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In 1914, British consular guards arrested and detained Akhtar Muhammed, an Indian-born British subject residing in the far western Chinese province of Xinjiang. He was one of many Indian men who had travelled from the northern regions of British India, crossed the valleys and mountainous terrain, and entered Chinese territory. The British representative stationed in Kashgar, in the west of the province, suspected that Muhammed had committed burglary. His subsequent arrest and trial followed legal precedent and legislation. Metropolitan Orders in Council and Sino-British treaties allowed British representatives to have jurisdiction over British suspects in China. This extraterritoriality empowered British officials to order arrests, detain suspects and exercise English law over such subjects. In Xinjiang, this representative was George Macartney, who was not only a consular official but also a representative of the British Indian colonial government. Macartney tried Muhammed and found him guilty. He sentenced him to serve a term of two years’ imprisonment and used his consular powers under Article 88 of the China Order in Council (1904) to deport Muhammed to India according to the Colonial Prisoners Removal Act (1884).\(^1\) Six years later, Macartney’s successors could exercise various colonial laws in force in India over British subjects in Xinjiang, and Indian courts assumed appellate jurisdiction. In the Burma-China frontier to the south, consular officers stationed in Tengyue, in the west of the Chinese province of Yunnan, also arrested and detained Indian and Burmese men who had crossed into Chinese territory. Using extraterritorial legislation, consuls could later deport such individuals back across the frontier or send them for trial in Mandalay.

The case of Akhtar Muhammed and similar instances of consular practice suggest that law as applied by consuls was important for British authority in the seemingly remote western frontiers of China.
The nature of these legal powers transcended what we think of as the boundaries between different jurisdictions of the British Empire. These legal roles of the consuls and their connection to colonial authority have remained hidden in archival documents. This book therefore illuminates these activities of consular representatives in two consular circuits in the frontiers of China from the turn of the twentieth century: the district of ‘Kashgar’, which covered the province of Xinjiang, and the district of ‘Tengyue’ in the western part of the province of Yunnan.

I make three arguments in this book. First, I argue that these frontier consuls played a key role in creating forms of transfrontier legal authority. Consuls petitioned various colonial and consular authorities for adaptations to the law that ensured greater legal cohesion between their districts and colonial authority. They also worked alongside, or on behalf of, colonial officials. Second, I demonstrate that the impetus behind these legal adaptations was the perceived challenges brought about by the movement of British subjects and goods across frontiers. Salt and opium smugglers, itinerant Indian and Afghan traders, and local populations who drifted from place to place exposed the jurisdictional gaps between consular and colonial authority. Local and transfrontier mobility therefore defined and shaped British jurisdiction across the frontier. Finally, British authority in the frontiers embraced and worked alongside other local norms and legal structures. The incorporation of indigenous elites and customary law was a distinctive feature of frontier administration, and consular legal practices often required the cooperation of Chinese officials. This book is therefore the story of British consuls at the edge of the British and Chinese Empires and the nature of their legal powers.

**Treaty port China and consular jurisdiction**

For much of the nineteenth century, the British imperialist presence was confined to the south and east coast of China. Prior to 1833, the East India Company (EIC) traded exclusively in the southerly trading port of Canton. The Qing conferred customary judicial rights to agents of the company, which allowed these agents to exercise jurisdiction in criminal cases where the defendant was a British subject. When the Government of India Act (1833) removed the trade monopoly of the EIC on the Chinese coast, a piece of metropolitan legislation, the Order in Council (1833), provided the first set of written provisions for British judicial rights in China. After the Opium War (1839–42), the Treaty of Nanjing (1842) and the Treaty of the Bogue (1843) contained various rights for British subjects, as well as the ‘Most Favoured
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Nation’ clause. Subsequent Sino-Foreign treaties that gave extraterritorial legal rights to treaty power nations in the territory of China – i.e. the immunity of its subjects from Chinese law – was thereafter automatically conferred to Britain. This allowed representatives of Britain to try British defendants in both criminal cases and civil suits. These agents were consuls, who presided over their consular districts in newly opened treaty ports, which now allowed foreign trade and residence. In due course, the Qing conceded more rights to treaty power nations, including further opened treaty ports, concessions and leases. In some treaty ports, foreign-run Municipal Councils exercised municipal jurisdiction and the Sino-foreign Maritime Customs, headed by a foreign national, exercised revenue control. Alongside extraterritoriality, this complex layering of indirect foreign rights therefore made China a ‘semicolonial’ legal landscape. Whereas the partial violation of Chinese sovereignty distinguished China from colonial domains (such as the Crown colony of Hong Kong), there existed strong economic, cultural and social connections between the treaty ports and other parts of the British Empire. These included words, ideas, architecture, trade and, of course, people from British India, Hong Kong and Southeast Asia. In this book, I show how legal connections were forged between British consuls in semicolonial China and colonial authority in India and Burma across the frontiers.

By the early twentieth century, many treaty ports had growing numbers of sojourning and resident foreign communities. In particular, the International Settlement in Shanghai hosted a cosmopolitan community. Law underpinned the growth of this community and the development of foreign commercial interests. Extraterritoriality provided British consuls and the British Chief Judge in Shanghai with considerable scope to adjudicate cases that had significant social, economic and political ramifications for British subjects and companies. Despite the importance of British consular jurisdiction, scholarly interest of extraterritoriality has thus far focused more on the beginning and end of the treaty ports and extraterritorial privileges. This is unsurprising as the narrative of foreign legal imperialism during these bookend years of the ‘century of humiliation’ (bainian guochi), i.e. the 1830s and 1840s and 1930s and 1940s, is intertwined with the significant developments and events in the history of modern China. This includes war, Sino-foreign diplomacy and, in the twentieth century, the rise of Chinese nationalism and socialism. As a result, we know much less about the legal practices of consular officials or the extraterritorial system as it functioned between these years. As consuls were one of the key agents of British imperialism in different localities in China, this is a surprising shortcoming in the historiography of Britain in China.
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This shortcoming becomes more apparent when we turn to the Chinese hinterland and inland consulates. The narratives of the establishment of consular districts such as Chongqing and Chengdu in Sichuan, Kunming and Tengyue in Yunnan and Kashgar in Xinjiang are often associated with geopolitical rivalries. Their economic benefit to Britain appeared small or even negligible, and many scholars examining the foreign presence in these regions have tended to focus on the small groups of foreign missionaries and explorers.\textsuperscript{10} Consuls appeared in some of these districts to be lonely imperial officials and the stations seemingly had less importance to British interests than the eastern coastal ports.\textsuperscript{11} However, this book shows that consuls stationed in Kashgar and Tengyue played an important legal role for British colonial and consular authorities. This involved hearing cases of British subjects in these districts and resolving issues pertaining to transfrontier jurisdiction.

Consuls exercised extraterritoriality, but they had to do so within the parameters of British imperial policy. Consuls were guided by the Foreign Office, who managed consular administration and formulated general policy for British interests in extraterritorial jurisdictions and the Ambassador at Beijing, who was the most senior British diplomat in China. The Chief Judge for Her Britannic Supreme Court for China sitting in Shanghai also had a significant voice in legal arrangements of British extraterritorial powers. Although consuls took into consideration British directives from London, Beijing and Shanghai, they often reformulated how to exercise British rights in their districts. Located at the very edge of the Chinese Empire and at a considerable distance from the east coast of China, consular officials often acted without direct oversight. Instead, they usually only engaged with their administrative superiors in order to report their activities and secure legal ratification for practices they felt were more suitable for the frontier. This book therefore provides a key insight into their legal activities in the frontier as well as their role between British colonial, consular and metropolitan authorities, providing a narrative of the British legal presence in the hinterland of China.

Law in imperial contexts

It is important to ask why law in the British Empire mattered and to whom. In the colonial and imperial world, from North America to the Caribbean, Africa, Asia and Australia, law was part of a British imperialist philosophy. British officials, trade companies and merchants often considered English law – or colonial law as derived in some measure from English law or its principles – as a guarantor of ‘liberty’.
Non-European and non-Christian legal systems, such as in China, were considered inferior, ‘uncivilised’ and too alien for European or British subjects. Law was also a system of governance, where imperial officials administered justice inside and outside of courtrooms. British officials had the power to discipline its wayward nationals or acquit them of suspected crimes. British merchants and companies also felt a sense of security over their rights with a British legal system that they understood. Therefore, although commerce and the threat of force often underpinned imperialism – such as ‘gunboat diplomacy’ in China – legal practices supported, regulated and protected imperial interests. Although many indigenous subjects under imperialist rule could benefit from imperial rule, law could also serve imperial power by helping to maintain imperial race, gender and class hierarchies. Law therefore could be simultaneously a symbolic and discursive tool, a system of law enforcement and administration, as well as a series of norms about how people should relate to other people and the world around them.

Law and legal practices were often shaped by pragmatism. Extra-legal practices abounded within and across empire, and many governments were limited financially, which curtailed the extent and scope of their jurisdiction. Nor did colonial and imperial authorities always seek to carve out neat territorially bound jurisdictions. The legal geography of colonial and imperial systems could be ‘lumpy’ rather than a based upon a defined set of laws and practices conforming to the precise contours of the territory claimed by colonial states. This included the creation of sea-lanes and trade routes that demonstrated how colonial authorities adapted their geographies of law to economic imperatives. In the districts of Kashgar and Tengyue, consuls could not claim jurisdiction over such an expansive area in difficult topographical landscapes. Instead, they focused on key areas, such as trade routes to control and the people within them. Consuls were therefore pragmatic and their legal practices were reflective of the limitations of British authority. Thus, these local officials and ordinary people were also the key actors who were involved in the making, breaking and amendment of law. Examining the thoughts and actions of frontier consuls who framed their practice on their understanding of the actions of claimed British subjects is therefore paramount in this book.

Law in empire was far from a monolithic, centralised system with a clear-cut set of institutions and practices. Colonial authority competed for jurisdiction with existing legal systems. Lauren Benton has argued that this contestation over the same people, goods and natural resources, or ‘jurisdictional jockeying’ and ‘jurisdictional politics’, was commonplace. Colonial governments also often delegated
authority to different imperial agents. This sometimes included incorporating indigenous elites into imperial administration or allowing them to govern their localities with minimal imperial oversight. Likewise, when the British obtained extraterritorial privileges in China, the China they set foot in was a vast multi-ethnic empire with a plural legal landscape. The Qing permitted minority groups some powers of jurisdiction in minor cases over their subjects and some provisions of the Qing code endorsed different punishments based on ethnicity. The plurality of laws multiplied as the Celestial Empire conceded extraterritorial powers to various other treaty power nations. Although extraterritoriality was therefore just one form of law amongst others, as Pär Cassel has shown, extraterritoriality in China and Japan was not monolithic, but took plural forms itself. The exercise of extraterritoriality was contingent upon its resonance with the indigenous legal order and its evolution. In other words, the local legal landscape shaped Western extraterritorial systems and practices in China and Japan (as well as Japanese extraterritoriality in China). I show how the local legal context of the frontiers shaped British extraterritorial practices. In the consular districts of Tengyue and Kashgar, consuls delegated legal powers to local elites to govern local British communities. Consuls also incorporated customary law into their decision-making in many Sino-British cases. Extraterritoriality therefore involved not only consuls enforcing the provisions of the Orders in Council, but also a wide range of legal practices not defined by metropolitan legislation. Consuls exercising jurisdiction incorporated and accommodated other legal structures, and consuls – on both the east coast and towards the frontiers – continuously redefined the scope and nature of their powers.

Finally, law in empire was also mobile. The movement of people, goods and ideas shaped law across the imperial world and created transnational connections within and between empires. This included law and legal personnel, such as the transnational influence of British Indian legislation, policemen and lawyers in the Indian Ocean region. However, we know far less about the imperial legal connections between semicolonial China and colonial domains. I provide a new perspective, demonstrating how consuls and their roles highlight a type of transnational legal connection across two frontiers in Asia.

Frontiers

Frontiers were sites where imperial authority was most tenuous. More often than not, they were places where the environment prevented colonial regimes from effective administration over local populations.
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These geographical features could include mountainous terrain, canyons and ravines, marshland, jungle, tundra or desert land. Many scholars focusing on imperial borders in Asia have shown how people at the margins of empire used these environments and exploited the tenuous reach of the colonial state to challenge state authority or to benefit themselves.26 State responses included the circulation of imperial discourses characterising the frontiers as sites inhabited by ‘lawless’ and violent populations, as well as increased state violence.27 The peripheries of empire can therefore tell us much about imperial anxieties and legal responses to such challenges to state authority.

A focus on the frontiers can also point to imperial state-building efforts and the role of individuals such as local inhabitants and migrants, as well as transfrontier economies and institutions that defined state-frontier relations.28 Transfrontier smugglers, for example, played an important role in inter-empire politics.29 China and Southeast Asia scholars have illuminated the various relations between the periphery and the centre, the local and the national, the permeability of borders, ‘contact zones’ and cultural encounters.30 They highlight the rich and diverse patterns of relations between the Chinese Empire and local groups, as well as between various actors themselves.31 In Southeast Asia, James Scott, for example, has argued that people living in the hill regions, which included the Burma-China frontier, were largely autonomous from the control of lowland empires.32 This is in contrast to the long-held assumption that local elites and local ethnic populations were subsumed incrementally into the Chinese state over time.33 Patterson Giersch argues instead that the relations between local groups and the Chinese state were complex and inter-mixed. Both indigenous people and the Chinese accommodated the norms of each other, a perspective that this book reflects in the examination of British consular jurisdiction with other legal entities in the frontier.34

Scholarship on frontiers has therefore helped to break down the traditional national and territorial lens of historical studies. It has also brought into sharper relief how imperial jurisdictions accommodated multiple legal structures and how the movement of people challenged or shaped imperial policy and law. Whereas the attention on frontiers between India and China, and between Burma and China have focused on the relations of local people to Chinese authority, in this book I offer a British imperial perspective. I show how consuls shaped their jurisdictional practices on the local British communities. This community included many individuals and groups that were mobile – migrants and transitory ethnic group subjects who traversed the frontier. Transnational migrants challenge the idea of impermeable borders in a globalised world and illuminate the spaces between legal authority
structures. Such people were therefore at the centre of legal disputes between political entities. This meant that in Xinjiang and Yunnan, British consuls also shaped their legal practices around Chinese authority. In the districts of Kashgar and Tengyue, this led to unique forms of legal practices.

The terminology I use for understanding the site of these colonial-consular connections is important for framing my perspective. I use the term ‘frontier’ to describe the consular districts of Kashgar and Tengyue. Frederick Jackson Turner famously used ‘frontier’ to describe a meeting point between two different civilisations. Others have since used the term to indicate a blurred zone of multiple cultural, economic, social and political interactions between local inhabitants, migrants, and competing states and empires. Patterson Giersch, for example, has used the term ‘middle ground’ in his analysis of the Sino-Southeast Asian frontier. Giersch uses this term to emphasise the mutual adaptation and cultural exchange of ideas and customs, as well as integrated trade relations between local groups and the Chinese state. However, the frontier was also a site of inter-imperial rivalry. When the British established consular authority in Yunnan and Xinjiang, they also contested Chinese claims (and Russian sovereignty in Xinjiang) over the same people, land and resources in the region. Britain also considered a presence in the frontier imperative for limiting the sphere of influence of other European empires. Adelman and Aron use the terms ‘frontier’ and ‘borderland’ to distinguish the notion of the coming together of different cultures, and as a site of imperial rivalry. In this book, I subsume both definitions into the singular word of ‘frontier’. I believe this term best conveys the concept of a zone of mobility between jurisdictions. British officials – both colonial and consular – also referred to the regions as ‘frontiers’, referring to its sometimes unclear legal and political dimensions. ‘Frontier’ therefore appears to most accurately reflect these officials’ uncertainty and their sense of being stationed somewhere on the edge of imperial centres.

The Xinjiang and Tengyue frontiers

This book examines two different frontiers to demonstrate the commonalities in British frontier jurisdiction. In the northwest of China, Xinjiang – like Manchuria, Mongolia and Tibet – was a frontier province. It was a large, arid region, ringed by mountains and home to oasis towns. The majority of the population were Turkic Muslims, although growing numbers of ethnic Chinese Muslims, alongside Mongols, Kazakhs and others, inhabited the region. Chinese administration relied heavily on local elites to govern local populations, such as for
tax collection and hearing minor disputes. The Silk Road traditionally ran through the region and connected it to other parts of Central Asia and the Indian subcontinent. It therefore attracted many sojourning merchants as well as resident merchants from different backgrounds, including individuals who migrated from the northern parts of British India and Afghanistan. In the southwest of China, the province of Yunnan was considered within the rule of the Qing (1644–1911) and within the Republican era (1912–49) as a part of ‘China proper’. However, Chinese rule over its western region, which included the frontier with Burma, held many similarities to the administration of the official frontier provinces of Xinjiang, Mongolia, Tibet and Manchuria. Here, in the tropical climate, lived many different ethnic minorities, including the Shans, Kachins, Lisus and Panthays, amongst others. The region featured mountains, gorges, winding valleys and plains. Like in Xinjiang, successive Chinese governments relied on community leaders for local administration. In return for accepting Chinese sovereignty, China allowed these local elites to arrange local affairs, including exercising customary law in minor disputes amongst their populations.

By the late nineteenth century, British imperial interests turned to the frontiers of China. As the Russian Empire increased its sphere of influence in Central Asia, the British Indian government aimed to station a representative in Xinjiang to protect and promote British Indian interests. From 1891, this representative made his base Kashgar in the west of the province. The fear of Russian influence in Central Asia also made British colonial and consular authorities turn to Tibet. British legal rights were granted in the trade marts of Yadong (1894) and Gyantse and Gartok (1904) following the Sino-British Appended Sikkim-Tibet Convention (1893). The Tibetan trade marts had no consulates, but a British Indian Political Officer had some jurisdictional powers in trade disputes which involved a British defendant. To the southwest, Upper Burma became subsumed into the province of Burma and part of British India in 1885. British interests immediately turned towards the northeastern parts of Burma adjacent to Yunnan. Wary of a French presence in Southeast Asia, the British ensured that the subsequent Sino-British treaties over rights in the Burma-China frontier guaranteed the establishment of a consular presence in Tengyue, on the Chinese side of the frontier. The connection of consuls to colonial interests was therefore evident from the opening of the consulate and its proximity to colonial frontiers.

Although both consular districts were situated on a frontier, they incorporated different spatial and geographical dimensions as well as economic, political and social dynamics. The consular district of
Kashgar covered the whole of the province of Xinjiang. To Chinese and British officials in Beijing, the whole province was a frontier. To consuls stationed in Xinjiang, as the consular district was bounded by the mountains and desert where fewer British subjects lived between the northern reaches of India and that of China, they also considered the whole province as a ‘frontier’. One of the most popular appellations for the region in British sources was ‘Kashgaria’. This referred to the whole province, but particularly the west and the south, where most of the British communities lived in oasis towns. This included Kashgar and Yarkand to the south and west of the province, which had trade routes connecting them to the Karakoram Pass and northern India, notably through Leh, Chitral and Gilgit.

By contrast, the ‘frontier’ station of Tengyue included within it a frontier between Burma and China populated by many people. This frontier was over 965 km, stretching from Siam up to Tibet and inhabited by different ethnic groups. For the most part, when Tengyue consular officials talked about the ‘frontier’, they were reporting on, and referring to, a shorter section of the region with the trade routes between consular and colonial strongholds. This ‘middle section’ also had the largest number of borders agreed by both Britain and China. Within this section, the stations of Bhamo, Myitkyina and Lashio on the Burmese side and Tengyue on the Chinese side marked the largest outposts of stationed British authority. The main trade routes ran from these centres across the frontier. From Myitkyina, a trade route ran through Sadon and a small path through Sima to Tengyue. However, the most important route went from Bhamo to Tengyue, a distance of approximately 220 km, of which about 82 km lay in Burma and 138 km lay in China. One route ran through Nongzhan, but the most popular route went via Namhkam, Zhefang and Mangshi before reaching Tengyue. Aside from trade paths, there were also prominent Frontier Police Battalions stationed in outposts, such as at Sima, Sadon, Htawgaw (Tuojiao) and later Hpimaw (Pianma). In this book, I focus on this ‘middle section’ of the frontier, a triangle between Bhamo and Myitkyina to Tengyue.

Sources

Two types of materials provide a rich source base for this book: archival documents and late nineteenth- and early twentieth-century accounts of the frontiers. Archival materials from The National Archives in London, the British Library and the National Archives of India include correspondence between British consular officers in China, colonial officials from Burma and India, and the India Office.
and Foreign Office in London. Many of these sources are written by the hand of the people in power – consuls, diplomats and judges – reporting on legal issues involving people in the frontiers. However, as Ann Laura Stoler has encouraged, colonial archives can and should be read ‘against’ and ‘along the archival grain’.\(^{41}\) This can allow the historian to discern the failures of imperial governance as much as official ambitions. Likewise, as Ranajit Guha has argued, one can pin-point different aspects of imperial rule and individual agency buried within official rhetoric of control\(^{42}\) (or indeed within the language of formulaic regulations and governance). As the book focuses on the aims and actions of British consuls, it does not attempt to voice the perceptions of the local population through these sources. Nor does it attempt to draw the view of the Chinese authorities, which is beyond the scope of this book. Following Patterson Giersch’s warning of the ‘misleading paper trial’ of Chinese imperial sources on the frontier, I exercise some caution when describing the reach of British imperial authority and its agents’ control over local populations.\(^{43}\) Local resistance to empire authority was a constant feature in the frontier. I emphasise that consuls sought to adapt their powers and that of colonial power to the frontier economy and the values of local people. This demonstrates that British authority – where it could be exercised at all – needed to accommodate local practices, and law was shaped around them. I therefore try to highlight the tenuous nature of British authority in the frontier.

A variety of nineteenth- and early twentieth-century works provide information on the frontiers. Travelogues and ethnographic accounts of the frontiers were forms of colonial knowledge that helped British officers to understand their region and enabled British expansion into previously unknown territories. Information of the geography, local customs and climatic conditions helped officers traverse an unfamiliar domain and categorise unfamiliar people into taxonomies that made sense to them. Some of these accounts were written by the consular officers themselves, providing an insight into their perceived world. Legal handbooks on extraterritoriality and foreign jurisdiction also gave British officers a framework for understanding their powers in a foreign land, elucidating a topic that most legal experts understood poorly. These works provide an insight into what consular officials would have understood about their environment and legal powers. Finally, although there were few reports on the far reaches of the Chinese Empire, I have also consulted the most widely read English-language newspaper in treaty port China, the *North China Herald (NCH)*, and *Shenbao*, which was the most widely read Chinese newspaper.
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Structure

The book is divided into two parts, which proceed broadly chronologically in each. As the two case studies have a different history – featuring different inhabitants and migrants, frontiers, and legal environments – they do not mirror each other in chronology or subject matter. Instead, I draw out similar themes through the work of consular officials in each. The first part focuses on the Burma-China frontier. Chapter 1 traces the establishment of British authority (1899–1911). As the provisions of the treaties were key legal documents, I show how the Tengyue consuls understood the rights of British and Chinese smugglers in two key transfrontier trades: salt and opium. The movement of illicit goods was integral for the frontier economy and local populations. Tengyue consuls reimagined consular rights based on their understanding of the these local considerations and imperial policy. I explore two key smuggling cases to show how consuls were mediators amongst a number of different British colonial and consular authorities in London, India, Burma and China on legal rights. The chapter is therefore concerned with how consuls understood the overlapping frameworks and tensions of different layers of law: Sino-British treaties, Burmese territorial law and extraterritoriality. Chapter 2 demonstrates how the movement of different people, such as migrant labourers and itinerant domiciled subjects, shaped colonial and extraterritorial law (1911–25). Consuls petitioned for greater powers of deportation to remove unwanted Indian migrants across the frontier. Consuls also petitioned the metropolitan, Indian and China consular authorities to enable Burmese officers to exercise colonial law across borders by virtue of extraterritoriality. This chapter is therefore concerned with the relationship between borders, colonial law and extraterritoriality. Chapter 3 explores how Tengyue consuls worked in a court to resolve Sino-British cases involving local populations (1909–35). The court was a reflection of the coming together of local laws and British and Chinese jurisdiction. The consular role was to work alongside Chinese officials and act as linguistic and cultural mediators between these officials and their Burmese counterparts. They therefore balanced British imperial objectives – such as furthering colonial claims to land – with efforts to ensure Chinese cooperation in the resolution of transfrontier cases.

The second part of the book turns to the northwest frontier of Xinjiang and its connection to the Raj. Chapter 4 examines the establishment of extraterritorial jurisdiction in the province (1880–1918). There, no treaty existed defining consular rights in the province. As a result, the consular official George Macartney carved out his rights
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through adjudicating Sino-British cases and by diplomatic negotiation with the Chinese authorities. As Macartney worked for the Indian government and, after 1908, was also a China consular official, he therefore bridged the colonial and semicolonial world. From 1918, his legal powers were derived from consular frameworks, but he could apply colonial laws from British India. He also sent suspects and convicts to India, creating an administrative and judicial fusion between the consular and colonial system. In Chapter 5, I examine court cases in Xinjiang (1912–25). Consular officials worked a compromise between administering consular law, carrying out imperial objectives and allowing the jurisdiction of local custom over British subjects. Consuls were aided by aqsaqals, senior merchants who resolved minor disputes of the British communities in various towns. Consuls not only incorporated this indigenous administrative practice into British administration, but also arranged the aqsaqal system and had clear influences from Indian community organisation. I therefore show how Indian communities and Indian influences shaped British administration in Xinjiang. Finally, in Chapter 6, I trace the decline of British jurisdiction in the province (1917–39). The Chinese authorities in Xinjiang challenged British consular rights, and consuls responded by managing this erosion of their powers. Consuls based their approach to managing this decline on the needs of the British community living in Xinjiang, as well as on practical and political considerations. I end by showing how the trading community that moved between India and Xinjiang declined rapidly and thereafter ended consular rights in the province.

Notes

1 TNA: FO656/136 J. Jordan, Ambassador at Beijing, to H. de Sausmarez, His Majesty’s Britannic Supreme Court for China, 2 November 1915.
2 In 1865, an Order in Council provided for the establishment of Her Britannic Majesty’s Supreme Court for China and Japan in Shanghai. The Chief Judge acted as a higher and appellate judge to any case or suit involving a British defendant. Although the Chief Judge was therefore an important legal official, the majority of cases involving British subjects were summary court cases. Outside of Shanghai, consuls were therefore the legal official who heard these cases.
This entailed the partial infringement of Chinese sovereignty due to the immunity of treaty power individuals as defendants in cases and suits.


12 On the imperial discourses of Chinese law, see Chen, Chinese Law in Imperial Eyes.


15 L. Ford, Settler Sovereignty: Jurisdiction and Indigenous People in America and Australia, 1788–1836 [Cambridge, MA: Harvard University Press, 2010]; L. Benton,
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Benton, A Search for Sovereignty.  

Ibid.  

Ibid.  

Ibid.  


Treaty power nations included: the United States (1844), France (1844), Sweden/Norway (1847), Russia (1851), Germany (1861), Portugal (1862), Denmark (1863), the Netherlands (1863), Spain (1864), Belgium (1865), Italy (1866), Austria-Hungary (1869), Japan (1871) [revised by the Sino-Japanese Treaty of Commerce and Navigation (1896)], Peru (1874), Brazil (1881), Mexico (1899) and Switzerland (1918).  

Cassel, Grounds of Judgment.  


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31 See, for example, the work on ‘New Qing Imperial History’: J. Millward, R. Dunnell, M. Elliot and P. Forêt (eds), New Qing Imperial History: The Making of Inner Asian Empire at Qing Chengde [New York: Routledge, 2004].


33 In Chinese, see most prominently: Y. She, zhongguo tusi zhidu [China’s Tusi System] [Shanghai: shangwu shuju reprint, 1947]. In English, see: H. Wiens, China’s March towards the Tropics (Hamden: Shoe String Press, 1954).


36 Giersch, Asian Borderlands.


39 Unlike Kashgar and Tengyue, these Tibetan treaty marts were not consular districts and were not governed by China Orders in Council. I have not included an analysis of the Tibetan trade marts in this book for this reason.

40 In 1937, Burma became a British colony independent of British India until independence. In this book I refer to the imperial political entity there before and after 1937 simply as ‘Burma’. I describe the political structure there as British ‘colonial authority’.


42 R. Guha, Elementary Aspects of Peasant Insurgency in Colonial India [Delhi: Oxford University Press, 1983].

43 Giersch, Asian Borderlands, p. 12.