

'Citizen'

The term 'citizen' was hotly disputed in the period after the treaty of Nanjing. The granting of extraterritoriality, or exemption from Qing law, to Europeans initially appeared straightforward. However, when Europeans began to enter the service of the Qing to fight the Taiping in the 1860s the lines of citizenship began to be blurred. Were foreigners in the service of the Qing, such as the Frederick Townsend Ward and the British army officer Charles Gordon, still citizens of a foreign state? If they retained their right to extraterritoriality then they could not be disciplined by the Qing state for disobeying orders.

This became a problem when some of these men, such as Henry Burgevine defied the orders of Qing officials and defected to the Taiping. Qing officials made several attempts to demonstrate that the foreigners in their service were now Qing subjects and subject to Qing punishment, such as by asking them to wear Chinese clothes. Although the acts of men such as Burgevine were against the interests of European powers, who wanted to eliminate the disruptive Taiping, disowning the errant mercenaries would set a dangerous legal precedent, watering down the meaning of citizenship for the entire foreign community in China.



Charles Gordon wearing a uniform given to him for his service to the Qing state as leader of the Ever Victorious Army.

華爾於賞加副將後仍未雜髮易服，其不束已可概見。惟現在既用其力，不得不於裁制之中，仍寓羈縻之意。著薛煥、李鴻章酌量相機理。

"After Ward was promoted to deputy general, he has still not shaved his hair or changed his clothes. [We] can generally see that he is under our control. However, now that [we] are using his strength, [we] have to make clothes [for him] to imply our intent to control him. [We] order Xue Huan and Li Hongzhang to discuss and handle this."

- Imperial Edict from the consulting prince of the Grand Council, 1st year of Tongzhi, 4th moon, 23rd Day (21st May, 1862)

Making International Law: China and the Foreign Powers, 1842-1901

International law was not just made in the textbooks of nineteenth-century European jurists. It was an idea that travelled with consuls and merchants to China and was taken to apply to Europeans' interactions with the Qing empire. This is a departure from traditional histories of international law which suggest it was developed in Europe and only spread to extra-European states as they entered the family of 'civilized' nations.

The international law applied in China in the nineteenth century consisted of a series of legal terms which reflected contemporary problems in Sino-foreign relations. As the nineteenth century progressed these included 'pirate', 'rebel', 'citizen' and 'state'. They were defined through the setting of legal precedents in disputed cases, a process of international law making. This was not a one way process. As no European power was able to dominate in China, making international law required compromise, both between European powers and with the Qing state.

'Pirate'



The flag of Shap Ng-tsai, a pirate operating in the South China seas in the late 1840s. Qing officials and royal navy ships collaborated to sink his fleet in 1849.

International law historically stems from the seas, a space without internationally recognised borders. In that space moves the 'pirate', a maritime actor without the backing of any state. The earliest Qing and European collaborations and disputes between state actors centred on defining and dealing with the problem of piracy. Piracy became a particular problem in the years immediately after the first opium war. A combination of a recession caused by the end of Canton's monopoly on foreign trade and the division of sovereignty created by the ceding of Hong Kong to Britain caused a massive increase in maritime raiding in the South China Seas. This created problems because British and Qing officials defined 'piracy' (海盜, *haidao*) differently.

My research on defining 'pirate' in the South China seas between 1842 and 1869 will be enhanced by using corpus linguistics and GIS techniques. In combination the two methods will allow me to map Qing perceptions of piracy across the period and cross reference them with European, and particularly British, sources. Understanding when Qing officials and the Qing court felt acutely threatened by piracy is important for understanding the factors that drove local Qing collaborations with the British to suppress it.