new office the Cadastral Office.⁹¹ Other foreign consuls, notably J.M.T. Valdez, consul general of Portugal, seconded the plan. The establishment of the land office signaled the SMC's determination to maintain control over the land in and outside the Settlement.

The Consular Body's support, however, came with certain conditions. The consuls insisted that landowners pay no additional fees beyond the regular consular fees. With the establishment of the Cadastral Office, the SMC formalized a plan and registry for land within a radius of 1 mile beyond the existing boundaries of the Settlement, excluding land in the French Concession. Lastly, all expenses were to be borne by the council. The consuls saw the establishment of the new land office as adding an additional step to the original land registration system: they would have to notify the Cadastral Office when they notified the Shanghai circuit intendant of any land registrations.⁹²

In 1900, the Municipal Cadastral Office was established under the Engineer and Surveyor Department to coordinate among land offices of the various consulates. Similar to consular land offices, the Cadastral Office generated its own record of land ownership. It provided plans of the Settlement, including the exact location of the lots, and these plans formed the basis for the municipal

⁸⁹Shanghai Municipal Council 1899a, p. 274.

⁹⁰Shanghai Municipal Council 1899b, pp. 274–75.

⁹¹SMA: U 1-1-913 1900.

⁹²Ibid.

assessment of land for taxation.⁹³ The Cadastral Office also numbered the lots according to a cadastral lot system. At that time, Chase C.H. Godfrey headed the new office.⁹⁴ Godfrey, along with J. Cooper and John Prentice assumed the task of renumbering the lots.⁹⁵ Each lot in the International Settlement now had a consular lot number and a cadastral lot number. This committee also prepared new cadastral plans that, once drawn or updated, were sent to be lithographed in London. The Cadastral Office relied upon the consular land offices for information about new title deeds or transfers of land. Although the consular offices only recorded lots within the International Settlement, the Cadastral Office additionally recorded those on the outskirts of the foreign concessions.

Immediately following its establishment, the Cadastral Office conducted a survey showing the areas in the four districts and the size of the population in each district (Table 2). This survey provides the most comprehensive and updated information on the Settlement at the turn of the century. The institution of the Cadastral Office and this survey helped eliminate confusion over claims to property rights, secured owners' rights to the land, and facilitated market exchange.

In the end, the Cadastral Office succeeded in creating a more accurate and authoritative record of property rights in the International Settlement in Shanghai. That effort was greatly expedited by the existing system of land registration, assessments, and surveys. Together, these institutional mechanisms enforced a concept of private property rights defined by William Blackstone and John Locke as "sole and exclusive domination" over something.⁹⁶ The clearly defined boundaries assisted owners in establishing their claim to the land. In British colonies elsewhere, the colonial governments had formulated policies to institute a concept of private property rights that based individual rights on property holdings.⁹⁷ The British colonies became a testing ground for European ideas.⁹⁸ Within the colonies, institutional practices were borrowed and transferred when colonial staff changed positions. Many who served in the British Consulate and the Municipal Council in China had previously been stationed in South Asia, and they brought with them not only notions of property rights developed in Britain but also practices already tested in South Asia and Africa. The actions undertaken by the SMC to standardize land holdings in Shanghai closely resembled the British colonial government's procedure for rooting out diversity in land ownership practiced in Berar, India. In British Berar, for the purpose of revenue collection, proposals for a systematic survey of land were made as early as 1857, and these surveys replaced the diverse system of land ownership indigenous to that society.⁹⁹ Colonial land policies with European juridical and theoretical origins standardized land rights and recreated agrarian relations along the lines of private property.¹⁰⁰ Concerned with private property rights, the SMC followed suit in initiating policies that clearly defined individual plots with updated records to enforce fixed rights to property in the Settlement. By 1900, that system of secure private property rights functioned well, and the work of the land assessment committee and the Municipal Cadastral Office enhanced individuals' claim to their property holdings.

Translating the lexicon of Chinese property rights

Aside from institution-building, a crucial step toward ensuring property rights in the Settlement was to properly understand and make accessible to foreign officials the concepts and practices relating to property in the Chinese tradition. The sheer volume of land transfers between private individuals meant that foreign purchasers needed to understand the terminology that appeared in Chinese land

⁹³SMA: U 1-1-913 1900.

⁹⁴Millard's Review of the Far East 1917–1919, p. 444.

⁹⁵SMA: U 1-1-913 1900.

⁹⁶Ocko 2004.

⁹⁷In South Asia, the British came to Berar with a pre-conceived European notion of private property rights and carried out assessments to reorganize the property relations in the colonies. See Satya 1997, pp. 59–62.

⁹⁸Martin Bunton studies in greater detail the linkages between the British intellectual heritages of property rights and what took place in the colonies, focusing British land policies in Palestine. See Bunton 2007, pp. 7–8.

⁹⁹Satya 1997, p. 62.

¹⁰⁰Robb 2002, p. 82.

Table 2. Area and population of each district, Shanghai, 1900

District	Area		Population			Population/acre
	Mu	Acres	Foreign	Native	Total	
Western	11,491	1,915	611	53,761	54,372	2,839
Central	2,806	468	1,436	118,105	119,541	25,543
Northern	3,000	502	3,727	91,290	93,017	18,927
Eastern	16,400	2,783	783	70,789	71,572	2,819
Total	33,706	5,618	6,557	333,943	340,502	

Source: Engineer and Surveyor's Report, January 19, 1901, SMA U 1-1-913.

titles. Working with local Chinese land offices also compelled foreign consuls and municipal officials to comprehend local concepts around property rights and understand the way those concepts operated among Chinese landowners. Against this backdrop, the translation of terms from Chinese to English and French helped eliminate conceptual and linguistic barriers and facilitated transactions. This section examines the important role played by translation in the SMC administration of the land both within and outside Settlement boundaries. The efforts to translate Chinese terms pertaining to property rights were an aspect of knowledge production in the age of empire.¹⁰¹ The information they gathered formed a critical part of the “imperial archive” that transformed the treaty ports into “manageable entities.”¹⁰² The nature of the work meant that the municipal staff as well as private individuals engaged in translation both separately and collectively. Local Chinese, many of whom were bilingual or multi-lingual, actively participated in the construction of knowledge about Chinese land laws and norms. Indeed, these translations captured scores of local practices used in land transfers. All translators adopted concepts developed in modern Europe, such as rights, property, and ownership, in their translations, as if these were commensurable across languages and intellectual traditions. In so doing, they normalized the notion of property rights in the treaty ports based on land practices developed in the post-enclosure movement in England. As an epistemological event, these translations demonstrate the prevalence of the Blackstone and Lockean definition of property rights.

Missionaries, who pioneered the translation of religious, scientific, and medical texts, were also among the first to understand the linguistic realm of property rights in China. Many of them did so out of a need to acquire land from local owners and protect their own immovable property, such as churches, schools, and hospitals. The translation of property rights concepts and terms from Chinese into Western languages was often completed via collaborations between missionaries and Chinese converts. For instance, Pierre Hoang (Huang Bolu), a Chinese Catholic priest from Haimen, Jiangsu Province, translated one of the most comprehensive volumes of concepts related to property. Hoang, initially educated in the Confucian tradition, enrolled in Shanghai's Zhanpuqiao Monastery in 1843 where he was trained in Latin, French, philosophy, and theology. His study, *Technical Notions on Property in China (Notions Techniques sur la Propriété en Chine: Avec un Choix d'Actes Et de Documents Officiels)* included the French translation of most of the commonly used concepts in the local property market. Hoang's work won him the Stanislas Julien prize (The Prix Stanislas Julien) in 1899, an award given to sinological work by the French learned society, the Academy of Inscriptions and Fine Letters (The Académie des Inscriptions et Belles-Lettres). Hoang's prolific work included not only translations of theology from Latin and French to Chinese but also studies of Chinese marriage, bureaucracy, and lineage, written in French and Latin.

Hoang embarked on his translation work at the request of Catholic missionaries in the district of Nanjing in 1882. To assist with the administration of church property in the district, he collected

¹⁰¹Chen 2016, p. 71.

¹⁰²Hevia 2003, p. 123.

samples of local deeds, contracts, and other documents, which he compiled into a booklet in Chinese. With the help of other missionaries, P.J. Bastard in Latin and P.J. Tobar in French, Hoang translated the booklet into Latin, under the title of *De Legali Dominio Practicae Notiones* (1882). The booklet includes fifty-eight samples of contracts of sale, rental, mortgage, and fees paid to middlemen, witnesses, and secretaries; and translations of provisions of law and custom that were most relevant to property transactions among the Chinese. The initial success of the Latin booklet prompted Hoang to expand it and eventually translate it into French in 1891.¹⁰³ Members of the Royal Asiatic Society-China, a learned society established by British and American expatriates in 1857, acquired a copy of the booklet. They had it translated into English and published a portion of it in the *Journal of the China Branch of the Royal Asiatic Society*. Once the *Journal* published Hoang's work, it then began to circulate widely through the publishing network of the foreign settlements in China. The work and its technical information were thereby made available to foreign consuls and municipal council officials in the treaty ports, many of whom also served as heads of local society chapters or participated in its regular meetings. Therefore, the Royal Asiatic Society and its branches in the various treaty ports formed networks of "epistemological complex" where knowledge was generated, stored, and further transmitted to the archival repositories at the imperial center.¹⁰⁴

Hoang's *Technical Notions on Property in China* introduced to its audience the specific ways Chinese buyers and sellers used various terms to carry out property transfers. It included a glossary of the most often-used Chinese terms related to property rights. Each was accompanied by a brief explanation in French and English of the way it functioned among local landowners. In the French version, Hoang presented a variety of contracts in Chinese and accompanied each with a French translation. All the original samples were left out in the English version. Discrepancies also existed between the French and English translations of Chinese terms, as in the following examples:

Le *tsiué-mai* 絕賣 ou *tou-tsiué* 杜絕 (vente irrévocable) est un contrat par lequel le vendeur renonce au droit de racheter. Pour qu'une vente soit juridiquement reconnue comme (irrévocable), la loi prescrit que dans l'acte soient apposées les formules *tsiué-mai*, *yong pou hoei-chou* 絕賣, 永不回贖 (vente irrévocable, on ne rachètera jamais).¹⁰⁵

絕賣 or 杜絕 irrevocable sale, is a contract by which the vendor surrenders the right of redemption. In order that the sale may be legally recognised as irrevocable, the law prescribes that in the Deed shall be employed the phrase 絕賣, 永不回贖.¹⁰⁶

Comparing the French and English versions, it is evident that both retain the original Chinese terms, which are glossed in French and English with short explanations; however, in other cases, terms were left untranslated or only given short explanations. In the English version, terms such as right, contract, and property were deployed, whereas the French version used *droit* and *contrat* but left out the term property. Hoang's translation captured a variety of practices in the local land market, but because familiar concepts such as right and property were used without pointing out the subtle difference that existed in the Chinese context, foreign consuls and buyers understood notions of property rights as closely aligned with those at home when they used Hoang's translation as a point of reference. That is, they thought of a Lockean vision of individual ownership that protected property rights from the intervention of the state.¹⁰⁷ In the original Chinese terms, however, the distinction between the individual and the state simply did not exist, even though Chinese landowners exercised many aspects of ownership rights in practice. This gap meant that when consuls and private individuals referred to Hoang's translation, they immediately conceptualized property rights as based on European rather

¹⁰³Hoang 1920, Preface.

¹⁰⁴Hevia 2003, p. 127.

¹⁰⁵Hoang 1920, p. 6.

¹⁰⁶Journal of the North China Branch of the Royal Asiatic Society 1888, pp. 122–23.

¹⁰⁷Ocko 2004, p. 185.

than Chinese intellectual heritage. Although Hoang's work greatly facilitated Westerners' understanding of the Chinese terms pertaining to land, it lost the nuances and complexities of land transactions as practiced among the locals. The translation normalized the concept of property rights based on the Enlightenment tradition. Historian Chen Li has fruitfully studied how local Chinese helped to construct an Orientalist production of knowledge about Chinese laws.¹⁰⁸ Hoang's translation work mirrors the experience of the protagonists in Chen's study and their work.

Aside from missionaries and Chinese converts, personnel in foreign consulates and the SMC also engaged in similar projects of translation. The first to lead such an effort was George Jamieson, a Scottish man who served as British consul in Shanghai and was concurrently a judge on the British Supreme Court for China and Japan in the 1890s. Jamieson acquired some Chinese-language skills after moving to Beijing in 1864, and these skills were developed further during his career as an interpreter in the British consulates in Taiwan and Shanghai.¹⁰⁹ Apart from his work on land tenure, Jamieson managed to translate parts of the Qing Code and study in-depth Chinese family and commercial laws. In 1887 while serving as president of the Royal Asiatic Society, he conducted a study of land laws in China with the assistance of learned Chinese. He pieced together reports from the provinces and brought up the issue of land tenure in the proceedings of the Society. The final report, *Tenure of Land in China and the Condition of the Rural Population*, published by the *Journal of the China Branch of the Royal Asiatic Society*, explored topics such as types of land tenure, land tax, land transfers by sale or mortgage, and leases to tenants among landowners in China.¹¹⁰ His work remained mostly explanatory, describing the ways each shaped local practices. Any reader of Jamieson's short piece could gain a fuller understanding of the structure land tenure and the conditions in rural China.

Although Hoang and Jamieson focused on translating concepts and customs related to property rights in general, others turned their attention to specific practices in Shanghai. C.H. Godfrey, the assistant municipal engineer of the Public Works Department, undertook a study of land tenure in Shanghai.¹¹¹ Godfrey published a short pamphlet, *Some Notes on Tenure of Land in Shanghai*, in which he investigated laws and practices pertaining to landholding within the International Settlement. Godfrey began by briefly describing the Land Regulations and explaining clauses relative to land transfers between Chinese proprietors and foreign buyers. He gave detailed explanations of key terms that appeared on Chinese land deeds, such as "middleman" (broker), "Tipao" (staff at the Chinese Land Office), "fangtan" (title deeds used in Shanghai), and "Taotai" (circuit intendant). It is worth noting that many of these terms were left untranslated and were used directly in the pamphlet, much the way they appeared in Hoang's translations. Godfrey did describe how each office worked when a foreigner purchased land from a Chinese person, and under what condition these terms would appear.¹¹² Although in real life, foreign purchasers of land often relied on their consuls to deal with the Chinese Land Office, Godfrey's pamphlet helped them understand the meaning of the terms when they registered their properties with their consulates. For the benefit of those landowners, Godfrey attached appendices with examples of deeds of lease, general conditions for the purchase of land, lists of fees payable to Chinese and British offices, *fangtan* in Chinese, title deeds issued by the Nationalist government, and a map showing the parishes and districts in Shanghai. Put together, the appendices furnished foreign buyers with a list of the most important items they would encounter when they arranged land transfers with their Chinese counterparts (Figure 3).

Apart from municipal officials, private merchants, especially those who owned large amounts of land, also took part in translation work in order to understand the property market. Chief among them was Henry Monsel (H.M.) Cumine, a publisher, architect, and cartographer, who was born

¹⁰⁸Chen 2016, p. 95.

¹⁰⁹Who's Who, An Annual Biographical Dictionary 1907, p. 927.

¹¹⁰Jamieson 1888, p. 59.

¹¹¹The Far Eastern Review, 1906, p. 66.

¹¹²Godfrey 1913, pp. 1–7.



Figure 3. Seals of the Tipao as shown in Godfrey's study. The seals show the name of the Tipao in the center below the cartouche, the number of the "pao" (parish) and "doo" (district) on the right, and the date on which the seal was issued on the left. Source: C. H. Godfrey. *Some Notes on Tenure of Land in Shanghai*. (Shanghai: The North-China Daily News & Herald Ltd., 1913), 6.

into a Scottish family engaged in the textile trade in Shanghai. A "Shanghaiander," born and raised in Shanghai, Cumine was well versed in Mandarin, Shanghai dialect, and Cantonese.¹¹³ The Cumine family had owned the *Shanghai Mercury*, an English language newspaper at one point, as well as several architectural businesses and many properties, most notably a mansion on Yanqing Road in the French Concession. Cumine served as the managing director of the China Land Building Co., Ltd and was a partner in the local architectural firm, Cumine and Milne. Probably in connection with his real-estate interests, Cumine had thoroughly studied the Shanghai Land Regulations and was concerned primarily with methods of landholding in Shanghai after it became a treaty port. He published two pamphlets: *Some Native Documents Pertaining to Land in Shanghai* and *Registration of Land in Shanghai*. Cumine's translation, similar to Godfrey's, included explanations of Chinese terms used in property transactions. The pamphlet was meant to provide foreign land purchasers with a guide to concepts used in the Chinese property market. *Some Native Documents Pertaining to Land in Shanghai* contained information already covered in Godfrey's early study, but it also included changes brought about by the Nationalist government in the 1920s. As a cartographer, Cumine captured the new cadastral system that divided areas within the International Settlement. The Settlement was by this time divided into forty-four areas, each labeled with a Chinese character.¹¹⁴

Compared with the work of Pierre Hoang, the pamphlets produced by Cumine, Jamieson, and Godfrey were relatively short and aimed at translating the terms and offices that most frequently appeared in property transfers in Shanghai. The fact that these pamphlets were published in the *British Chamber of Commerce Journal* or the *Journal of the China Branch of the Royal Asiatic Society* meant that they were widely circulated and accessible to the members of these organizations and the foreign community in general. Together, the pamphlets helped eliminate some of the linguistic and conceptual barriers foreign buyers encountered when they purchased land from Chinese counterparts. Foreign consuls and those new to the property market could always use the works as authoritative sources of information when they encountered problems. Scholars who work on the role of translation in international law in East Asia suggest viewing the translator as a kind of diplomat, a central agent in the globalization and universalization of international law.¹¹⁵

Despite their various focuses, the works of Hoang, Cumine, Jamieson, and Godfrey share one commonality: they all used property rights concepts from Enlightenment political theories in their

¹¹³Nellist 1933, p. 94.

¹¹⁴Cumine 1931.

¹¹⁵Liu 1999, p. 128.

translations of Chinese terms. In effect, they erased the epistemological differences between the existing Chinese tradition of property rights and the system that developed in modern Europe, suggesting that the two traditions were entirely commensurable. The distinct forms of land transfer in Chinese – redeemable sale for example – often entailed the idea of mutual obligation and conditions of substantive living due to price and climatic fluctuations that reflected the cycle of family life. Although Hoang’s translations incorporated the various forms of land titles and rights that could be divided, the use of “rights”¹¹⁶ and “property”¹¹⁷ meant that all those diverse forms coalesced into a standardized notion of private property rights based on profit and transferability. This does not follow, however. Categories of profit and market do not pertain in Chinese terminology. The result was that the works by Hoang and others ingrained in the foreign brokers’ minds that the ideas of private property familiar to them could be fairly applied in the Settlements. The extent to which these post-Enlightenment ideas were compatible with their Chinese counterparts is still debated by scholars today.¹¹⁸

Nevertheless, when terms such as “property”¹¹⁹ and “contract”¹²⁰ appeared in the translations of Hoang, Jamieson, Cumine, and Godfrey, they carried the same meanings they had in legal documents in England and France, referring to individual ownership and private property. Along with land registration, titling, regular assessment, and mapping, this legal property system provided a reliable source of security for foreign property holdings in the Settlement, by instituting a system of property ownership familiar to them. In practice, the existence of various institutions – the foreign consulates, the Shanghai circuit intendant, the mixed court – and the up-to-date Land Regulations did recreate a level of organizational protection that ensured the security of property holdings for the foreign community. The institutional protection of private property, whether owned by Chinese or foreign subjects, legitimized the British control over the territory in the Settlements. By the 1930s, British officials cited their development of the property market as the value of and necessity for their rule in Shanghai.¹²¹

Conclusion

From 1860 to 1900, the SMC and foreign consuls instituted in the International Settlement in Shanghai a modern system of property rights. Through institution-building, the SMC standardized property-holding with the undergirding premise that secure individual property rights were based on a system of clearly delineated and well-defined plots of land. It devised a series of procedures to register and map land boundaries and rights, conducted detailed surveys and generated records of land rights, and updated information on land holdings in the International Settlement. When the International Settlement expanded in the rest of the nineteenth century, these methods worked hand-in-hand with road planning and construction, especially the acquisition of extra-settlement roads, in facilitating the expansion of the Settlement. The continued expansion of the Settlement compelled the SMC to institute a cadastral office to ensure an accurate assessment of the land. Alongside efforts in institution-building, translators helped circulate knowledge about land tenure and norms in the Chinese tradition. Municipal staff, private merchants, and local Chinese worked together and separately to produce references that they could use in land transactions. For administrative, practical, and sometimes personal purposes, they strove to understand, interpret, and translate a wealth of Chinese terms, concepts, and practices regarding property rights in land. In semi-colonial Shanghai, the adoption of modern terms, such as property, rights, and contract, normalized a system of property rights that was based on the Lockean notion of exclusive ownership.

The relatively secure system of property rights in the Settlement attracted Chinese as well as foreign investors, risk-takers, and speculators. In the early twentieth century, local Chinese exploited

¹¹⁶Hoang 1920, p. 6.

¹¹⁷Ibid., p. 6.

¹¹⁸Zelin 2004.

¹¹⁹Cumine 1931.

¹²⁰Cumine 1931.

¹²¹FO: 371/15461 1931.

extraterritoriality to borrow foreign names and register their land in foreign consulates, which shielded them from local taxation and gave them access to the protection of multiple legal systems. More importantly, land surveys boosted the property market in the Settlements. Sales or mortgages of land were made easy and straightforward, and owners could use the land as collateral with reliably updated information about their ownership. The property rights system established in the second half of the nineteenth century continued to function well into the 1940s. In turn, these methods helped strengthen the SMC control of the land in the Settlement.

Competing interests. None.

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