Introduction to *The Cultural and Legal Origins of Economic Divergence: China and the World, 1700-1984*

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Note to Readers

This is a draft Introduction to my current book project, *The Cultural and Legal Origins of Economic Divergence: China and the World, 1700-1984*. The operative word here is "draft." I have thought about these issues for almost two decades now, and both of my previous books (published in 2017 and forthcoming in September 2022) are, to a large extent, intellectual preludes to it. However, I only began serious work on this book over the summer, much of which was interrupted by my father's passing away in June. As a result, although the ideas herein are fairly mature and carefully thought through—they are, after all, the culmination of over a decade of research—the written work you now have before is a very early, very rough draft of an Introduction to a book that will likely take another 3-4 years to write.

In fact, in my rush to complete a workshoppable draft, I've had to incorporate and rely on a number of references to past work. For example, the all-important "from culture to legal institutions" segment will refer you to a few selections from previous publications, which I've attached to the end of this document (the total length of all the readings does not exceed the length of an average law review article). This shouldn't make the draft incomprehensible, as those publications were all explicitly designed to be stepping stones to this book, but it does break up the rhythm of the writing, and for that I apologize. Nonetheless, I hope the ideas themselves can stimulate even where the writing frustrates.

Framing of the Question

The so-called "Great Divergence"[1]—the economic divergence between China and the West during the 18th and 19th Centuries, which fundamentally upended the balance of economic and political power across Eurasia—is an eternal topic of debate among social scientists and historians, arguably *the* eternal topic. Every generation of scholars produces new theoretical and empirical frameworks to explain the divergence, only to see them challenged and often replaced within a few decades, if not shorter. The intellectual appeal of the topic is self-evident: not only is it one of the largest historical phenomena one can identify, but it is also one of the most obviously consequential. Nothing in modern Chinese history, and very little in modern global

[1] Pomeranz (2000).

history, can be properly understood without some reference to the divergence. It is a fundamental historical development, one that underlies almost all others.

Within the Chinese context, the "Great Divergence" is really two different divergences: in the first, England industrialized first during the 18th and early 19th Centuries, leaving China, and every other economy, behind in material dimensions by the mid-19th Century. In the second, China fell further behind other countries, most notably in comparison to Japan, during the late 19th and early 20th Centuries, by industrializing at a significantly slower pace until the 1920s and 1930s. Many scholars have attempted to explain the former without reference to the latter,[2] but this makes little sense: surely the reasons why China was slow to make use of industrial technologies after they were already available via transplant were at least somewhat connected to why it was slow to develop those technologies in the first place. One would logically expect economic forces that slowed the spread of industrial production to also have disincentivized its initial advent.

There is, in fact, a third phase of modern Chinese economic history that now urgently demands explanation in connection with these first two: its stunningly successful past 4 to 5 decades, which saw some of the most robust and sustained industrialized growth in human history. In fact, as much recent scholarship demonstrates, China's economic history has often been one of relative success as early as the 1920s, with periods of significant growth—faster than the "first world" median—intermixed with shorter periods of recession or sociopolitical upheaval. Again, it would seem only logical to expect the answer to "how did you catch up later" to have some connection to the answer to "how did you fall behind in the first place." At the very least, the former must necessarily involve some "fixes" to the problems and issues identified in the latter. The reverse-side of this logic implies that any fully satisfactory answer to the latter question must also include some things that were later "fixed" in the former.

One might complain, as many historians will surely be tempted to, that this line of reasoning relies too much on hindsight and *ex post* analysis, but then *any* attempt to explain the Great Divergence is, again as a matter of basic logic, an attempt to create historical narratives that already have a predetermined endpoint. In other words, every contribution to this literature necessarily relies on hindsight, so unless we reject the entire premise of explaining divergence (and re-convergence), crying about hindsight is hardly a useful critique.

Very few studies of the Great Divergence have attempted to provide an explanatory narrative that plausibly links all three phases of the story.[3] While the first and second phases have sometimes been spoken of in the same breath—although frequently in analytically imprecise terms that fail to adequately differentiate between technological innovation and technological proliferation—the third phase has been almost completely absent in this literature. To some extent, this is perhaps understandable: for much of the debate's history, China was still a relatively poor developing country, which may have diminished the intellectual pressure to explain, in any given book on the Divergence, how and why its economy regained global

[2] This is obviously true of Mokyr (2009), Hoffman (2019), Rosenthal and Wong (2010), and Allen (2009).

[3] Virtually every book or article on the subject ends at phase two. E.g., Pomeranz (2000), Brandt, Ma & Rawski (2014).

prominence after centuries of relative decline. Until the past two decades, the narrative of Chinese economic re-ascension was simply not terribly salient.

At our present moment, however, severing the past century of Chinese economic history from the previous two is no longer tenable, not only because of the obvious and powerful intellectual connections between the two, but also because the former's achievements have now become just as momentous and significant as the latter's failures, rendering a segregated, sanitized treatment of the latter deeply unsatisfying. Most readers will now reasonably expect any account of "why China fell behind" to have at least a plausible answer to "how did it later catch up."

Scholars should oblige, and this book is an attempt to do so. It argues, in the end, that China's central economic problem prior to the early-to-mid 20th Century was its adherence to broadly Confucian norms of sociopolitical organization, and that many of its economic successes since then can plausibly be seen as the result of rejecting those norms in favor of aggressive statism. Along the way, it introduces new and politically uncomfortable ways to think about the relationship between economic expropriation and industrialization, between capital formation and legal institutions, between legal institutions and sociopolitical culture, and, more broadly, between state, society, and the cultural paradigms that underlie both.

Summary of the Argument

Stated more precisely, the central argument of the book is that the origins of Chinese economic underdevelopment from the 18th to the mid-20th Century, relative first to the West and then later to Japan, were significantly cultural, if not quite exclusively so. Furthermore, it argues that the core mechanisms that connected cultural conditions to economic performance did not operate at the level of individual economic rationality, but rather at the level of law and institutions. Combined, these arguments allow us to once again speak of culture—indeed, Confucian culture—as a root cause of global economic divergence, without resorting to the kind of overgeneralized Weberian "culturalism" that once discredited the entire notion.

More specifically, the book presents three central claims in this thesis of cultural-economic causation: first, it argues that China, somewhat unusually among major early modern economies, experienced serious capital shortages throughout its first seven decades of attempted industrialization, and that this was a primary culprit for its relatively slow growth over that period. Relatively large amounts of capital accumulation were generally necessary—although hardly sufficient—for the productive use of new technologies developed during the First Industrial Revolution. China's comparatively meager levels of capital investment not only slowed the proliferation of new technologies after they were imported from abroad, but probably also hampered their domestic emergence in the first place.

Second, the book argues that this comparative lack of capital accumulation can be proximately traced back to core institutional features in three separate areas of law: property rights in land, taxation, and corporate law. Most pre-industrial economies accumulate capital through one of three mechanisms: there can be bottom-up, "organic" wealth accumulation, primarily in the form of land concentration. Such accumulation—and the ensuing rise of socioeconomic inequality—played a significant part in the early phases of European industrialization. Alternatively, there

can be top-down accumulation by the state, largely on the basis of fiscal extraction. Countries attempting to "catch up" to industrial frontrunners, such as Germany and Japan in the late 19th Century, often relied on this mechanism to great effect. Finally, there can be scaling of capital through the formation of large joint ventures, most notably, in early modern and modern times, through the business corporation. Most countries utilized more than one of these mechanisms during their industrialization processes, but any one of them can theoretically suffice.

In Qing China, however, a series of institutional developments converged to effectively shut down *all three* mechanisms: customary property rights regimes substantially impeded the concentration of landed wealth; governmental laws and policies made fiscal expansion extraordinarily difficult, especially in the agricultural sectors; and the general weakness of formal state capacity prevented business corporations from gaining economic traction until the 1930s. These legal and institutional features did generate significant benefits in terms of socioeconomic equality and private security from state expropriation, but they also created an economy in which capital accumulation was very difficult, and the pace of technological adaption therefore very slow. Once state-driven accumulation began to accelerate in the Republican era, industrial growth likewise accelerated, but it was not until the second half of the 20th Century that China's industrial push fully blossomed.

Third, and perhaps most importantly, the book argues that the emergence of these legal conditions was a product of Qing China's sociopolitical culture, which was, in the end, a fundamentally Confucian cultural paradigm, although one that differed substantially from those of previous dynasties. Qing society inherited two central cultural-ideological tendencies from earlier dynasties: first, the celebration of kinship-oriented social organization grounded in principles of filial piety and gerontocratic hierarchy; and second, deep moral skepticism towards state fiscal extraction. Due to sociopolitical conditions created by the circumstances of the Ming-Qing transition, the latter tendency hardened into a full-blown political ideology of extreme fiscal conservatism during the Qing, making agricultural tax increases all but impossible and forcing the government to operate on far more limited fiscal resources than any of its dynastic predecessors—or, for that matter, any contemporary states across Eurasia.

This then reinforced the social dominance of the former tendency, in the sense that the Qing state, unlike most other Chinese dynasties, now had to actively encourage local self-governance by large kinship networks to compensate for its own ever more severe administrative limitations. These networks adhered, at least in principle, to Confucian moral doctrines that allocated sociopolitical status on the basis of generational seniority, rather than on the basis of wealth. While actual implementation of these doctrines in local governance was always imperfect, they did supply lower-income households with at least some political voice within kinship networks and villages, which allowed them to shape some critically important property institutions according to their interests.

These institutions, which governed a number of everyday transactions, ranging from tenancy to mortgages, helped them avoid the fate of smallholders in most Western European countries—namely, being wiped out by large landlords—and kept Chinese landholding relatively dispersed throughout the Qing and Republic. This was, again, largely a good thing in terms of

socioeconomic equality and peasant livelihoods, but then industrialization does not often synergize with agrarian egalitarianism.

An additional consequence of the Qing state's fiscal weakness was its inability to legal sustain large business corporations. Despite possessing many economic conditions that produce demand for large-scale, cross-regional business collaboration by a multitude of shareholders—most notably the proliferation of long-distance trade, the Qing never saw the emergence of core corporate legal technologies critical to such collaboration. Specifically, Chinese businesses refrained from recognizing limited liability and entity shielding arrangements among shareholders, and therefore did not provide the kind of risk alleviation that would have made large-scale capital pooling between strangers feasible.

The primary culprit for the absence of these legal institutions was probably a lack of state support: in general, corporations that make use of limited liability and entity shielding only become economically viable when supported by relatively high levels of uniform law enforcement across large geographical and social distances. The Qing state's severe fiscal weakness rendered it largely unable to provide this institutional support, which meant that China's lack of business corporations until well into the 20th Century was also a downstream consequence of the ideological and cultural forces that created fiscal weakness in the first place.

When we piece all of these arguments together in reverse order, we arrive at a complex but nonetheless clear chain of causation that runs from background cultural conditions to legal institutions, to levels of capital accumulation in the Qing economy, and finally to the broader phenomenon of industrial underdevelopment. Confucian ideals of limited governance and proper social organization created the sociopolitical conditions under which extremely low taxes and smallholder friendly property institutions became institutionally entrenched. In turn, these institutions made capital accumulation very difficult across all dimensions: the state's extractive powers were extraordinarily weak, landholding was comparatively dispersed, and large-scale business collaboration was hard to sustain. Finally, without high levels of capital accumulation, the pace of industrialization was inevitably slow—slower than in the West or in Japan—until the Republican era.

In other words, industrialization was generally a dirty business that required large amounts of economic expropriation, either in the form of escalating inequality as large landowners dispossessed smallholders, or in the form of large-scale government extraction from the private economy. Most early modern economies experienced one or the other, or both, but Confucianism's unusual economic "problem" was that it strongly impeded both forms of exploitation—it did too good a job in protecting both the private economy *and* the smallholders within it. While these are both normatively desirable accomplishments under many contexts, their combination turned into a major liability under the special context of industrialization. Adequate levels of capital accumulation cannot easily emerge within wholly privatized yet relatively egalitarian preindustrial economies.

China's economic revitalization, in fits and starts, from the Republican era onwards further showcases what happens when the cultural-ideological shackles are removed: beginning in the early 20th Century, Chinese political elites decisively rejected the fiscal conservatism that

dominated the Qing, and instead embraced various forms of statism. This immediately led to sharp increases in state fiscal capacity, which, when paired with greater inflows of foreign capital, finally begin to provide the capital accumulation that China's budding industrial sector so desperately needed. The acceleration of industrial economic growth during the Republican Era (1912-1949), even as rural production remained largely stagnant and population pressures continued to escalate, was most likely the result of these forces.

But it was not really until the Communist Era (1949-) that Chinese capital accumulation began to rapidly close the distance with advanced economies, largely on the back of an enormous expansion of state capacity. This proved to be a mixed blessing during the Mao era (1949-1976): state-driven capital accumulation came at the cost of destroyed private property rights and overbearing state economic planning, leading to sometimes disastrous misallocation of resources. Even so, the pace of industrialization sped up considerably, and by 1978, when China "opened up" its economy to market forces again, it was, by most measures, already an industrialized nation, if otherwise a poor one. What happened afterwards demonstrates the effect of merging high levels of state-driven capital accumulation with a revitalized market economy: some of the most spectacular economic growth in human history, sustained over four decades across the largest national population in the world, but at the cost of some of the worst wealth inequality in the world.

The next several sections will lay out these arguments in somewhat greater detail, organized into three casual connections: from capital accumulation to economic divergence, from legal institutions to capital accumulation, and from sociopolitical culture to legal institutions. The first two connections will likely seem at least somewhat intuitive and familiar to many economic and institutional historians. The third will almost certainly be more controversial.

From Capital Accumulation to Economic Divergence

The vast majority of global divergence studies centered around the First Industrial Revolution—regardless of whether they take more of a Sino-centric "Great Divergence" framework or a Euro-centric "Rise of the West" framework—primarily operate through horizontal comparisons. That is, they survey rich and poor economies at around the same point in time, usually at some point in the 18th and early 19th Centuries, find some relatively significant correlation between some socioeconomic (or political, or cultural, or institutional, or geographical) feature and macro-level industrial economic performance, and then attempt to argue that different levels of the former across countries can explain divergence in the latter.[4]

While no one would deny that such horizontal comparisons are logically necessary for any serious inquiry into the roots of divergence, what this method, on its own, *cannot* do is demonstrate that improving any given country's performance in the former dimension would actually have improved its performance in the latter dimension. This is because all socioeconomic/political/ cultural/institutional/geographic features operate within a broader context of economic forces, and never in isolation. Therefore, even if the security of private property rights against state intrusion strongly correlates to macro-level economic performance

[4] This describes every book cited in the previous footnotes, and also describes less systemic attempts to explain divergence, such as the essays by Greif and Tabellini, or Acemoglu and Robinson (2012).

across all Eurasian countries, one cannot infer from this correlation that strengthening private property rights in economically underperforming countries would actually strengthen their industrial economic growth. There could be many other unseen factors that correlate to both, but are in fact the real drivers of (or impediments to) industrial growth.

The natural economist response to this critique is, of course, to try to control for all those other factors, but this is rarely possible, if ever, to properly execute in a premodern or early modern context, especially across so many different countries and regions. To put it bluntly, no study to date has managed to control for all possible interfering factors, not even all of the more obvious ones.[5] Existing data, piecemeal at best in most Asian countries and many European ones, simply do not permit such analysis at reasonable confidence intervals.

If, on the other hand, the goal is to identify some feature of Country A that, when improved upon, would actually have led to more robust industrial growth in that country, then the more intuitive method would be to *look at how Country A actually industrialized*, assuming that this did indeed happen at a later point in time. In other words, we can also vertically compare across time. If Country A's industrial growth significantly accelerated once private property rights became more secure, then that is highly suggestive evidence that the insecurity of property rights was originally an impediment to industrialization. If, furthermore, one can pair this finding with a horizontal finding that, across all countries, security of property rights significantly correlated to speed of industrialization, then the case that "property rights mattered" becomes stronger still.

There are, needless to say, logical holes in this line of reasoning as well, but they are methodologically much easier to address than, say, controlling for all possible external interference factors across a panel of a dozen Eurasian countries. The most obvious hole is that, just like there can be endogeneity issues in horizontal comparisons across space, there are also endogeneity issues in vertical ones over time. The securing of property rights in Country A might have occurred at roughly the same time as any number of other developments—the cheaper availability of technological transplants, a stronger judiciary, a more professionalized bureaucracy, or more market integration—all of which have some logical connection to industrial growth.

Here again, the natural economist response would be to control for those other factors, and while this is by no means easy to do, it is manifestly easier than controlling for everything in the horizontal comparison context. Instead of dealing with multiple countries, which may or may not keep records in such a way that allows apples to apples comparison on any given factor, vertical comparisons involve only a single country, which usually employs relatively consistent methods of data keeping across time.

The point here is simply that the best approach to explaining historical economic divergence is to utilize, whenever possible, both horizontal and vertical comparisons: we should use the former to identify potentially meaningful differences across countries, and then use the latter to examine which of those factors actually mattered over time within a single country. The factors that are

[5] Pomeranz (2000) probably makes the most thorough attempt at this, but there are nonetheless some oversights in the book's analysis, and they are well known by now. See commentary by Hoffman, Coclanis, de Vries, et al. (2011).

most likely to have caused divergence are those that not only correlated to stronger industrial growth across countries, but also correlated to stronger growth within each individual country. What would it say about the popular theory that "China fell behind in the 19th Century because its private property rights were too weak"[6] if we also found that China caught up in the 20th Century without ever possessing strong property rights? Incidentally, neither claim is correct—Chinese property rights are reasonably strong now, and were perhaps even stronger in the 19th Century—but the point is, again, simply that vertical comparisons should complement horizontal ones whenever possible.

There are, of course, many cases where vertical comparisons are *not* intuitively helpful—for example, cases where a country fell behind in early modern times and never caught up, or when things change so rapidly that controlling for interference is simply impossible—but where they are, scholars have long been in the habit of using them. For example, most divergence studies tell before and after stories about English industrialization, of how England went from a middle-of-the-pack European economy as late as the 16th Century to the world's first industrial economy in the 18th. Alternatively, they have often compiled vertical narratives of economic catching up in successful latecomers like Germany or Japan.

All of which makes the relative lack of vertical comparison in the Sino-centric "Great Divergence" context a substantial shortcoming. There are many high quality vertical narratives of Chinese economic development in the 19th and 20th Centuries, just as there are many sophisticated explanations of why China fell behind in the 18th and 19th (and perhaps early 20th) Centuries, but there have been few attempts to merge the two projects. This may have been understandable several decades ago, when it was still unclear whether 20th Century China should be considered an economic success story, but that is now beyond any reasonable doubt. As a result, scholars no longer have a good excuse for not explaining—or at least not trying to explain—China's initial relative decline and more recent rise within the same framework. The logical benefits of doing so are clear and powerful.

Once we do so, it turns that vertical comparisons can substantially narrow the range of plausible explanations. For example, while Chinese industrialization in the 1920s and 1950s clearly benefitted from the import of foreign technology, the availability of technological transfers is not an obvious candidate for explaining the *acceleration* of industrialization in those eras, given that the late 19th Century was also an era of relatively cost-effective and voluminous technological transfer.[7] In fact, the experience of numerous Asian economies from the late 19th Century onwards suggests that, while the availability of technological innovation was undeniably a major reason—perhaps *the* major reason—for European superiority prior to 1860 or so, it cannot explain the durability of that superiority well into the 20th Century. Some Asian economies caught up quite rapidly, most notably in the case of Japan; others took much longer, but in almost none of them was technological availability *per se* an obviously significant constraint on growth.[8] West-to-East technological transmission was plentiful throughout the past 150 years.

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[6] This has been a popular argument ever since North and Weingast (1987). Literature summarized in https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3547494.

[7] E.g., Peng (2013); Li (2017); Elman (2004); Xia, Fudan Journal (2018).

[8] https://www.jstor.org/stable/301880; https://academic.oup.com/book/27388/chapter-abstract/197175408; https://academic.oup.com/book/32352/chapter/268612619.

The real question was whether Asian economies were able to make effective use of those technological imports, and here there was wide divergence.

Similarly, although some scholars have blamed China's initially slower growth on overly cheap labor, which purportedly reduced the incentive of manufacturers to invest in labor-saving technologies,[9] the problem with this reasoning is that industrial acceleration in the Republican and early Communist eras came largely without any correlating or preceding increase in labor prices.[10] Comparable problems plague several other popular theories of the Great Divergence, including the availability of coal,[11] the size of agricultural surpluses,[12] demographic pressures, literacy rates across the generation population,[13] and, as noted before, the security of private property and contractual rights. China's position did not notably improve in any of these dimensions from the late 19th Century to the mid-20th, and might actually have worsened in some, but its pace of industrialization increased substantially regardless. It is possible, through somewhat convoluted logic, to nonetheless insist that some of these factors were an impediment to mid-to-late Qing industrial development: improvement along these dimensions was not necessary, nor can we know whether it would have been sufficient, but it "would have helped." Even if that were so, surely we should treat then as less important, or at least have less confidence in them, compared to factors that actually *can explain* vertical acceleration.

How, then, can we explain vertical acceleration? As noted in the previous paragraphs, many socioeconomic conditions commonly thought of as necessary for modern economic growth failed to exhibit any notable improvement from the 1870s to the 1920s and 30s: demographic pressures actually got worse, living standards generally did not increase, agricultural production per capita experienced no growth, technological transfers did not become noticeably more cost-effective, political stability actually worsened, the availability of coal did not change materially, market integration did not improve, and the enforcement of local property and contract rights did not become more reliable. What did change, however, was the amount of capital accumulation in the economy: beginning in the early 20th Century, foreign capital poured in through treaty ports like Shanghai, while state fiscal capacity more than tripled by the 1930s, both leading to substantially larger amounts of industrial investment and larger scales of factory production, especially along the Lower Yangtze.[14]

If we look instead at the 1950s, then the role of capital accumulation is in many ways even more dramatic: across most of the above dimensions, China's situation may well have worsened since the 1930s, especially in terms of legal institutions and market forces, and yet industrialization once again sharply accelerated on the back of large capital injections from the Soviet Union and a massive increase in the state's fiscal capacity and spending power.[15] Standard narratives often fault this wave of industrial development as being "forced" or "wasteful," but recent econometric analyses of its long-term effects have been much kinder: with the major exception of the Great

[9] Allen et al. (2011).
[10] Id.; de Jong & Ye Ma (2019); Brandt, Ma, Rawski (2017); Broadberry et al. (2018); etc.
[11] Pomeranz.
[12] Huang.
[13] https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.979.418&rep=rep1&type=pdf.
[14] Brandt, Ma, Rawski (2017); Debin Ma (2019); Zhongguo Jindai Gongyeshi Ziliao vol. 1, 1-77.
[15] Giorcelli & Li (2022); Cheremukhin et al. (2015).

Leap Forward years (1958-1962), the PRC's first three Five Year Plans, extending from 1953 to 1970, were by-and-large successful in stimulating sustainable industrial development. Real GDP per capita tripled between 1952 and Mao's death in 1976, substantially outpacing European, American, and Soviet growth over the same period. This was, of course, overshadowed by China's far more explosive economic growth after 1980, but it undeniably laid the industrial foundations for that later period.

There is, therefore, a compelling vertical argument that greater amounts of capital accumulation and investment—largely but not entirely state-driven—were the primary driving force behind China's accelerating pace of industrialization from the 1930s onward, despite interruptions by Japanese invasion (1937-1945), civil war (1945-1949), and the one-time policy-driven disaster of the Great Leap Forward. Furthermore, scholars have long established that an anemic lack of capital was one of the central challenges faced by late Qing industrialists: state-owned factories, concentrated on heavy industry, were routinely underfunded and few in number, whereas few private entrepreneurs could afford the machinery and infrastructure needed for industrial production.[16] The result was a slow and tentative process of industrialization, in which foreign capital achieved much greater economies of scale than domestic capital was capable of. Only a few hundred domestic industrial firms emerged prior to 1915, and most of these were severely out-scaled and out-produced by their foreign-owned competitors. In fact, many domestic firms had to rely somewhat heavily on foreign direct investment, because it was simply too hard to procure adequate amounts of domestic capital.

The underlying conditions for this undercapitalization are not hard to identify once we turn to traditional horizontal comparisons: compared to other early Eurasian economies, the late Qing economy had far less concentration of wealth, whether in private or government hands. It had, by several orders of magnitude, the fiscally weakest state anywhere among major early modern powers—even the Ottoman Empire, no one's definition of a strong state, was able to tax some 4 to 5 times more on a per capita basis, whereas stronger fiscal regimes like England or Japan could tax 15 to 20 times more.[17] In absolute terms, the Qing state was close to broke for nearly the entire 19th Century, and dramatically so after 1850. Regardless of how desperately government officials wanted to invest in industry, they simply lacked the resources to do so.

The Qing economy also had much less wealth inequality than its European counterparts: taking landed wealth as the barometer, the top 10 percent of late Qing Chinese landowners owned perhaps 45 percent of arable land, compared to upwards of 80 percent in 19th Century Western Europe.[18] Moreover, there was no significant escalation of wealth inequality in late Qing and Republican China, unlike what happened in Europe or the Ottoman Empire across the same time period.[19] Finally, due to unusually strong tenant protections and collateralization restrictions in law and custom, much of the land owned by Chinese landlords actually could not be effectively

[16] http://www.cqvip.com/qk/81908x/200003/4571902.html; http://www.cqvip.com/qk/80524x/199106/1002860276.html; http://www.cqvip.com/qk/91697x/201001/33435075.html; Linda Grove, A Chinese Economic Revolution (2006); etc.

[17] See Zhang (2022) for summary. Esherick, Number Games; Huang; Myers, etc.

[18] See Zhang (2017) for discussion.

[19] Cosgel & Ergene (2011).

utilized as either investment capital or collateral for loans, further aggravating the capital shortage. As a result, Qing manufacturing was almost entirely done through networks of small firms and household shops, while the financial sector remained limited in both size and reach.[20]

There are obvious reasons why large amounts of capital accumulation was at least a *necessary condition* of first-wave industrialization: the defining technologies of the First Industrial Revolution, most notably the steam engine and power looms, were designed to save labor through greater capital investments.[21] Most often, they did not become economically profitable unless employed at considerable scale, usually in factories employing over a hundred workers, even taking into account the labor savings they generated. The economies of scale of further capital concentration were likewise significant, encouraging the rise of mass production in the later 19th and early 20th Centuries.

In other words, the ideal conditions for these technologies to emerge and then proliferate were economies in which labor was costly but capital was cheap and plentiful. Scholars have engaged in heated arguments over the relative cost of labor in major Eurasian economies,[22] but much less attention has been given to the capital side of the model. It is true that the cost of acquiring machines and the cost of operating them did not differ too much across most major economies—a global market for technology had emerged by the late 19th Century—but that is not the only "cost of capital" that we need to account for. The cost of accumulating capital, that is, the cost of accumulating enough money to pay for machines and infrastructure, is also a theoretically crucial part of the story, and yet it has received almost no academic attention at all in recent years.

This may have been because accumulating capital was not a terribly difficult or costly task in most Eurasian economies, and therefore seemed less interesting to scholars: of all the functional prerequisites to industrialization, this was probably one of the easiest ones to check off. All it really required was serious wealth inequality: given the relatively meager amounts surplus growth in preindustrial economies, wealth inequality was effectively a precondition for private capital accumulation. In other words, the pie was simply not large enough for there to be both equal distribution *and* enough individual wealth to sustain large amounts of entrepreneurship. In the absence of robust private accumulation, large amounts of state expropriation could also suffice, provided that the state properly invested its assets.

Most European states had both high inequality *and* relatively high fiscal capacity.[23] Tokugawa Japan may have largely matched the Qing when it came to low wealth inequality,[24] but its fiscal capacity, reinforced by one of the most deeply embedded aristocracies in the world, was comparable to, if not higher than, the richest European states. Indeed, the Qing combination of persistently low (in relative terms) wealth inequality with progressively low state fiscal capacity—on a per capita basis, Qing tax rates actually fell from about 4 percent in the late 17th Century to around 1 percent by the late 19th—was very unusual, quite possibly unique. Low capital accumulation across the board was rare in early modern economies, but it was a defining

[20] Grove (2006); Ma (2019).
[21] Cambridge Econ. Hist. Europe, vol. 1, ch. 7; Allen, Industrialization: Stearns (2015).
[22] Allen et al.
[23] Khanna (1978).
[24] Kumon (2019).

characteristic, arguably *the* defining characteristic, of the Chinese economy until the mid-20th Century. "How can an early modern economy accumulate capital" may very well be a mundane question with easy answers, and yet this only makes the question of "why did the Qing economy fail to accumulate enough capital" all the more interesting.

To summarize, the idea that low capital accumulation was one of the major reasons behind China's initial industrial underdevelopment seems to check out in both horizontal and vertical comparisons. Horizontally, the Qing economy was comparatively undercapitalized—severely so, in fact—which had a visibly significant impact on the structure of production and financing. Vertically, nearly every single phase of acceleration in China's century-long industrialization process followed, and functionally benefitted from, a significant increase in capital accumulation. Very few, if any, explanations of the Great Divergence and its aftermath can claim to work along both comparative dimensions, but this one does.

I should perhaps hasten to point out what this argument does not imply: first of all, it does not imply that capital shortages were the only problem faced by China's late 19th Century industrialization push, just that, of all the possible problems, this was the one that historically produced better outcomes when later fixed. Does this suggest that undercapitalization was a more important problem than the others? Perhaps, but that does not amount to saying that the others did not matter.

Second, the argument here also does not imply that capital shortages can explain England's industrial superiority relative to any other country—quite the opposite, it argues that undercapitalization was an unusual problem, arguably a uniquely Chinese one. The *Anna Karenina* maxim, that "all happy families are alike; each unhappy family is unhappy in its own way," may well apply to industrialization as well: successful industrial economies all possessed a somewhat similar bundle of attributes, but economies that struggled to industrialize may well have lacked different sticks in the bundle.

Third, and perhaps most importantly, the argument here does not imply that capital accumulation played an identical role in all phases of the Great Divergence. Undercapitalization is primarily an explanation for why China failed to industrialize quickly even after European technology became readily available, and only secondarily an explanation for why it failed to develop those technologies domestically in the first place. In other words, it is primarily explanation for slow catch-up, and only secondarily an explanation for the initial divergence. It certainly has something to say about the latter: clearly, an economy that is unable to make widespread use of technology after it becomes available is also an economy that lacks incentive to develop those technologies in the first place, but there are the process of innovation is inherently much more complex. More individual agency, more contingencies, but also more intellectual path-dependency. Once Western technologies flowed, in, increasing capital accumulation may well have been a sufficient condition for Chinese industrialization, but it was almost certainly no more than a necessary condition prior to that.

From Legal Institutions to Capital Accumulation

The question then becomes: why did the early modern Chinese economy have comparatively low levels of capital accumulation? The answer has already been alluded to, but it deserves a somewhat more detailed overview here. There were, as noted above, three different pathways to capital accumulation in preindustrial economies: individual private accumulation, state accumulation, and collective private accumulation.

The first and perhaps most common pathway was the private accumulations of assets and profits. There were numerous ways to do this: trade, manufacturing, and agriculture all offered somewhat reliable ways to turn a profit if one possessed the necessary mental, material or social qualities. In countries with large natural resource endowments, whether within their home territory or in colonies, natural resource extraction and processing alone could offer significant profits. Regardless of the way that profits were generated, though, they had to be stored in assets that could hold their value over time, which in pre-industrial economies generally meant land or precious metals, predominantly the former. The rush of wealthy merchants to convert their commercial profits into land is a common feature of nearly all early modern economies, from England to China and almost everywhere in-between. It was not until industrialization had already taken hold that other economic assets, like factories or shares in firms, truly became significant investment instruments at the macro level.

Financial lending did occur at some scale even in these early modern societies, but large-scale lending was generally done on the basis of collateral, which again brings us back to land, the preferred source of collateral in the vast majority of contexts. Collateralized lending on the basis of land accounted for the great majority of financial transactions in Qing China, as it did elsewhere in Eurasia.[25] All in all, the concentration of landholding is probably the single most accurate measure of pre-industrial wealth concentration in any given economy, even in economies like England that invested relatively heavily in long-distance commerce and had relatively active financial markets. Along this dimension, China was, as previously discussed, a far more egalitarian place than nearly any European country, and most Asian ones.

One could argue, of course, that high levels of wealth inequality are not necessary for industrialization if the total amount of wealth in society was large enough, but this was essentially never the case in pre-industrial economies. Even with the kind of "Smithian growth revolution" that some economic historians attribute to England in the 17th and early 18th Centuries, by then already the richest major economy in the world, only the top 5 percent or so of the wealth hierarchy could afford a serious self-funded venture into industrialization entrepreneurship.[26] The pie was simply not large enough, and in only a few major countries—mainly East Asian ones—was it divided somewhat equally (with "somewhat" being the operative word here).

The second pathway was, of course, state wealth accumulation. This could be done either through taxation, which by the early modern era was the most prominent mechanism, or through direction ownership of economic assets, again primarily land-based. The latter tended to run into significant sociopolitical opposition in an era where land was scarce and state power not nearly as strong as it later became in modern times, but the former had been institutionalized across

[25] E.g., Hodgson (2021).

[26] Lindert 1986 for household wealth estimates.

Eurasia since ancient times.[27] Once the state accumulated wealth, it had to spend it in economically productive ways for there to be any meaningful benefit to industrialization, but this could usually be readily accomplished simply through military spending, which accounted for the lion's share of state spending prior to the modern rise of the welfare state, and synergized with industrial development in obvious ways throughout the early modern era.

In economies where wealth-holding was relatively scattered and state accumulation relatively limited, a third path was theoretically possible: significant numbers of medium-sized capital holders could pool their assets together into a single enterprise, thereby gaining the requisite economies of scale for industrial investment. To some extent, this path had always been available in major Eurasian economies since at least the middle of the First Millennium, in some places well before that: various forms of partnerships and family firms existed in some abundance during Roman times, and came to play major roles in long distance commerce across Eurasian trading routes no later than the 6th or 7th Centuries.[28] The modern business corporation, which allowed for capital accumulation at much larger scales between strangers, gradually became legally available for private use—developing from 17th Century state-backed prototypes like the English and Dutch East India Companies—in European economies by the 19th Century, and in Asia by the early 20th.

In theory, any one of these paths can provide enough overall accumulation to fund industrial takeoff. In practice, most countries that managed to industrialize in the 19th and early 20th Centuries made use of more than one: England, for example, saw all three in action to some extent in the 17th and 18th Centuries, as did France at slower pace, and then Germany in the 19th Century. Japan had relatively egalitarian land distribution throughout the Tokugawa era, but could rely on unusually strong state finances during the Meiji industrialization phase. China, in contrast, could rely on *none* of them until well into the 20th Century: land distribution was comparatively equal, the state was fiscally weak—shockingly so, almost, and joint stock businesses could not muster the requisite scales of investment. This combination was very rare in the early modern world, even among economies that fell behind in industrial terms. How and why did it emerge in China?

The story is a fundamentally legal and institutional one. As should already be obvious from the brief descriptions provided above, all three pathways operationally relied upon specific legal institutions: for large-scale land accumulation to occur, property institutions and contract law had to facilitate a certain degree of functional alienability. For effective state accumulation to occur, states had to at least be willing to tax somewhat aggressively. For joint stock firms to emerge *en masse*, certain kinds of business organizations would have to be legally supplied and institutionally supported. The argument here is that, perhaps uniquely among pre-industrial legal systems, the Qing and early Republican legal regimes failed—or, more accurately, declined—to do all three of these things.

First, property law: early modern land accumulation is generally a process of transfer from smallholders into the hands of large landlords or "managerial farmers" —the economic historian's term for large agriculturalists who employed farm laborers instead of renting out to

[27] E.g., Webber & Wildavsky (1986); Genschel & Seelkopf (2021).
[28] Harris (2021).

tenants.[29] Most often, this occurs involuntarily in pre-industrial economies where land is usually the most valuable economic asset and means of production: while the purchaser need not actively *coerce* the smallholder into selling, he is usually in a position to take advantage of some personal financial duress. Few smallholders (or large landowners, for that matter, but smallholders were of course far more likely to suffer financial duress) would willingly exchange their property rights for cash unless they had no other options to make ends meet, which almost always meant that they were in debt, or faced large, unavoidable cash payments of some sort. Under these circumstances, their preferences was usually to borrow—via collateralized lending—instead of to sell outright: the former at least held out the hope of retaining the land.[30]

As a result, the volume of land accumulation in any given economy tended to depend on the legal terms of collateralized lending. Harsher terms against borrowers would lead to more land changing hands permanently, both because they triggered default more easily, and because sufficiently harsh terms could incentivize more smallholders to sell land directly to avoid the transactional costs of collateralization. At the other end of the spectrum, extremely lenient terms could significantly extend the possibility of repayment and land redemption for smallholders, allowing them to stave off full alienability longer, and in some cases avoid it altogether.

One might imagine that the terms of each individual transaction would be worked out on a case by case basis, but the law and custom of collateralized lending was such a socioeconomically charged issue, with enormous consequences especially for smallholders, that it was often negotiated at the regulatory level, with mandatory rules imposed upon individual transactions. In these negotiations, richer households looking to accumulate land would try to impose uniformly harsh terms via law or custom, while smallholders sought the opposite. This basic class division and its ensuing power dynamics appeared to underlie property legislation and regulation in numerous countries, ranging from England to France to China to Japan. The resulting institutions, however, differed sharply between them.

At one end of the spectrum were most Western European legal regimes, most notably the English one, in which borrowers were treated extraordinarily harshly until the 18th Century. The English Common Law of the 17th and early 18th Centuries, during which most of England's land accumulation occurred, imposed serious penalties for debt default, usually through direct forfeiture of the collateralized property to the lender without any further payment. Because collateralized lending could usually be done only at around 15 shillings to the pound (or around 75 cents to the dollar), so to speak, these arrangements often forced the borrower to lose the collateralized land for much less than its full market value. Moreover, the window for repayment/redemption was usually very short, no more than "a year and a day" under most customary rules. For most smallholders, repaying in full during that period, when significant financial duress generally underlay the original act of borrowing, was unlikely to say the least. This meant that many of them preferred to simply sell the land outright—at least they could recoup the land's full market value in that case.

At the other end of the spectrum was China, and perhaps *only* China among early modern countries. Qing and Republican customary law, which tended to control local land transactions

[29] Huang; Allen; Shaw-Taylor etc.

[30] See generally, Zhang (2017).

in lieu of formal law, went to enormous lengths to protect the interests of borrowers, and therefore smallholders. Most local customs allowed borrowers to keep redemption rights over collateral alive for, in theory, eternity, and certainly for many decades in practice, all at no interest—the economic consideration given to lenders was temporary use of the land, not financial interest. They also provided for strong foreclosure protections in case of actual forfeiture, which assured the borrower of at least recouping the land's full market value. Combined, these institutional features effectively removed most incentives smallholders might have had to permanently sell off their land, making land accumulation in China a remarkably slow and difficult process.

Other facets of Chinese property law also made life very hard for would-be land accumulators. Tenancy laws and customs gave robust protection to so-called "permanent tenants," who dominated rental markets in much of the country, and were shielded from nearly all rent increases, fees, and evictions over very long periods of time. In contrast, by the 17th Century, their Western European counterparts—copyholders in England, for example—had lost these legal protections under constant institutional pressure from landlords.

Chinese inheritance law posed yet another set of problems for land accumulation: whether formal or customary, generally mandated equal division among sons in the event of family division. This was a much larger problem for richer households, who could actually afford to have multiple children, than it was for smallholders, who on average only had about 1 male heir. This led, over time, to the division of large estates, and stood in sharp contrast to European inheritance laws—including but certainly not limited to primogeniture and the use of entail—that facilitated, even encouraged, families to keep most of their landed property in one piece over multiple generations. All in all, the relative lack of landed wealth inequality in pre-industrial China can be traced directly back to the property institutions that government land transmission.

[More details are provided in my 2017 book, *The Laws and Economics of Confucianism*. A segment of the book introduction is attached for those interested in further reading.]

Second, taxation: this is a much simpler story than the complex picture of Chinese property institutions presented above. The fiscal muscle of most early modern states depended most prominently on their willingness and ability to tax. In most cases, such willingness was not hard to come by: in wartime, military spending alone usually created enough willingness, while economic and demographic expansion in peacetime would gradually have the same effect. Ability was harder to acquire, requiring significant amounts of institutional investment and political authority, but by the 1700s no major Eurasian state lacked the basic administrative infrastructure to collect and raise taxes. The Qing state, in particular, had one of the most sophisticated bureaucracies in the world, and even maintained the capacity to systemically increase revenue during its nadirs in the Taiping Rebellion and after the Boxer Rebellion. What it consistently lacked, however, was the willingness to tax—more precisely, the willingness to tax agricultural beyond an extremely low fixed quota set in the dynasty's infancy.[31]

The direct cause of the Qing's fiscal weakness was very simple: after the 1680s, it essentially shut down agricultural tax hikes for the next 220 years, despite the fact that both the economy

[31] See generally, Zhang (2022).

and the population more or less tripled over that time span, and despite the enormous demand-side pressures it faced during 19th Century (and even at various points during the 18th) due to a combination of wars, rebellions, famine, and just straightforward demographic expansion. The government formally outlawed some of the administrative tools that were usually needed to facilitate rural tax hikes—for example, the *Great Qing Code* banned provincial and local level land surveying from the 1740s onward—and was in general hostile to even the suggestion of them. By the late 18th Century, the Imperial Court had gotten into the habit of automatically demoting most local officials who proposed any agricultural tax increase. As a result, by the mid-19th Century, the formal agricultural tax rate was less than 1 percent, and not much more than that even if we count informal surcharges. The agrarian economy likely accounted for some three quarters of GDP throughout the dynasty, and no amount of increased taxation on the remaining quarter could adequately compensate for a sustained and systemic refusal to extract more from agriculture.

The Qing fiscal regime was, in this dimension, an extreme outlier in the early modern world, whether compared to other Chinese dynasties like the Ming or Song, or compared to other early modern Eurasian states. No other state in either set made such a firm and durable institutional commitment against raising agricultural taxation and, as a result, no other state was nearly as fiscally feeble. In terms of fiscal capacity, pre-industrial Eurasian states generally fall into three categories: island countries that tax relatively heavily, namely England and Japan, both at around 15 percent or more GDP annually; mid-sized continental countries like France, coming in at around 10 percent of GDP; and large, land-based Asiatic empires like the Ottoman empire or Russia, which usually taxed around 5 to 6 percent. Far below this final category came the Qing Empire, which taxed a mere 1-2 percent in the 19th Century. Small government can often be a virtue, but when taken to such extremes, it rendered the state powerless to spend even when it badly needed to.

[More details are provided in my shortly forthcoming book, *The Ideological Foundations of Qing Taxation* (September 2022). A segment of the book introduction is attached for those interested in further reading.]

Finally, business organizations: in theory, industrial capital need not rely on either individual private accumulation or state accumulation, as long as individuals can easily pool their assets into larger scale joint ventures that provide the requisite economies of scale. This sounds easy enough, but can be quite difficult in practice: to operate at scales qualitatively larger than what individual accumulation can offer, these ventures must regularly incorporate capital from beyond a single closely-knit community. That is, they will often have to be built upon collaboration between strangers. Firms operating within a single lineage or social network are, of course, much easier to form and manage, but have far more limited scaling abilities, and, in the absence of robust individual or state accumulation, have not historically been that effective in generating industrial capacity.

Modern legal systems have primarily facilitated business collaboration between strangers through the so-called business corporation—defined here as a firm that makes use of a specific bundle of legal technologies, most importantly separate legal personhood, capital lock-in, and asset partitioning. This is a broad category that incorporates entities that modern business would

recognize as private limited liability companies instead of publicly traded corporations. It is largely distinguished from traditional partnerships and family firms by its use of asset partitioning, including both limited liability and entity shielding, which separates the assets and liabilities of the firm from those of its shareholders. This allows the corporation to dramatically reduce shareholder financial risk, thereby making collaboration between socially unconnected persons much easier to navigate. Indeed, rarely in human history has such collaboration ever been accomplished at large scales without some form of asset partitioning.[32]

Unlike most other legal technologies that comprise a business corporation—separate legal personhood, for example, has at least a 2000 year history—asset partitioning is a distinctly modern phenomenon. It became a prominent feature of various European state-backed proto-corporations that were formed during the 17th Century, and then slowly spread into private firms over the next two centuries. In China, it only began to gain substantial usage around 1930 or so, and not really until the 1980s and 1990s did it really play a major economic role. For essentially the entirety of imperial China, no entity shielding was recognized in business entities.[33]

As historians have argued for some time now, this was a significant obstacle to capital accumulation in the 19th Century, when the escalating economic importance of long distance trade put great pressure on entrepreneurs to operate beyond their immediate social circles. Partnerships formed without asset partitioning fell apart very easily at the first sign of economic turmoil. Family firms were more durable, but could not usually offer the scale of operation or geographical reach that long-distance trading and large-scale production demanded. On its own, this would not necessarily have been a serious economic problem—Meiji Japan, for example, enjoyed a long stretch of robust industrial growth without significant use of corporate legal technologies—but in an economy that otherwise lacked both private and state accumulation, it, too, became a highly salient issue that multiple governments, from the Qing to its Republican successors, to the PRC Party-state after 1980, would try to "fix."

All in all, we can clearly trace pre-industrial China's capital accumulation problem back to a number of its legal and institutional characteristics: the unusually strong protection of smallholder interests provided by its property institutions; the extreme hostility to agricultural tax hikes in its fiscal structure; and the absence of risk-alleviating legal technologies like the corporate form. None of these characteristics was necessarily problematic on its own—egalitarian landholding comes with significant socioeconomic benefits, as do low taxes, while the emergence of large business corporations is often a mixed blessing—but when they coalesced in the same economy at the same time, they made large scale capital accumulation extraordinarily difficult.

In the end, China did not manage to successfully industrialize until at least one of these legal obstacles was removed, or at least weakened. Fiscal constraints were the first to go: from 1912 onwards, Republican and Communist governments decisively abandoned the fiscal conservatism that had characterized the Qing, and replaced it with an ever more aggressively statism that dominates Chinese economic policymaking to this day. Taxes rose as state spending needs escalated, until agricultural taxes reached some 10 times their late Qing levels by the early

[32] Harris (2021); Kuran, AJCL; Zhang & Morley (forthcoming).

[33] Zelin (2005) etc.

PRC.[34] Once the PRC state embraced economic "opening-up" in the 1980s, the door opened for private accumulation and business corporations as well. China now features some of the highest wealth inequality in the world, with some of the largest corporations. Combined with one of the most powerful state apparatuses in human history, this represents a near-total reversal, along all three dimensions, of the situation in 1900. Regardless of its other virtues and vices, the new system is, at the very least, one that boasts more than adequate levels of capital accumulation—perhaps even too much of it.

Most institutional economists would probably just draw a final conclusion here: deep-rooted legal institutions shaped global economic outcomes, end of story. Of course, the specific mechanisms through which the former caused the latter are different from those offered in mainstream institutional economics, focused on capital accumulation instead of secure property rights, but up to this point this is still an institutional economics narrative. This book, however, wants to take a big step further: legal institutions are man-made creations, and any systemic thinker must always inquire about their origins. How did Chinese legal institutions become like this? What explains their enormous differences with other Eurasian regimes? What, if anything, was the underlying "spirit" or rationale that illuminated their internal logic?

From Culture to Legal Institutions

Ultimately, this books comes back to culture as its core explanatory factor. Various forms of sociopolitical culture underlie the legal institutions discussed above, and help explain why a similar package of institutions never emerged in other major Eurasian countries. This is, to a large extent, a story of Chinese exceptionalism, fundamentally cultural in nature. Even so, the casual link between culture and law bears little resemblance to traditional Weberian paradigms, or to other forms of cultural theory popular among anthropologists and sociologists in the later 20th Century. Much of the individual behavior described in the cultural narrative presented here can be described as economically rational, even though mainstream economic theory would have a hard time recognizing and incorporating it.

Like property institutions in most early modern regimes, Qing and Republican property institutions were rooted in customary law—which borrowed concepts and basic structures from formal law, but was substantively independent along many dimensions, which was negotiated at the local level between various interest groups. Those institutions with the strongest wealth distribution effects, such as collateral lending instruments and tenancy laws, were often the subject of fierce rich-poor conflict, which again was something that China had in common with many other Eurasian countries. The differences lay in the outcomes of these negotiations: as discussed above, smallholders secured significant victories in China, obtaining favorable legal rules in collateral redemption and permanent tenancy, but failed spectacularly on those very same issues in Western Europe.[35]

For the most part, these divergent outcomes simply reflected the different kinds of social hierarchies employed in different countries. The dominance of kinship networks in Qing and Republican society, operating under broadly Confucian norms of social ranking, allowed many

[34] Zhang (2022), ch. 6.

[35] See generally, Zhang (2017).

relatively poor individuals to possess status and political authority highly disproportionate to their wealth. Under these cultural norms, which governed the operation of most kinship networks and villages, advanced age and generational seniority were arguably stronger determinants of sociopolitical status than wealth, even though wealth still mattered to some extent. As a result, a substantial share of village and lineage leadership positions in core Chinese regions were held by smallholders, in some cases by peasant tenants who owned almost no land of their own. This gave them the sociopolitical capital necessary to fight for their core interests, and while they were not always successful, they won at least some important institutional victories, most notably in property law.

In comparison, landed wealth was a fairly strict sociopolitical prerequisite for high status and authority in the far more "individualist" society of early modern Western Europe (specifically 1500–1700), essentially excluding low-income individuals from secular positions of prestige and leadership. The making, interpretation, and enforcement of early modern legal rules (including customary legal rules) at all levels of society was dominated by relatively wealthy men, nearly all of whom invested heavily in land. Smallholder representation in positions of power and authority was nearly non-existent by the 16th Century, and generations of historians have carefully documented their sociopolitical, legal, and economic decline. Sino-European differences in property law can therefore be traced back to different cultural paradigms of status allocation.

[This is, of course, a far more complicated argument than can be presented in these couple of paragraphs. In the interests of saving time, I will simply refer readers to a selection from *The Laws and Economics of Confucianism* (2017), which summarizes the argument in full.]

Qing taxation operated a different set of sociopolitical norms—those that influenced elite thinking, rather than local status distribution—but its institutional idiosyncrasies can also be traced back to Confucian values and norms. At the same time, one must be careful to not overstate the connection between Confucianism and Qing tax institutions: nearly all major Chinese dynasties prior to the Qing politically adhered to Confucian norms, but none of them were nearly as fiscally weak as the Qing. In fact, both the Song and Ming dynasties imposed tax rates that were broadly comparable to other early modern Eurasian states, whereas the Qing was, as noted above, an extreme outlier in both horizontal and vertical comparisons. Hence, what drove Qing taxation was not some sort of originalist Confucianism, but rather an unusual renovation of old Confucian ideals under political circumstances unique to the 17th and early 18th Centuries. The product of this renovation was what we might call the ideology of Qing fiscal conservatism, which went on to dominate lawmaking and policymaking for some 220 years.[36]

Note that the operative word in the previous sentence is "ideology," rather than just "culture": the elite-oriented, intellectual systemic nature of Qing fiscal conservatism deserves the former moniker, instead of just the latter. That said, if one understands an ideology to simply be a more systemic set of cultural values, then an ideological phenomenon is still a cultural one, just one with certain intellectual characteristics.

[36] See generally, Zhang (2022).

The set of sociopolitical circumstances that produced Qing fiscal conservatism in the mid-17th Century were hard to find anywhere else in world history. The Qing's immediate dynastic predecessor, the Ming, was destroyed in 1644 by a convergence of domestic and external forces: severe famines caused by the 17th Century Eurasian "Little Ice Age" set off massive peasant rebellions in China's Northwestern provinces, which coincided with Manchu invasions from the Northeast. After more than a decade of fighting, the peasant army sacked Beijing and forced the last Ming emperor to commit suicide. This made the Ming the only major Chinese dynasty to have been formally destroyed by a peasant rebellion—some others were severely weakened by them, but none outright defeated in such a definitive fashion. The psychological trauma caused by this event was, needless to say, immeasurably deep, and rapidly produced a fundamentally new ideological paradigm in which agricultural tax hikes were all but inconceivable.

This new paradigm effectively weaponized an old Confucian moral belief in low taxes and "not competing for profit with the people." The belief, which had existed since the 4th Century BC, was one of those standard maxims that almost all Confucian scholars paid some lip service too, but had rarely, if ever, prevented dynastic states from raising taxes when needed. In the early Qing, however, it intellectually and politically synergized with a massive elite campaign to "learn from the mistakes of the Ming," swiftly producing a narrative of Ming collapse in which the primary culprit was late Ming agricultural tax hikes. This narrative was factually dubious at best, but it fit easily within both traditional Confucian moral thought and the pessimistic, accusatory ethos of the age, and was almost instantly embraced by mainstream scholars and officials. From there, they naturally identified late Ming fiscal quotas—before the early 17th Century tax hikes that had supposedly killed off the dynasty—as some sort of political red line, beyond which no government interested in basic self-preservation should ever step.

Now seeing agricultural tax hikes as not just a moral failing, but as a real matter of life or death, the Qing state quickly committed, intellectually, politically, and institutionally, to never pursuing them. It went so far as to formally outlaw administrative tools that could have led, in the long run, to some intellectual reconsideration of this commitment: for example, land surveying by provincial and local governments was legally banned from the 1740s onwards. This left both the state and the intelligentsia without the necessary macroeconomic information to challenge the now dominant—yet increasingly false—belief that any agricultural tax hike would tip peasants into starvation *en masse* and therefore set off massive rebellions. By the 18th Century, what began as an ideological shift in the 1640s had hardened into a dominant institutional paradigm that would take two centuries of fiscal weakness and multiple political crises to finally discard.

[This, too, is only an extremely crude summary of a very complicated argument—I will almost certainly need to flesh it out more in a future draft. For a fuller summary that might actually begin to answer some questions, see the selections from the Introduction to *The Ideological Foundations of Qing Taxation*, attached below.]

It is tempting to also explain China's lack of business corporations by directly blaming its Confucian culture. After all, more than one economist has tried to argue that the widespread use of lineage firms in Qing and Republican China impeded the legal development of more stranger-oriented forms of business organization, and it is easy to further argue that the popularity of

lineage firms was driven by the Confucian glorification of lineage self-governance.[37] Unfortunately, this argument is probably incorrect, as it cannot explain why the vast majority of business firms eschewed the corporate form even in economic contexts, such as long distance trade and large scale industrial production, where traditional lineage firms were clearly inadequate, and even after the corporation had been nominally recognized by formal law in the early 20th Century.

A better argument, and one that fits just as easily within this book, is that widespread private use of the corporation form is only possible after the emergence of a relatively strong state legal system that can uniformly enforce rules and agreements across large geographical and social distances.[38] In other words, the rise of the business corporation requires at least some serious investment in modern state-building, and such investment was largely impossible under the extreme fiscal constraints of the Qing. As a result, no matter how badly asset partitioning was needed in some late-Qing or early Republican economic contexts, and no matter how explicitly the corporate form was recognized, even encouraged, by formal legal statutes, private business simply ignored it until stronger formal legal institutions were made available. This did not really happen until the late 1920s, when a wave of concerted state-building on the back of stronger government finances began to "modernize" the court system, and shortly thereafter we begin to see a growing number of business corporations being created in China's main industrial and financial centers.

This functional reliance on formal, state-supplied legal institutions is something that differentiates the business corporation from most private law institutions. As noted above, Qing property and contract law was largely customary in nature, and while its specific content impeded capital accumulation, there was nothing defective, in general, about its predictability, stability, reliability, or clarity. The same was true of property, contract, and torts across most of the early modern world: such institutions could easily function through bottom-up self-governance within closely-knit communities. Similarly, most forms of partnerships and family firms did not need formal state enforcement to function.

The reason why corporations are different is not that asset partitioning is somehow impossible to enforce within closely-knit communities, but rather because it is not particularly useful in that context. Asset partitioning, in both its entity-shielding and investor-shielding forms, is essentially a mechanism that shifts risk from investors to creditors, including both voluntary contractual creditors and involuntary tort creditors.[39] Within closely-knit communities, the financial risks of business collaboration are typically much lower than what they would be in stranger-oriented societies, because collaborators tend to be well-informed about each other's economic circumstances.[40] The benefits of shifting risk onto third-parties—either contract creditors or potential tort creditors from society at-large—are therefore substantially lower.

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[37] Greif & Tabellini (2017) etc.

[38] See generally, Zhang & Morley (forthcoming).

[39] Tort creditors refer to third parties who are legally entitled to damages due to the firm's conduct. That is, they are people the firm commits a tort against.

[40] On cooperation in closely knit communities, see sources cited *supra* note **Error! Bookmark not defined.**.

Moreover, under such conditions, engaging in asset partitioning despite the lower benefits sends a more negative signal to potential creditors, leading to higher interest rates for borrowing.[41] This combination of substantially lesser benefits with potentially higher costs makes it quite unlikely that asset partitioning would have been strongly attractive to groups of joint stock investors within the same closely-knit community.[42]

The situation is very different in stranger-oriented business relationships. There, the information barriers between partners are typically much higher, and the risks correspondingly larger. This greatly enhances the incentive to shift financial risk onto third-party creditors, who may have stronger institutional tools to price and digest risk because of their ability to charge interest. As a result, we should expect there to be significantly greater demand for asset partitioning legal technologies in business relationships that cover greater social and geographical distances. Because such relations generally extend beyond the boundaries of any single closely-knit community, their rule enforcement and dispute resolution needs likewise extend beyond the institutional capacities of those communities. Instead, they need to rely on the legal capacities of an entity that can cross large physical and social distances—in other words, a reasonably functional state.

[These arguments about the state-reliant nature of corporations are drawn from an article forthcoming in the *Yale Law Journal*, titled "The Modern State and the Rise of the Business Corporation." A draft of this article can be found at https://ssrn.com/abstract=4037726.]

From this perspective, the absence of corporations in the Chinese economy was essentially a downstream consequence of weak state capacity, which itself was a consequence of ideological shifts in the tax regime. We can reasonably say, therefore, that all three sets of legal institutions that were responsible for Chinese undercapitalization had at least some connection to Confucian culture, although the connection was somewhat more direct for property and taxation than it was for corporations. All in all, the combination of these causal mechanisms between culture and law produced an economy where private wealth-holding was relatively dispersed, the state was extraordinarily poor, and, as a result, business relationships were hard to sustain beyond the confines of closely-knit social networks.

A "Cultural System"?

The "cultural connections" identified in the previous section contain both top-down and bottom-up varieties—ideological fiscal conservatism at the very highest echelons of government,

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[41] Essentially, it would send a signal that investors expect relatively large amounts of unpredictability and risk in the business's foreseeable future, significantly beyond what normal closely held firms in closely-knit communities would experience.

[42] Note that I do not claim that, in absolute terms, there should be *no* demand for asset partitioning in closely-knit communities. The fact that a large amount of modern corporations are closely held clearly indicates that there can be such demand. *E.g.*, DOUGLAS K. MOLL & ROBERT A. RAGAZZO, CLOSELY HELD CORPORATIONS (2019); George D. Hornstein, *Stockholders' Agreements in the Closely Held Corporation*, 59 YALE L. J. 1040 (1950). The question is whether such demand was deep and powerful enough to motivate closely-knit communities to recognize the corporate form—and I find good reason to be skeptical of this. Strictly speaking, the claim here is a comparative one: In theory, there is significantly *less* demand within closely-knit communities than there is beyond or between them, perhaps enough to explain why corporations only emerged in the latter context.

combined with culturally-infused social hierarchies at the grassroots. The two mechanisms did not merely happen to coexist during the Qing, but in fact synergized both functionally and intellectually. Together, they produced a real "cultural system" in which different parts of the system mutually reinforced according to a coherent internal logic. This helps explain the system's unusual durability and power: durable enough to stay dominant across more than two centuries of sometimes volatile change, and powerful enough to suppress the very fundamental human urge to maximize wealth across a large population of sociopolitical elites.

There are multiple levels to this synergy. At the most basic functional level, exceptionally weak government finances forced the Qing state to rely on local self-governance to provide an ever growing share of public goods, from the supply of customary rules to the maintenance of public security, to the provision of dispute resolution services, to irrigation and famine relief programs. Most other Chinese dynasties had a frequently strained relationship with local lineages and social organizations, sometimes seeing them as a threat to government authority. In contrast, the Qing, especially after mid-dynasty, expressly encouraged the formation of lineages as a self-governing entity.[43] Given its own fiscal limitations, it likely had no choice.

The reverse of this dynamic was, of course, that increasingly strong lineage self-governance made it sociopolitically possible for the state to retreat from local administration without suffering any immediate downturn in social stability.[44] Some larger programs—military upkeep, large-scale famine relief, and eventually industrialization pushes—could still only be financed by the state, and did suffer considerably from its fiscal weakness, but the damage done on those dimensions was slower to reveal itself. In the meantime, the Qing state managed to maintain basic peace and social order across a population of some 350 million people, but at only a fraction of the fiscal budget of most other Eurasian powers.

If we look a little deeper, then it also becomes apparent that the self-governing capacity of lineages was at least partially derived from the fact that generational seniority, rather than wealth, was the clearest determinant of social status within them: within closely knit communities, a social hierarchy that runs on age is most likely a lower cost and lower conflict system than one that runs on wealth. Age is, in fact, easier to identify than wealth—or at least it is harder to hide—and age-based hierarchies do not directly cause the immediate class-based tensions and jealousies that wealth-based hierarchies tend to trigger. Moreover, social mobility is vastly easier to achieve under the former than the latter: all one has to do to gain status under the former is to live longer, and there is little evidence that rich-poor life expectancy gaps were terribly severe in pre-industrial economies. At least some status increase is easily achievable in the average lifespan, and tends to defuse social tensions. In contrast, wealth accumulation takes generations, if it is actually achievably at all. In all likelihood, the ability of kinship networks to provide social stability in the wake of state administrative retreat benefitted substantially from their Confucian status norms.

Functional synergies aside, contemporary political elites also understood state forbearance and Confucian family values as having a certain kind of moral and philosophical synergy. The simplest version of this was just that state forbearance was itself a major moral objective, and

[43] Rowe, Qianlong-Jiaqing; etc.

[44] Wenkai He (2021); etc.

that, echoing the functional dynamics described above, kinship oriented self-governance was a way to facilitate it.[45] More complex arguments viewed kinship oriented self-governance as the ultimate objective: if Confucian morality fundamentally relied upon one's conduct towards family members, and if voluntary good behavior is morally superior to coerced good behavior, then a robust measure of intra-family self-governance is necessary for the realization of Confucian morality.[46] This required the state to stay out of family affairs whenever possible. If families became so large that they controlled entire geographical areas—that is, they became lineages with significant social clout and territorial claims—then the state should tolerate some degree of political decentralization. Confucian family ethics demanded state forbearance just as much as it made it administratively possible.

When pieced together, all of these functional and moral interactions created a largely coherent cultural system that encompassed most of sociopolitical life in Qing China. The general population aspired to, and expected, some degree of self-governance along Confucian ethical lines, and the government was largely content to grant them that. The reverse of this was that the private sector did not expect much in the way of governmental support, either institutional or resource-wise, and the government was content with that, too. All in all, the visions of state-society balance that existed in most components of Qing society tended to agree with one another: elites and commoners alike were in broad agreement on the proper scale and role of government control and local independence. On the one hand, this locked into place a cultural-legal paradigm that eventually had seriously negative economic consequences, but on the other, it supplied unusually efficient and stable social governance over and unusually long period of time. The cost-benefit calculus between these consequences inevitably seems clearer in hindsight than it possibly could have at the time.

[Note to readers: Given the time constraints I was operating under, the most I could do with this draft Introduction was to give a largely complete summary of the core argument. There are some obviously missing components that would otherwise be part of a good introduction: a fuller literature review, a discussion of theoretical contributions, perhaps a discussion of temporal and geographical focuses, a discussion of concepts and terminology, and a chapter outline. Nonetheless, the hope is that, with the reference material I am attaching below, there is enough meat on the bones here to get a good conversation going. Looking forward to it.]

[45] Huang Zongxi etc.

[46] See the various Fengjian Lun debates, or Feng Guifen's writings on the subject.

Excerpts from the Introduction to *The Laws and Economics of Confucianism* (2017)

Overview

The aim of this book is, in one sentence, to demonstrate a chain of causation between cultural norms, legal institutions, and macro-level economic outcomes in early modern, pre-industrial China and England. It argues that the dominance of kinship networks in later Qing and Republican society (1860-1949), operating under broadly "Confucian" norms of social ranking, allowed many relatively poor individuals to possess status and political authority highly disproportionate to their wealth: Under these norms, advanced age and generational seniority were much stronger determinants of sociopolitical status than wealth. In comparison, landed wealth was a fairly strict prerequisite for high status and authority in the far more "individualist" society of early modern England (specifically 1500-1700), essentially excluding low-income individuals from secular positions of prestige and leadership. Directly reflecting the much higher sociopolitical clout of lower-income households in rural China, Chinese customary laws governing the selling and collateralizing of land protected their economic interests far more vigorously than comparable English institutions.

Over time, this institutional divergence had significant economic consequences: By the early 18th Century, a sizeable majority of English land was concentrated under capitalist management, with the yeomanry and smallholders in steady decline. In comparison, even by the mid-20th Century, Chinese agriculture remained predominantly household-based, indeed at the cost of comparatively low labor productivity and, more importantly, low levels of capital accumulation by potential entrepreneurs. Landownership, while not precisely "equally" distributed, was nonetheless far less concentrated and disparate than in England. The best explanation for these deep structural differences is precisely that Chinese property institutions were much more "poor-friendly," in that they allowed cash-needy landowners—who were usually poor—to collateralize land without risking permanent loss of title. This severely discouraged the permanent selling of land and, correspondingly, the accumulation of land into larger, capitalist farms. Property institutions were therefore an essential nexus that linked cultural differences concerning kinship and social organization to macro-level economic divergence.

…

Institutional Comparisons

The institutional comparison that I focus on is, at heart, a functionalist one. It stems from a question that might have been drawn from the Personal Finance Section of the *Wall Street Journal*: How did landowners cope with large emergency cash needs in early modern China and England? For small sums, they could often get by through borrowing money on their good name, without the use of collateral, but for large sums—to cover a funeral or wedding, for example—creditors in both countries generally demanded collateral. In these early modern economies, despite prevalent commercialization and perhaps some nascent industrialization, land was by far the most valuable source of capital, and hence the most important source of collateral for large-sum loans. The legal and quasi-legal instruments facilitating such collateralization fundamentally affected the market for both temporary and permanent conveyances of land and,

therefore, were some of the most crucial institutional cogs in the economy. In 16th and 17th Century England, this role was filled by the mortgage; whereas, in Qing and Republican China, it was filled by the "dian," or conditional sale.

Compared to modern Anglo-American mortgages, the "classic mortgage" of Sixteenth and Seventeenth Century England was a much duller instrument. Modern mortgages allow, of course, repayment schedules of up to several decades, generally permit the mortgagor to maintain possession of the property, and, in cases of default, arrange foreclosure auctions to raise the collateral's full market value.[47] The classic mortgage was not nearly as lenient to mortgagors: They conveyed full title or a long term-of-years to mortgagees, including the right of possession.[48] Crucially, most local customs dictated that they must repay their debts within a very short time-frame—generally six months to a year after the initial conveyance—or the mortgagees would automatically obtained fee simple ownership.

Up until the early Eighteenth Century, Common Law courts enforced these customary deadlines quite ruthlessly, so much that Chancery felt compelled to aid beleaguered mortgagors by establishing "the equity of redemption," allowing judges to extend redemption deadlines and demand foreclosure auctions upon final default.[49] These reforms did not, however, harden into established doctrine until the mid-Eighteenth Century, and even then, their preeminence over Common Law rules was questionable.

The cash-needy landowner in early modern China faced far more favorable institutional conditions. Most Qing and Republican land transactions were not permanent sales, but rather "dian" ("conditional") sales, where the conditional "seller" conveyed land to the "buyer" for 60 to 80 percent of the property's full market value, but retained the right to redeem *at zero interest*. The "dian" buyer's interest in lending money under such an arrangement was not monetary interest, but whatever profit the land could yield before the seller redeemed. He was, therefore, often protected by contractually-established "guaranteed usage periods" ("xian") of one or more years, during which the seller could not redeem. In addition, he could obtain full ownership of the land if the "dian" seller agreed to convert the transaction into a permanent sale ("mai"), upon which the seller would receive "additional payments" ("zhaotie") that made up the difference between the original transaction price and the land's present market value.

Most significantly, "dian" customs generally allowed "dian" sellers to retain redemption rights *ad infinitum*. As one local custom stated, "dian" sales "could be redeemed after several hundred years, and the price of redemption would always remain the same."[50] Similar customs were commonplace throughout China's core regions, particularly North China and the Lower Yangtze. Many explicitly forbid the original contract from setting any redemption deadline. Others allowed redemption rights to be exercised "any time after the guaranteed-usage period's expiration." These rules were not for show: Under their influence, very few "dian" contracts attempted to establish redemption deadlines, and most "dian" sales were apparently redeemed at some point. In more than a few cases, a "dian" seller or his descendants would attempt to redeem after astonishingly long periods—sometimes a century.

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[47] DAVID A. SCHMUDDE, A PRACTICAL GUIDE TO MORTGAGES AND LIENS 7 (2004).

[48] *See* WILLIAM BLACKSTONE, 2 COMMENTARIES ON THE LAWS OF ENGLAND 157–58 (Univ. of Chicago Press, 1979); A.W.B. SIMPSON, A HISTORY OF THE LAND LAW 242–43 (1986).

[49] David Sugarman & Ronnie Warrington, *Land Law, Citizenship, and the Invention of "Englishness": The Strange World of the Equity of Redemption*, *in* EARLY MODERN CONCEPTIONS OF PROPERTY 111, 113 (John Brewer & Susan Staves eds., 1996).

[50] MINSHANGSHI XIGUAN DIAOCHA BAOGAOLU [RESEARCH REPORT ON CIVIL AND COMMERCIAL CUSTOMS] [*hereinafter* XGDC] 505 (Sifa Xingzheng Bu ed., 1930).

This was an institutional arrangement rife with social tension. During the decades that often passed between "dian" sale and redemption request, families might move, original contractors might die, usage rights might be transferred to a third party, or economic conditions might change dramatically. The swelling volume of related disputes brought before local courts eventually pushed the Qing government into action: It made several attempts to limit the redemption window of "dian" sales, ordering first in the *Qing Code* that all contracts must explicitly indicate whether they were permanent sales or "dian" sales,[51] and then, in the 1758 *Board of Finance Regulations*, that regular "dian" sales must be redeemed within ten years or be converted to a permanent sale, with at most a one-year extension.[52]

Enforcement of these legal rules was weak at best. Due to their lack of coercive authority, Qing local magistrates were hesitant, even afraid, to formally adjudicate cases where central laws and regulations conflicted with local custom. By the Republican era, the government had basically admitted that Qing rules against excessive redemption were unenforceable: early Republican-era governments extended the national deadline for land redemption to sixty years, a clear concession to local custom.[53] After 1929, the newly-victorious Nationalist government attempted to impose a thirty year deadline nationwide,[54] but surveys of Northern Chinese peasants conducted a decade later suggest that their efforts were ineffectual: Most peasants had no knowledge of it, and most who did believed that no one followed it.

For "dian" sellers, these customary norms offered tremendous advantages with limited downside. Land was, to most rural residents in these early modern times, the single most valuable kind of property, not only because of its high market value but also because it was the foundation for most economic production. As various Qing and Republican era sources repeatedly claim, landowners generally sold land *only* when financial conditions made it absolutely necessary, and therefore usually preferred redeemable "dian" sales to permanent ones.[55] Under these conditions, an institutional framework that effectively eliminated the danger of default and seizure was highly attractive to cash-strapped landowners.

By contrast, this framework did "dian" buyers few favors. The constant danger of redemption after the guaranteed-usage period's expiration seriously decreased the land's value to buyers by discouraging both long-term investments to improve the land and use of the land as a reliable source of capital or collateral.[56] The tremendous attractiveness of "dian" customs to potential land sellers also drained the supply of permanent land sales, further exacerbating the difficulty of secure land accumulation. Despite all this, the demand for "dian" sales remained high during times of relative peace, driven by some combination of population growth, commercialization, and nascent industrialization.[57] All in all, "land pawning" was a strikingly

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[51] DA QING LÜ LI [THE GREAT QING CODE] [*hereinafter* DQLL] § 95-107 (1905)

[52] 1 QINGDAI GE BUYUAN ZELI: QINDING HUBU ZELI (QIANLONG CHAO) [REGULATIONS OF QING BOARDS AND MINISTRIES: IMPERIAL BOARD OF FINANCE REGULATIONS (QIANLONG ERA)] 83, 148-49 (Fuchi Shuyuan ed., 2004).

[53] 6 FALING JILAN [EDITED COLLECTION OF LAWS AND REGULATIONS] 179-80 (Sifa Bu ed. 1917).

[54] ZHONGHUA MINGUO MINFA DIAN [CIVIL CODE OF THE REPUBLIC OF CHINA], arts. 912, 924 (1929).

[55] *See* PHILIP C.C. HUANG, CODE, CUSTOM, AND LEGAL PRACTICE IN CHINA: THE QING AND THE REPUBLIC COMPARED 73 (2001); Madeleine Zelin, *The Rights of Tenants in Mid-Qing Sichuan: A Study of Land-Related Lawsuits in the Baxian Archives*, 45 J. ASIAN STUD. 499, 515 (1986).

[56] *See* Robert C. Ellickson, *The Cost of Complex Land Titles: Two Examples from China* (Yale Law & Econ. Research Paper no.441, 2011), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1953207.

[57] This is discussed in greater detail in Chapter Three, Section B. See generally, HO PING-TI, STUDIES ON THE POPULATION OF CHINa. For population growth and its impact on land and produce prices in the Lower Yangtze, see

low-risk affair in early modern China, especially when compared to the perils of English mortgaging.

Not surprisingly, the economic identities of creditors and debtors were broadly similar across the two countries: both mortgagors and "dian" sellers were generally much poorer than mortgagees and "dian" buyers. The academic literature is remarkably consistent on these points. The institutional protection of "dian" sellers was, therefore, also the protection of poor against rich. Likewise, the harsh treatment of mortgagors in English custom usually meant harsh treatment of smallholders and tenants in favor of aggressively expanding gentry and capitalist farmers. Poorer households in both societies would therefore have preferred "'dian' rules" over "mortgage rules," but only the Chinese got them.

Economic Consequences

To almost any social scientist, the institutional contrast between "dian" and mortgage triggers two immediate questions: First, what were its broader socioeconomic consequences? Second, how did this contrast emerge in the first place? The same two questions can be asked of almost any cross-society legal or institutional comparison, but are very rarely tackled by the same study, or even the same scholar. Such tunnel-vision allows, perhaps, for a cleaner argument, but is ultimately unsatisfactory. As argued above, no answer to the first question is complete without serious consideration of the second. Likewise, it is probably impossible to understand the historical rationales for an institution without also understanding its broader socioeconomic consequences. The two questions should be answered in tandem.

I start here with the first question, if only because it offers a more obvious explanation for the historical significance of "dian" redemption norms: Did the "dian"-mortgage contrast have major economic consequences? It should be pointed out immediately that this is <u>not</u> equivalent to asking "does this explain the Great Divergence." I argue that the institutional contrast did indeed facilitate deep structural differences between the two economies, but do not systematically measure how significant those structural differences ultimately were to either China's relative decline or "the rise of the West"—that panorama of economic developments that led to European dominance in industrialization, living standards, technological advancement, and military prowess. Attempting such a measurement would balloon this study to unreadable lengths, and is better reserved for future research. Instead, the Introduction and Conclusion offer some abbreviated thoughts on why—as many scholars continue to believe—the structural differences were potentially important to broader Sino-English economic differences, and how one should go about proving that.

But let me begin by outlining these structural differences: Within the wide-ranging debates on China's relative decline, one of the few points of general agreement is that, relative to England, China lacked "managerial" or "capitalist" farming—defined as agricultural production that relied more on employed labor than household labor.[58] Most scholars would agree that

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HUANG JINGBIN, MINSHENG YU JIAJI: QINGCHU ZHI MINGUO SHIQI JIANGNAN JUMIN DE XIAOFEI [CIVILIAN WELFARE AND HOUSEHOLD ECONOMICS: RESIDENT CONSUMPTION IN THE LOWER YANGTZE FROM THE EARLY QING TO THE REPUBLIC] 70-71 (2009). Population growth in urban areas was much faster than elsewhere. *Id.* at 17. For national figures, see Robert B. Marks, *China's Population Size during the Ming and Qing* 3, *available at* http://web.whittier.edu/people/webpages/personalwebpages/rmarks/pdf/env._panel_remarks.pdf (last visited November 29, 2012).

[58] *See, e.g.*, MARK ELVIN, THE PATTERN OF THE CHINESE PAST (1973); LI WENZHI ET AL., MING QING SHIDAI DE NONGYE ZIBEN ZHUYI MENGYA WENTI [THE QUESTION OF "SHOOTS OF AGRICULTURAL CAPITALISTM" IN THE MING

household-level production dominated Chinese agriculture until the Communist era. In comparison, by the early-Eighteenth Century, English agriculture—including a large portion of open-fields agriculture—was predominantly capitalist, whereas it had been largely household-based in the Sixteenth Century.[59] Relatedly, "landlords" probably owned less than 40 percent of arable land in China throughout the later Qing and Republic, with no clear upward trend, whereas conventional estimates of landownership by large landowners went from 65 to 75 percent of total land in 1690, to 85 in 1790, and 90 by 1873.[60]

Historians traditionally believed that the higher labor productivity on managerial farms created enormous agricultural surpluses that directly stimulated English industrial growth.[61] Likewise, they often saw China's relative lack of agricultural capitalism as a crippling liability that prevented robust economic development. Although more recent scholarship continues to agree that capitalist agriculture substantially boosted productivity, some, particularly Robert Allen, have questioned whether the increase was large enough to explain England's overall economic pre-eminence.[62] Pomeranz has also suggested that whatever labor productivity boost China would have gained by transitioning to capitalist agriculture was significantly smaller than previously imagined—too small, in fact, to explain much about the Great Divergence.[63] The debate remains somewhat inconclusive. Peer Vries, for example, has recently argued that scholars have been too hasty in dismissing the economic significance of capitalist agriculture, even if Allen and Pomeranz's reduced estimates are correct.[64]

More importantly, one could argue that the transition to capitalist farming was important for reasons other than simply increasing agricultural labor productivity: Most notably, it also aided industrial development by concentrating landed capital into the hands of wealthy entrepreneurs. Indeed, the idea that "primitive accumulation" of capital, specifically land, was crucial to the Western industrialization has been central to Western economic thought since Adam Smith and Karl Marx, and remains highly influential among political economists.[65]

AND QING] (1983); PHILIP C.C. HUANG, THE PEASANT FAMILY AND RURAL DEVELOPMENT IN THE LOWER YANGTZE REGION, 1350-1988, at 58-76 (1990); HUANG (1985); SUCHETA MAZUMDAR, SUGAR AND SOCIETY IN CHINA: PEASANTS, TECHNOLOGY AND THE WORLD MARKET 192-250 (1998); LI (1998), at 85-87.

[59] *See* Leigh Shaw-Taylor, *Working Paper on Agrarian Capitalism* 4, 17-18 (2008), *available at* http://www.geog.cam.ac.uk/research/projects/occupations/abstracts/paper7.pdf; ROBERT C. ALLEN, ENCLOSURE AND THE YEOMAN: THE AGRICULTURAL DEVELOPMENT OF THE SOUTH MIDLANDS 1450-1850, at 73, tbl. 4-4, 78-104 (1992); THE BRENNER DEBATE (1987).

[60] Some of the literature on Chinese landownership is summarized and critiqued at Joseph W. Esherick, *Number Games: A Note on Land Distribution in Prerevolutionary China, 7 Modern China* 387, 397, 405 (1981). On England, see J.V. Beckett, The Pattern of Landownership in England and Wales, 1660-1880, 37 ECON. HIST. REV. 1 (1984).

[61] ALLEN (1992), at 2-5, 18-19 (summarizing the field prior to 1992).

[62] ALLEN (1992), at 17-19, 218-27; Peter C. Perdue, *China in the World Economy: Exports, Regions, and Theories*, 60 HARV. J. OF ASIATIC STUD. 259, 272-275 (2000).

[63] POMERANZ (2000), at 73.

[64] Peer Vries, *The California School and Beyond: How to Study the Great Divergence?*, 8 HISTORY COMPASS 730-51, 742-43 (2010). Moreover, Allen has been criticized, based on his own data, for heavily understating the importance of capitalist farming to pre-1700 English agriculture. Shaw-Taylor (2008), at 6-7. His admission that capitalist farms were ultimately more efficient than household farms has allowed some to use his own observations against him. *See* Brenner & Isett (2002), at 626.

[65] ADAM SMITH, AN INQUIRY INTO THE NATURE AND CAUSES OF THE WEALTH OF NATIONS 111 (Joseph Nicholson ed., 1895); KARL MARX, 1 CAPITAL ch.31, *available at* http://www.marxists.org/archive/marx/works/1867-c1/ch31.htm (1867, last accessed Dec. 7, 2010). These ideas continue to be influential in modern political economics. *See, e.g.*, MICHAEL PERELMAN, THE INVENTION OF CAPITALISM: CLASSICAL POLITICAL ECONOMY AND

Correspondingly, recent histories of Chinese business development have argued that the lack of capital concentration among late-Qing entrepreneurs forced companies to either operate at inefficiently small scales, or become joint-ventures, which was difficult and costly under contemporary legal conditions.[66] The concept of limited liability, for example, did not exist in Qing business transactions, making investors far more reluctant to join entrepreneurial projects. Although 18th Century English legal institutions were not necessarily any friendlier to capital pooling—limited liability did not become commonly available to companies until the 19th Century[67]—the concentration of wealth represented and facilitated by agricultural capitalism may have allowed English proto-industrialists to bypass this institutional difficulty. In other words, because individual English landowners possessed far larger estates than their Chinese counterparts, they had much less need to form potentially burdensome joint-ventures.

None of this is to say that pre-industrial capital accumulation has historically been *impossible* without agricultural capitalism: Both the Dutch and Japanese economies—economies that may have benefitted from the existence of a strong state apparatus controlling large amounts of capital—arguably cleared the "capital accumulation barrier," if you will, without the emergence of large scale managerial agriculture.[68] Even so, based on the information currently available to scholars, one cannot dismiss the notion that agricultural capitalism played a major role in facilitating English industrialization, or, for that matter, the notion that the Chinese economy could have benefitted from more concentrated landholding. Agricultural capitalism may only have been one path among several that could have led to sufficient capital accumulation, but one can still ask why the Chinese economy chose not to take it. The claim here is simply that the relative lack of land concentration in the Chinese economy was one of its most distinctive and potentially significant characteristics. At the very least, it is something that is worth explaining in detail.

Explaining this structural difference has, in fact, proven fairly difficult. England was not always a land of managerial farms, nor was the transition easy. English agriculture was, as noted above, predominately household-based even in the Sixteenth Century, while the size of her agricultural population actually increased by *at least* 30%—quite possibly by as much as 75%—between 1500 and 1700.[69] Even in 1700, 60-80% of England's population was agricultural.[70] Meanwhile, her vaunted textile industry remained very modest in size until the later Eighteenth

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THE SECRET HISTORY OF PRIMITIVE ACCUMULATION (2000); DAVID HARVEY, THE NEW IMPERIALISM, 145-46, 149 (2005); ELLEN MEIKSINS WOOD, THE ORIGIN OF CAPITALISM 57-59 (1999).

[66] MADELEINE ZELIN, THE MERCHANTS OF ZIGONG: INDUSTRIAL ENTREPRENEURSHIP IN EARLY MODERN CHINA 223-68 (2005); William C. Kirby, *China, Unincorporated: Company Law and Business Enterprise in Twentieth Century China*, 54 J. ASIAN STUD. 43 (1995).

[67] Ron Harris, *The Private Origins of the Private Company: Britain 1862-1907* (2009), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1613206.

[68] THOMAS C. SMITH, THE AGRARIAN ORIGINS OF MODERN JAPAN (1959); HE WENKAI, PATHS TOWARDS THE MODERN FISCAL STATE: ENGLAND, JAPAN, AND CHINA (2014); Jan de Vries, The First Modern Economy: Success, Failure, and Perseverance of the Dutch Economy, 1500–1815 (1997).

[69] The 30% figure is obtained by combining data in Robert C. Allen, *Economic Structure and Agricultural Productivity in Europe, 1300-1800*, 3 EURO. R. OF ECON. HIST. 1, 11 (2000), and Theofanis C. Tsoulouhas, *A New Look at Demographic and Technological Changes: England, 1550 to 1839*, 29 EXPLORATIONS IN ECON. HIST. 169, 176-77 (1992) (using data from Wrigley and Lindert).

[70] S. Todd Lowry, *The Agricultural Foundation of the Seventeenth-Century English Oeconomy*, 35 HIST. OF POL. ECON. 74, 75 (2003); Allen (2000).

Century, as did her overseas trade.[71] The creation of managerial farms during the Sixteenth and Seventeenth Centuries was, therefore, the fundamental reorganization of a predominantly agricultural society, and not the transition between an agricultural society and a manufacturing-based one. Rather than driving people from farming into industrial shops, it more often involved the contentious process of purchasing land from smallholders, creating large farms, and then reemploying the land-deprived poor as wageworkers. Given that Qing China's core economic regions also possessed secure property rights, active markets for commodities and land, technological development, and significant urbanization,[72] what saved Qing and Republican smallholders from a similar fate?

Over two decades of academic discussion has produced no consensus.[73] Some have argued that labor was simply too expensive for managerial farming in China. More commonly, scholars have emphasized one or more institutional or legal factors theoretically related to one's ability to amass large, consolidated farms: Chinese family division customs, which divided family estates equally among male heirs and therefore deconcentrated landownership; the weaker power of eviction Chinese landlords had against tenants; and lineage rights of first refusal, which, by forcing land sellers to seek buyers among relatives before offering it to outsiders, purportedly limited a Chinese landowner's ability to sell his land. Anglo-American property law scholars will find this latter explanation particularly intuitive. American legal historians generally believe that "[m]odernity . . . fosters alienability. . . . As groups modernize, they . . . relax traditional restrictions on transfer."[74] Arguing that Chinese agricultural inefficiencies stemmed from the inalienability of land certainly applies these ideas in a straightforward fashion. Empirically, however, the argument is untenable. Existing evidence suggests that lineage rights of first refusal did very little to obstruct the efficient transaction of land in China's core socioeconomic regions. Similarly, the evidence fails to show that either family division customs or the lack of eviction rights significantly impeded the spread of managerial farming.[75]

The non-institutional explanations have their own difficulties. Data from rural labor markets indicate that most North China and Lower Yangtze peasants who possessed surplus land found it more productive and profitable to employ wage-labor than to rent out the surplus. This distinguishes much of Chinese agriculture from, for example, 17th Century Dutch agriculture,

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[71] RALPH DAVIS, THE INDUSTRIAL REVOLUTION AND BRITISH OVERSEAS TRADE 63 (1979); Acemoglu, Johnson and Robinson (2005).

[72] On market integration for agricultural produce, textiles, and other personal goods in the Chinese economic core, see, e.g., LILLIAN M. LI, FIGHTING FAMINE IN NORTH CHINA 196-220 (2007); LI BOZHONG, AGRICULTURAL DEVELOPMENT IN JIANGNAN, 1620-1850, at 107-08 (1998); HUANG (1985), AT 118-20; CHINESE HISTORY IN ECONOMIC PERSPECTIVE 35-99 (Thomas G. Rawski & Lillian M. Li eds., 1992). As POMERANZ (2000), at 86-87, points out, market development in pre-1800 Western Europe does not seem more advanced. On the protection of private property, see McDermott (1984); Zelin (2004); Perdue (2001). On the marketability of land, see THOMAS BUOYE, MANSLAUGHTER, MARKETS AND MORAL ECONOMY: VIOLENT DISPUTES OVER PROPERTY RIGHTS IN EIGHTEENTH CENTURY CHINA (2000). For the underestimated pace of Chinese technological development, see LI (1998); and MAZUMDAR (1998), at 120-91. On urbanization in China, a recent literature survey is Yu Tongyuan, *Ming Qing Jiangnan Zaoqi Gongyehua Shehui de Xingcheng yu Fazhan* [*The Creation and Development of Jiangnan Industrial Society in the Ming and Qing*], 2007(11) SHIXUE YUEKAN [J. OF HIST. SCI.] 41, which argues that 20% of the Jiangnan population around 1700 was urban, while 30% was non-agricultural. This is comparable with even the most optimistic estimates on English urbanization in 1700.

[73] These debates are discussed in Chapter Three.

[74] Robert C. Ellickson, *Property in Land*, 102 YALE L.J. 1315, 1376–77 (1993). *See also*, JESSE DUKEMINIER & JAMES E. KRIER, PROPERTY 197–220 (5th ed. 2002).

[75] See discussion at Chapter Six, Section B.

where there were few economies of scale to be gained, and where managerial farming therefore made little economic sense.[76] The existence of economic incentives in large parts of China that favored managerial farming suggests, therefore, that its relative scarcity might be attributed to institutional forces. But if not straightforward inalienability, family division rules, intra-lineage first-refusal rights, or tenant security, then what?

It turns out that the "dian"-mortgage contrast goes a very long way towards supplying an explanation. The extraordinary harshness of English mortgage default rules benefitted large-scale land accumulation in two ways: First, it made default and seizure a fairly common affair. More importantly, however, it drove large numbers of cash-strapped smallholders into selling their land permanently. Better to sell land for its full value, than to mortgage at a lower value and run the significant risk of default and uncompensated loss of title. Large landowners looking to expand their holdings could tap, therefore, into a fairly robust supply of permanent sale offers.

In Qing and Republican China, however, the unlimited right of redemption in "dian" sales meant that smallholders had little incentive to permanently alienate their land: If they needed a lump sum to cover immediate needs, a conditional sale was usually satisfactory, while also preserving the option of zero-interest redemption. If, however, they simply wished to maximize the sale price of their land (an uncommon motive, as the value of land in an agrarian society lay not only in its monetary price, but also in the livelihood it secured), then the practice of "zhaotie" in conditional sales would allow them to take advantage of future increases in land value. Permanent alienation was therefore unattractive and rarely used—this, in turn, drove up the price of permanent sales, benefitting smallholders even more. Farmers who acquired land under a "dian" sale, on the other hand, found it highly difficult to obtain secure and permanent ownership. Not only did this impede the concentration of farmland and the development of capitalist agriculture, but it also militated against long-term capital investments that could potentially have boosted both land and labor productivity. All in all, the institutional contrast between "dian" and mortgage contributed substantially towards both the capitalization of the English agrarian economy, and the lack thereof in China.

Social and Cultural Origins

This brings us to the second major question in this study: How did this institutional contrast emerge in the first place? In particular, how did the economically inefficient "dian" redemption norms survive centuries of fairly rapid economic change—from well before the Qing to the mid-20th Century—without being revoked or simply ignored? If the goal is to "reculturalize" the study of economic divergence, it may seem tempting to simply say "Chinese culture dictated unlimited 'dian' redemption." We must, however, resist that temptation. In fact, one would be hard-pressed to find a widely-articulated moral or religious norm in Imperial China that said anything about whether collateralized land should be subject to default. This is precisely where the few previous attempts to address these questions have misstepped, and perhaps why recent studies of economic divergence have felt free to largely ignore them. There are additional steps to take before we can bring cultural factors into the analysis.

Several legal historians have argued that "dian" redemption norms derived directly from a moral and ideological embrace of "permanence in landholding" ideals in "precommercial" societies. Philip Huang, for example, believed that interminable redemption rights were a natural

[76] De Vries (1997).

normative component of subsistence economies: the prevalence of subsistence agriculture was mutually reinforcing with mores that shamed the loss of ancestral property and glorified the stable descent of land from generation to generation.[77] Others have suggested that Chinese peasants simply possessed a strong sentimental attachment to land and, consequently, were highly loathe to lose it[78]—this may simply have reflected, of course, the higher economic and social value of land in pre-industrial societies.

The evidence presented in support of these arguments, however, is thin—generally no more than vague moralizing by scholar-officials on the importance of land. The higher economic value of land in preindustrial societies, on the other hand, pushed in two opposite directions: Apart from encouraging landowners to retain their properties, it also encouraged them to aggressively acquire new property. The stubbornly high demand for land sales, both permanent and "dian," from around 1870 to the 1930s certainly suggests that the latter dynamic was consistently at work in times of relative peace, despite the prevalence of highly burdensome "dian" customs. The attractiveness of landownership alone is, therefore, an inadequate explanation for the existence of those customs. Consider also the comparison with England: Early modern English landowners, too, had a strong sentimental attachment to land, made all the more powerful by the dependency of sociopolitical status on landed wealth,[79] but this clearly did not prevent their customs from limiting redemption windows and tenancy security. If anything, the strong psychological premium placed on landownership actually encouraged larger landowners to champion such limitations.

More importantly, the characterization of early modern Chinese society as "precommercial" has been severely challenged in recent scholarship: Studies of grain price fluctuations within and across macroregions indicate considerable market integration, suggesting that large portions of the rural economy had become market-integrated. This directly contradicts older assumptions about the dominance of subsistence agriculture. Evidence of market integration is robust not only in core macro-regions such as the Lower Yangtze and North China, but also in frontier regions such as Gansu.[80]

Unsurprisingly, market penetration went hand-in-hand with individual economic rationality: most households were both calculating and resourceful. They invested in land when profitable, employed excess labor in non-agricultural production, reacted swiftly to fluctuations in land or commodity prices,[81] and, as demonstrated below, tirelessly promoted economic institutions and norms that favored their own interests. Certainly the existence of strong lineages promoted communal solidarity, but even within lineages, households often clashed over property, debt, and the rules that governed them. It seems highly unlikely that such a commercialized and economically aggressive society sustained moral ideals of "permanence in landholding," especially when there is almost no positive evidence of their existence.

Quite the opposite, such "ideals" were largely embraced only by those who could economically benefit from them. Almost no high-income households expressed support. "Dian" and permanent tenancy customs were therefore the result of intense and prolonged negotiation

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[77] HUANG (2001), at 74.

[78] MELISSA MACAULEY, SOCIAL POWER AND LEGAL CULTURE: LITIGATION MASTERS IN LATE IMPERIAL CHINA 234 (1998).

[79] Sugarman & Warrington (1996), at 121-35.

[80] See discussion at *supra* note 72. On market integration in Gansu, see Peter C. Perdue, *The Qing State and the Gansu Grain Market, 1739-1864*, *in* CHINESE HISTORY IN ECONOMIC PERSPECTIVE (1992), at 100.

[81] Lynda S. Bell, *Farming, Sericulture, and Peasant Rationality in Wuxi County in the Early Twentieth Century*, *in* CHINESE HISTORY IN ECONOMIC PERSPECTIVE (1992), at 207, 226-29, 232-39.

between highly self-interested parties, rather than simple moral derivatives of "precommercial" ideals. Bargained equilibriums could emerge where moral uniformity did not. The assumption of basic self-interested rationality also applies easily to the formation and maintenance of English property customs. While traditional Marxist accounts of early modern English history exaggerate the importance of *class*-based conflict,[82] it was, as many have argued, still a place of considerable ruthlessness when it came to property acquisitions, evictions and enclosures. As a general theoretical matter, individuals may rationally choose to tolerate and abide by undesirable property norms for many reasons: to signal willingness for future cooperation, for example, or to avoid the material and reputational costs of noncompliance. The problem, however, is why similarly self-interested bargaining over property norms in both China and England led to dramatically different institutional outcomes.

The answer, I argue, lies in the different ways Chinese and English society allocated status and political authority. Specifically, sociopolitical status correlated tightly with wealth in early modern England, but far less closely in China: Throughout the Qing and Republic, a Chinese individual's social position and status depended, according to broadly "Confucian" norms of social hierarchy, on his age and generational seniority within his patrilineal descent group, which commonly included several dozen households in North China, and considerably more in southern regions. In contrast, the importance of kinship ties in rural English society precipitously declined in late Medieval and early modern times, leading to, by the Sixteenth Century, a substantially "individualist" sociolegal order.[83] The tighter social fabric of rural China was indisputably "hierarchical"—elder kinsmen wielded extensive legal and customary authority over younger relatives, but also conferred, in aggregate, large status benefits on lower-income households: Because status was so closely tied to age and generational seniority, the system guaranteed significant status mobility within most individual lifetimes. People automatically gained status as they aged, theoretically independent of personal wealth.

A major theme of Chinese history during the Second Millenium was the gradual erosion of the central government's control over local communities. Geographical expansion and population growth tended to outstrip increases in state capacity throughout the Song, Yuan, Ming and Qing dynasties, which meant that local communities increasingly had to self-govern.[84] This required closer forms of sociopolitical organization, and therefore drove the proliferation of extended kinship networks across rural China, generally organized according to neo-Confucian principles of age-based and generational seniority. Kinship networks varied from region to region in terms of size, the extent of their corporate landholdings, and the specific codes of conducts they imposed on their members, but a basic adherence to "gerontocratic"—if you will—principles of sociopolitical organization characterized the great majority of these networks in virtually all macroregions.[85]

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[82] R.S. NEALE, CLASS IN ENGLISH HISTORY 96 (1981) (noting that early modern English society was "neither order based nor class based").

[83] ALAN MACFARLANE, THE ORIGINS OF ENGLISH INDIVIDUALISM: FAMILY, PROPERTY, AND SOCIAL TRANSITION (1978); David *Cressy*, *Kinship and Kin Interaction in Early Modern England*, 113 PAST & PRESENT 38, 41 (1986); H.R. French & Richard Hoyle, *English Individualism Refuted and Reasserted: the Case of Earls Colne (Essex), 1550-1750*, 56 ECON. HIST. REV. 595 (2003).

[84] Robert M. Hartwell, *Demographic, Political, and Social Transformations of China*, 42 HARV. J. ASIATIC STUD. 365 (1982). On the limited size and reach of the Qing bureaucracy, see CH'U (1962); REED (2000); JOHN R. WATT, THE DISTRICT MAGISTRATE IN LATE IMPERIAL CHINA (1972); ROWE (2009), at 31-62. On examination degree quotas, see Elman (1991).

[85] See Chapter Five for detailed discussion.

By at least the 15th Century, these "Confucian" norms of kinship-based hierarchy had become deeply embedded within the moral and ideological mainstream of Chinese society, and there were very few dissenting voices at any level of society. State sponsorship of these values was often substantial, especially in the 10th and 11th Centuries, but came and went rather unpredictably, as did any macroeconomic rationales that may initially have supported them. In other words, purely functionalist explanations for their longevity and reach are extremely problematic. By the Ming and Qing, scholars, officials, merchants, and farmers alike spoke of them in such intensely reverential, almost religious, language—as inviolable "heavenly principles" of human behavior—that it seems highly implausible that no widespread and deep moral internalization had taken place.

In practice, of course, wealth remained a valuable social asset, but even so, lower-income seniors did frequently obtain status and authority quite disproportionate to their wealth. The evidence below indicates, for example, that slightly less than half of political leadership positions in a common village could be occupied by below-average landowners of advanced age and generation. Even this mildly weaker claim is comparatively striking: By most accounts, large landowners virtually monopolized positions of sociopolitical authority in rural English society.[86] This was not necessarily because, as some older studies suggested, that political status depended entirely upon wealth. We now know, for example, that active participation in public affairs and extended residency in the locality were similarly important factors. Rather, significant landholding was probably only a prerequisite for high status, if an explicitly acknowledged and widely moralized one. Nonetheless, small landowners and tenants were generally excluded from the ranks of the local political elite. Their cumulative social status and authority was, therefore, significantly weaker than Chinese farmers of similar economic rank.

Higher sociopolitical status naturally led to stronger bargaining positions in the negotiation of property norms, and vice versa. There is considerable evidence that high-status but low-income political elites played a central role in advocating and protecting "dian" redemption norms that favored the generally poor "dian" seller.[87] In comparison, the political dominance of large landowners in England allowed them to shape both legal and customary institutions very much to their liking. There was, in fact, a distinct long-term trend in the history of English property institutions towards favoring the interests of the "landed class," and away from the equitable treatment of smallholders. Differences between Chinese and English property norms reflected, therefore, the different power balances at play in such negotiations, which, as discussed above, were deeply self-interested and aggressive affairs.

The redemption of pawned land was hardly the only area where Chinese property norms were more egalitarian than English ones. For example, Qing and Republican local customs also favored poorer households over richer ones in crucial aspects of tenancy regulation. Most notably, Lower Yangtze customs regularly allowed and protected the right of "permanent tenancy" ("yong dian"), in which landlords lost the right to raise rents or evict tenants.[88] Early modern English landlords suffered no comparable handicaps and were notoriously ruthless in the

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[86] KEITH WRIGHTSON, ENGLISH SOCIETY, 1580-1680, at 43 (2003); H.R. French, *Social Status, Localism and the 'Middle Sort of People' in England, 1620-1750*, 166 PAST & PRESENT 66 (2000).

[87] See discussion at Chapter Four, Section C.

[88] *E.g.*, HUANG (2001), at 99-118; KATHRYN BERNHARDT, RENTS, TAXES, AND PEASANT RESISTANCE: THE LOWER YANGTZE REGION, 1840-1950, at 21-27 (1992).

eviction of tenants and consolidation of estates.[89] The model of custom formation presented here may explain, therefore, several key differences between Chinese and English property institutions, although length limitations allow detailed examination of only one.

All in all, cultural factors appear quite sparsely in my thesis, directly affecting only the initial distribution of social status. They made no explicit mandate—none of actual behavioral significance, at least—regarding either the personal pursuit of wealth or the specific content of property institutions. However, because the distribution of status essentially laid the "ground rules" and basic political conditions for more self-interested socioeconomic activities, these narrowly-defined cultural factors had tremendous institutional and macroeconomic impact nonetheless. We need not revert back to big, Weberian "cultural paradigms" that purportedly impeded individual economic ambition and rationality to bring culture, at least in the narrow sense of status distribution norms, back into global economic history.

[89] *See* THE BRENNER DEBATE (1987); R.W. Hoyle, *Tenure and the Land Market in Early Modern England: Or a Late Contribution to the Brenner Debate*, 43 ECON. HIST. REV. 1 (1990). Although scholars involved in the "Brenner Debate" vehemently disagreed over whether landlord aggression could explain the Seventeenth Century Anglo-French economic divergence, all agreed that such aggression was indeed prevalent in England.

Excerpts from the Introduction to *The Ideological Foundations of Qing Taxation* (2022)

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Framing The Historical Problem

By any measure, China's comparative economic and technological decline during the later 18th and 19th Centuries—relative to both Western Europe and neighboring Japan—was one of the most important events in modern global history.[90] In the Asian-Pacific arena, it not only enabled the spread of European trade and colonization, but also set off a dramatic shift in the Sino-Japanese power balance that directly led to the rise of Japanese imperialism. Looking within the confines of Chinese history, relative material decline played a major, arguably decisive, role in destabilizing not only the Qing state, but the very idea of dynastic rule. China's relative economic and military weakness, punctuated by its humiliating defeat in the Sino-Japanese War of 1894-95, shattered both the state's sociopolitical prestige and the political elite's faith in traditional institutions of governance.[91] A Republican revolution eventually followed, then a Communist one.

Increasingly, scholars believe that this relative decline was at least partially rooted in fiscal institutions and capacity.[92] This is especially apparent when we focus on the Sino-Japanese comparison: At around 1850, neither the Chinese nor the Japanese economy was substantially industrialized, but their trajectories diverged dramatically over the next half-century.[93] Japanese industrialization gained momentum throughout the later 19th Century, far outstripping the pace of Chinese industrialization by the 1890s. The Meiji state played a crucial role in this process, both through direct spending and by providing financial support for private industrial development.[94] The late Qing state, in comparison, could do very little to alleviate the capital constraints that plagued Chinese manufacturing, or provide substantial support for the vulnerable banking sector.[95]

This was not because the late Qing government was somehow committed to *laissez-faire* economics. Quite the opposite, it badly wanted to provide greater support for industrial

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[90] *E.g.*, KENNETH POMERANZ, THE GREAT DIVERGENCE: CHINA, EUROPE, AND THE MAKING OF THE MODERN WORLD ECONOMY (2000); R. BIN WONG, CHINA TRANSFORMED: HISTORICAL CHANGE AND THE LIMITS OF EUROPEAN EXPERIENCE (1997); ANDRE GUNDER FRANK, REORIENT: GLOBAL ECONOMY IN THE ASIAN AGE (1998); R. BIN WONG & JEAN-LAURENT ROSENTHAL, BEFORE AND BEYOND DIVERGENCE: THE POLITICS OF ECONOMIC CHANGE IN CHINA AND EUROPE (2011); T.J. Byres, *The Agrarian Question, Forms of Capitalist Agrarian Transition and the State: An Essay with Reference to Asia*, 14 SOCIAL SCIENTIST 3 (1986); Loren Brandt, Debin Ma & Thomas G. Rawski, *From Divergence to Convergence: Reevaluating the History Behind China's Economic Boom*, 52 J. ECON. LIT. 45 (2014).

[91] WILLIAM T. ROWE, THE GREAT QING 231-53 (2009).

[92] *E.g.*, Brandt, Ma & Rawski (2014); WENKAI HE, PATHS TOWARDS THE MODERN FISCAL STATE (2013). Fiscal and state capacity is also discussed in the general context of economic and political decline in ROSENTHAL & WONG (2011); and PETER C. PERDUE, CHINA MARCHES WEST: THE QING CONQUEST OF CENTRAL EURASIA 547-65 (2005). On the role of state investment in Japanese industrialization, *see* MASAYUKI TANIMOTO, ROLE OF TRADITION IN JAPAN'S INDUSTRIALIZATION (2006).

[93] FRANCES V. MOULDER, JAPAN, CHINA, AND THE MODERN WORLD ECONOMY: TOWARD A REINTERPRETATION OF EAST ASIAN DEVELOPMENT CA. 1600 TO CA. 1918 (1979); HE (2013).

[94] HE (2013).

[95] *Id.*

development and was, in fact, painfully aware of its inability to keep pace with Japan. Its meager revenue base—less than a tenth of Japan's as a share of estimated GDP, and about half in absolute purchasing power—simply would not allow for more aggressive intervention.[96] Different levels of state fiscal capacity, therefore, were a major cause of the Sino-Japanese economic divergence. Scholars have also attempted to explain the earlier Sino-European, particularly Sino-English, economic divergence by highlighting both the importance of state investment and lending to Western European industrial development, and the lack thereof in the nascent Chinese industrial sector.[97]

Fiscal weakness—in both domestic and comparative terms—was indeed a central feature of the Qing state throughout the later 18th and 19th Centuries: Recent estimates suggest that the government extracted between 1.5 to 2 percent of annual GDP during the 19th Century, down from 3-4 percent in the later 18th Century, but largely unchanged in absolute terms.[98] By the 1840s, an average rural household in one of China's most heavily taxed macroregions probably paid only 1-2 percent of its annual income to the state, including both formal tax quotas and informal surcharges collected by local governments without central authorization.[99]

To put this into a horizontal comparative perspective, scholars estimate that state revenue accounted for some 15-20 percent of GDP in Tokugawa and early Meiji Japan,[100] 10-15 percent in 18th Century England.[101] Large, land-based early modern regimes tended to tax somewhat more lightly, but even within that comparison set, Qing taxation was *unusually* light: annual state revenue came to around 8 percent of GDP in pre-Revolutionary France,[102] 7 percent in the 19th Century United States,[103] some 6-7 percent in Tsarist Russia,[104] and 4-6 percent in the 19th

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[96] As discussed below, China's GDP during the 1870s and 1880s was roughly 5 to 6 times that of Japan's, whereas its government revenue (as a share of GDP) was less than 10%.

[97] Ron Harris, *Government and the economy, 1688–1850*, *in* THE CAMBRIDGE ECONOMIC HISTORY OF MODERN BRITAIN 204 (Roderick Floud & Paul Johnson eds., 2004); ROSENTHAL & WONG (2011).

[98] For estimates of revenue figures, *see* Brandt, Ma, & Rawski (2014), at 67-68. For GDP estimates, *see* Stephen Broadberry, Hanmin Guan, & Daokui Li, *China, Europe, and the Great Divergence: A Study in Historical National Accounting, 980–1850*, 78 ECON. HIST. REV. 4 (2018); Xu Yi et al., *Chinese National Income: ca. 1661-1933*, 57 AUSTRALIAN ECON. HIST. REV. 368 (2017); Ye Ma & Herman de Jong, *Unfolding the Turbulent Century: A Reconstruction of China's Historical National Accounts, 1840–1912*, 65 REV. OF INCOME & WEALTH 75 (2019). For other recent estimates of tax revenue as a share of GDP, *see, e.g.*, Jason Qiang Guo, *A Quantification of Fiscal Capacity of Chinese Government in the Long Run*, Working Paper, New York University (2019).

[99] For a full rundown of the distribution of state revenue between formal and informal taxes, see Chapter One. It is somewhat debatable whether the latter should count towards the state's fiscal capacity, although it certainly added to the tax burden imposed on rural households.

[100] KENT DENG, CHINA'S POLITICAL ECONOMY IN MODERN TIMES 36 (2011); KYM ANDERSON, DISTORTIONS TO AGRICULTURAL INCENTIVES 104 (2009); THOMAS C. SMITH, NATIVE SOURCES OF JAPANESE INDUSTRIALIZATION, 1750-1920, at 50-70 (1988).

[101] This counts only revenue delivered to the Crown. ANGUS MADDISON, THE WORLD ECONOMY, HISTORICAL STATISTICS (2010); P. K. O'Brien and P. Hunt, *England, 1485-1815*, *in* THE RISE OF THE FISCAL STATE IN EUROPE C.1200-1815, at 53-100 (Richard Bonney ed., 2012); Peer Vries, *Public Finance in China and Britain in the Long Eighteenth Century*, Working Paper, London School of Economics (2012); Mark Dincecco, *Fiscal Centralization, Limited Government and Public Revenues in Europe, 1650-1913*, 69 J. ECON. HIST. 48 (2009); CHARLES TILLY, COERCION, CAPITAL AND EUROPEAN STATES, 990-1990 (1990). On the formation of the English fiscal state, see generally, JOHN BREWER, THE SINEWS OF POWER: WAR, MONEY, AND THE ENGLISH STATE, 1688-1783 (1989).

[102] ROSENTHAL & WONG (2011).

[103] GERALD SCULLY, TAXES AND ECONOMIC GROWTH (2006). Local government taxes constitute the bulk of this.

[104] This estimate is derived by combining the data in the Our World in Data database, *available at* https://ourworldindata.org/government-spending, which shows imperial Russian government spending accounting for about 15-18 percent of GDP in the late 19th Century, with the estimates in Stefan Plaggenborg, *Tax Policy and*

Century Ottoman Empire.[105] Looking instead at vertical comparisons—that is, at other Chinese dynasties—the contrast is no less stark: historians generally believe that taxes accounted for 5 percent or more of GDP for most of the Ming Dynasty, and probably double that in the Song Dynasty.[106] In other words, the Ming taxed 2-3 times as heavily as did the Qing, and the Song 5-7 times as heavily. Among pre-industrial states, whether Chinese or foreign, larger or smaller, land-based or maritime-oriented, Asian or Western, the Qing was an extreme outlier.

As unavoidably crude as these comparisons and estimates are, they nonetheless resonate powerfully with the general academic consensus that the Qing state had extraordinarily limited administrative capacities. Historians now agree that it delegated a large swath of everyday governance—public security, tax collection, dispute resolution, commercial regulation, to list a few—to local communities, and possessed neither the will nor the resources, financial or personnel-wise[107] to regularly intervene in sub-county affairs. A relatively weak and non-interventionist state has, indeed, long been one of the foundational conventions in studies of Qing law, society, and economy. Historians of property and contract law regularly focus, for example, on customary law and local practice over formal law, and justify that focus by pointing to the state's apparent lack of both interest and ability to regularly enforce formal legal rules in non-criminal cases. Instead, reliance on communal self-resolution was usually the institutional norm, even when communal customs contradicted formal law, which speaks volumes about the relative weakness of state power.[108]

The consequences of fiscal deterioration went well beyond relative economic decline or bureaucratic miasma. A major cause of social unrest in the 19th Century, including the Taiping and Nian Rebellions, was the state's inability to provide adequate economic relief following natural disasters or economic downturns. The Qing state, like several of its predecessors, sustained a national granary system that, in theory, saved some of the surplus grain from good harvests for famine relief. By the 19th Century, however, weak revenue streams had crippled the state's ability to effectively restock these granaries, forcing it to leave many famine-stricken regions to their own devices.[109] Unsurprisingly, this led to massive unrest and occasional rebellion in poorer regions, several of which snowballed into national crises.

The fiscal inadequacies of the Qing state continued to have political and intellectual ramifications well after the dynasty's end: Financial insolvency and depressed levels of

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the Question of Peasant Poverty in Tsarist Russia, 1881-1905, 36 CAHIERS DU MONDE RUSSE 53 (1995), which suggest that tax revenue accounted for about 40% of this spending. In other words, taxes amounted to about 6-7 percent of GDP.

[105] K. Kivanç Karaman & Şevket Pamuk, *Ottoman State Finances in European Perspective, 1500-1914*, 70 J. ECON. HIST. 593 (2010); Sevket Pamuk, *The Evolution of Fiscal Institutions in Ottoman Empire, 1500-1914*, *in* THE RISE OF FISCAL STATES: A GLOBAL HISTORY 304-34 (B. Yun-Casalilla & P. O'Brien eds., 2012).

[106] Fiscal data from Ray Huang, *Ming Fiscal Administration*, *in* 8 CAMBRIDGE HISTORY OF CHINA 106-71 (Denis Twitchett & Frederick W. Mote eds., 1998); Ray Huang, *Fiscal administration during the Ming dynasty*, *in* CHINESE GOVERNMENT IN MING TIMES: SEVEN STUDIES (Charles O. Hucker ed., 1969); Robert M. Hartwell, *The Imperial Treasuries: Finance and Power in Song China*, 20 BULLETIN OF SUNG-YUAN STUD. 18, 78-79 (1988). GDP estimates from Broadberry, Guan & Li (2018). See Brandt, Ma & Rawski (2014) for a recent assessment that broadly agrees with this estimate.

[107] GARY G. HAMILTON, ZHONGGUO SHEHUI YU JINGJI (中国社会与经济) [CHINESE SOCIETY AND ECONOMY] 120 (Chang Wei-an, Jai Ben-ray and Chen Chieh-hsuan eds. and trans., 1990).

[108] TAISU ZHANG, THE LAWS AND ECONOMICS OF CONFUCIANISM: KINSHIP AND PROPERTY IN PRE-INDUSTRIAL CHINA AND ENGLAND (2017).

[109] PIERRE-ETIENNE WILL, ROY BIN WONG AND JAMES Z. LEE, NOURISH THE PEOPLE: THE STATE CIVILIAN GRANARY SYSTEM IN CHINA, 1650-1850 (1991).

infrastructure spending were persistent problems for the Republican governments that succeeded the Qing, much of which was directly attributable to the weak fiscal institutions they inherited from the Qing. Over time, policymakers and intellectuals came to rail against fiscal weakness as one of the fundamental problems in both late imperial and early Republican governance—indeed one of the central causes of China's economic and military weakness—and therefore argued that the state should remedy that problem through more aggressive taxation and state-financed entrepreneurship.[110] These ideas arguably inspired not only the administrative and fiscal expansion of the 1927-49 Nanjing government,[111] but also the massive wave of economic consolidation and nationalization that followed the establishment of the People's Republic in 1949.[112] It is quite possible, then, to see much of the institutional history of 20th Century China as a political backlash against Qing's fiscal weakness.

Although the central institutional characteristic of the Qing revenue system was undoubtedly its exceptionally small size relative to its population and economy, this was not necessarily its most *striking* characteristic. That distinction belonged to its agricultural tax policies. Like in other dynasties, Qing taxation had two primary components: an agricultural tax directly levied on food production, and a mainly indirect non-agricultural tax—so-named here because the merchants and processors who paid these taxes directly generally did not engage in first-instance goods production themselves—composed primarily of excise salt taxes, foreign trade tariffs, and various kinds of domestic commercial taxes.[113] The state took a fairly flexible approach to the latter: non-agricultural taxes started from a very low baseline after the Ming-Qing transition, and then grew slowly but steadily as the country recovered, roughly keeping pace with economic and demographic expansion. After 1850, when the Taiping Rebellion threw the state into a serious fiscal crisis, it immediately responded by raising non-agricultural taxes very aggressively, tripling them over the next half-century. This was not enough to fully meet its spending needs, but it was probably the most the Qing could have done under the circumstances.

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[110] For detailed discussion, *see* Chapter Six, Section C. For more general discussions of these intellectual trends, *see*, *e.g.,* XIAO GONGQUAN, ZHONGGUO ZHENGZHI SIXIANG SHI (中国政治思想史) [A HISTORY OF CHINESE POLITICAL THOUGHT] 216-35 (2005); ZHANG YUNWU, MINGUO ZHENGZHI SIXIANG YU ZHONGGUO ZHENGZHI SIXIANG ZHI ZONGHE YANJIU (民国政治思想与中国政治思想之综合研究) [A STUDY OF REPUBLICAN POLITICAL THOUGHT IN THE BROADER CONTEXT OF CHINESE POLITICAL THOUGHT] (1970); ZHANG JINJIAN, ZHONGGUO ZHENGZHI ZHIDU SHI (中国政治制度史) [A HISTORY OF CHINESE POLITICAL INSTITUTIONS] (2006); YU ZUHUA & ZHAO HUIFENG, ZHONGGUO XIANDAI ZHENGZHI SIXIANG SHI (中国现代政治思想史) [A HISTORY OF MODERN CHINESE POLITICAL THOUGHT] (2009).

[111] ZHANG (1970); YU & ZHAO (2009).

[112] PENG (1986); XIAO (2005); YU & ZHAO (2009).

[113] Most, but not all, of these taxes were indirect: salt excises, commercial taxes, and tariffs were indirect, but less important items like mineral extraction taxes were sometimes direct. "Non-agricultural taxes" did, of course, impose certain burdens on the agricultural population: for example, merchants could pass the burden imposed by commercial taxes onto farmers by paying them lower prices for their produce. This raises the question of how best to calculate the share of agricultural production extracted by the state. One way to do this would be to calculate the share of "non-agricultural taxes" that were passed onto farmers through price mechanisms, add that to "agricultural taxes," and divide the sum by some estimate of what nominal agricultural production *would have been* without the imposition of "non-agricultural taxes." This is, for obvious reasons, extraordinarily difficult to do for the Qing economy. Instead, the far superior way to calculate agricultural tax rates is simply to divide nominal direct agricultural taxes by the nominal value of agricultural production, which already captures the impact of commercial taxes on agricultural produce prices. Both nominal agricultural tax and nominal agricultural production estimates are readily available in the preexisting academic literature, as discussed in greater detail in Chapter One. With some very minor exceptions (see discussion in Chapter Five, Section D), there were no consumption taxes in the Qing, which meant that the only tax directly paid by the vast majority of rural households was the agricultural tax.

Throughout Qing history, non-agricultural taxes responded to economic expansion and fiscal crisis in a largely intuitive, even rational fashion.

Agricultural taxation, in contrast, did not. The Qing economy was around 70-80 percent agrarian throughout its 268-year history, and until the dynasty's final few decades, the agricultural tax accounted for the lion's share of state income. Following some moderate fluctuations in the early dynasty, the agricultural tax, even after local informal surcharges are taken into account, experienced *almost no growth* in absolute volume from 1730 to 1900, falling from some 3-4 percent of gross agricultural production to 1-2 percent. This had serious consequences for state capacity: from 1730 to 1850, both the population and the nominal economy more than doubled, whereas the state's gross income experienced only marginal growth, nearly all of it coming from non-agricultural sources.[114] As a result, its administrative capacities at the local level plummeted, forcing it to rely ever more heavily on the self-governance of local society.

After 1850, even in the face of a severe fiscal crisis, agricultural taxes remained stagnant, and may actually have *shrunk* in both real volumes and as a share of gross agricultural production—to perhaps less than 1 percent by 1900.[115] As much as the state tried to compensate by aggressively raising indirect non-agricultural taxes, the overwhelmingly agrarian nature of the economy meant that it was, effectively, fighting the biggest financial battle of its life with one hand tied behind its back. Unsurprisingly, then, it sunk ever more deeply into a downward spiral, racking up significant debt while failing to adequately finance either bureaucratic reform or economic modernization.

In fact, extraordinarily low agricultural taxes may well have damaged the state's ability to ramp up non-agricultural taxation: the creation and collection of new commercial taxes in the 1850s and 1860s required significant investment in bureaucratic infrastructure, which had to come from a revenue system that was still predominantly agricultural, and therefore *severely* depleted at this point in time. It is a testament to the state's resilience that it was nonetheless able to expand non-agricultural taxation as fast as it did, but it likely could have done much better with more revenue support from agriculture taxation.

The near-absolute stagnation of Qing agricultural taxes had no precedent in Chinese history: every other major dynasty since the Han (202 BC-220 AD) made a concerted effort to systemically expand its agricultural tax base before or around mid-dynasty, usually leading to significantly higher gross fiscal revenue, if not necessarily higher per capita tax *rates*. Turning instead to horizontal comparisons: while it is true that early modern fiscal systems, such as the 18th Century British system, the Japanese system after 1875, or the late 19th Century Russian system, often shifted away from direct agricultural taxation towards commercial or consumption-based taxation, rarely—if ever—did they simply give up on increasing the *absolute volume* of agricultural taxation. The Russian system, for example, relied predominantly on excise taxes by 1890, but the absolute volume of its direct agricultural taxes nonetheless continued to grow

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[114] For recent academic discussion, *see* Elisabeth Kaske, *Austerity in times of war: Government finance in early nineteenth-century China*, 25 FIN. HIST. REV. 71 (2018).

[115] SHI ZHIHONG & XU YI, WANQING CAIZHENG, 1851-1894 (晚清财政, 1851-1894) [LATE QING STATE FINANCES], at 210 (2008); CHEN ZHEN & YAO LUO, ZHONGGUO JINDAI GONGYESHI ZILIAO (中国近代工业史资料) [STATISTICS ON THE EARLY INDUSTRIALIZATION IN PRE-MODERN CHINA] (1957); ALBERT FEUERWERKER, THE CHINESE ECONOMY, CA. 1870-1911 (1969); Broadberry, Guan & Li (2018); Ma & de Jong (2019); Xu Yi et al (2017); Debin Ma (2008).

robustly.[116] Similarly, English land taxes were no longer the primary source of state income as early as 1700, but continued to grow in volume throughout the 18th Century.[117] To a very significant extent, the unusually limited fiscal capacity of the Qing state was a direct product—pun intended—of its unusually stagnant direct agricultural taxes.

This short summary identifies three major characteristics of the Qing tax regime that demand careful explanation: First, of course, is its relative weakness, whether compared to other early modern Chinese dynasties, or to other large early modern states. Second is its uniquely stubborn refusal to increase the agricultural tax for nearly two centuries, despite significant economic expansion and, later on, crippling fiscal crisis. Third is its fundamentally different approach to agricultural and non-agricultural taxation: the former was essentially locked in place, whereas the latter was wielded quite flexibly, even before the fiscal crisis of the later 19th Century. Preexisting scholarship has made significant progress towards understanding the first characteristic, but it has struggled to provide adequate explanations for the second and third characteristics—and without them, our understanding of the first characteristic is also fundamentally incomplete. The missing ingredient, as this book will argue, is ideology.

Rationalist Explanations and Their Limitations

How to explain the unusually low level of Qing taxation has been the subject of considerable academic debate over the past several decades. Given the increasingly distant relationship between economic history and sociocultural history since at least the 1990s, it is perhaps unsurprising that most recent attempts to explain Qing fiscal policymaking have been predominantly rationalist in theoretical orientation: that is, they believe that it was driven by the largely rational pursuit of political or economic self-interest by the ruling class, rather than by socioculturally constructed political beliefs or values.[118] This approach has the significant virtue of methodological clarity, and does indeed identify a number of serious constraints on Qing fiscal capacity. In fact, the Qing's approach towards non-agricultural taxation conforms almost entirely to some combination of these rationalist models. They are less successful, however, when trying to explain why Qing fiscal behavior differed so profoundly from the fiscal behavior of other Chinese dynasties, and struggle in particular to explain the extraordinary rigidity of Qing agricultural taxation.

The most common rationalist explanation is that the Qing state did not really need to raise taxes beyond what it actually collected—that is, there was no demand for higher taxes. For example, in a major 2011 study, R. Bin Wong and Jean-Laurent Rosenthal argue that the

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[116] Plaggenborg (1995), at 55; YANNI KOTSONIS, STATES OF OBLIGATION: TAXES AND CITIZENSHIP IN THE RUSSIAN EMPIRE AND EARLY SOVIET REPUBLIC, 313-14 (2014) (documenting growth in direct agricultural taxes in the later 19th Century).

[117] Ronald Max Hartwell, *Taxation in England During the Industrial Revolution*, 1 CATO J. 129, 139, tbl. 4 (1981).

[118] Such trends are not exclusive to the Chinese context. Over the past two or three decades, scholarship on European state formation has also taken on a distinctly rationalist, political economy-oriented flavor, emphasizing factors like timing, military pressures, external sociological and economic conditions, institutional path-dependency, and so on. *See*, *e.g.*, MICHAEL MANN, THE SOURCES OF SOCIAL POWER (1986); TILLY (1990); BRIAN M. DOWNING, THE *MILITARY REVOLUTION AND POLITICAL CHANGE*: ORIGINS OF DEMOCRACY AND AUTOCRACY IN EARLY MODERN (1992); THOMAS ERTMAN, BIRTH OF THE LEVIATHAN: BUILDING STATES AND REGIMES IN MEDIEVAL AND EARLY MODERN EUROPE (1997); MARK DINCECCO, POLITICAL TRANSFORMATION AND PUBLIC FINANCE: EUROPE, 1650-1913 (2011); MARK DINCECCO & MASSIMILIANO GAETANO ONORATO, FROM WARFARE TO WEALTH: THE MILITARY ORIGINS OF URBAN PROSPERITY IN EUROPE (2018).

relatively low rate of internal military conflict in early modern China and the lack of cross-jurisdictional political competition led the state into a low-taxation, more *laissez-faire* mode of governance. In their words, "peaceful autocracies can have lower taxes than any regime in a war-torn region," by which they meant Western Europe.[119] Other scholars, such as Peter Perdue, have argued that, for most of its existence, the Qing simply had no need for large scale fiscal expansion: it could govern effectively with limited revenue, and would garner no substantial benefit from expanding the revenue base.[120] Wenkai He further argues that, even after the Taiping Rebellion, a series of political and economic contingencies allowed the Qing state to get by without fundamentally reforming its financial policies and institutions.[121]

As a basic description of the early-to-mid Qing's demand side fiscal situation, these accounts work reasonably well and, in fact, go quite a long way towards explaining why Qing taxation prior to 1850 fell behind, say, Western European or Russian taxation. However, they cannot explain why taxation in the Qing was so much more conservative than, for example, taxation in the Ming, another unified, largely peaceful autocracy. Moreover, they understate both the size of the Qing's 19th Century fiscal problems and their crippling effect on its political and economic interests. The early 19th Century was marked by constant tax shortages and, as a result, a systemic state withdrawal from sub-provincial governance that severely weakened the Qing Court's control over local affairs, and its fiscal situation only tumbled further downhill from there. After 1850, the state was either fighting off major rebellions, or engaged in direct military and diplomatic competition with powerful foreign adversaries. The state's revenue stream, even with the addition of new commercial taxes, proved unequal to the task, forcing it to run significant annual deficits, and eventually to borrow large sums from foreign powers at increasingly high interest rates. State revenue was primarily funneled into short-term military spending and war indemnities, leaving, as noted above, very few resources for local administration and industrial investment, both of which suffered severely as a result. Clearly, demand side accounts cannot be the whole story here.

Much to their credit, rationalist scholars seem to have recognized this problem, and have, in response, provided a number of supply side accounts over the past decade. Wenkai He and others have pointed out, for example, that many early modern states shifted from direct agricultural taxation to indirect commercial or consumption taxes both because some of their economies were becoming less reliant on agriculture, and because the latter, once the necessary administrative infrastructure was in place, allowed for easier, more cost-efficient taxation.[122] The rapid outstripping of direct agricultural taxation by indirect non-agricultural taxation in China after 1850 should be understood within this general comparative context, rather than in isolation. This is undoubtedly true, but it, too, leaves behind a number of unexplained fact patterns: first, the Qing economy did not shift away from agriculture from 1850 to 1900—some estimates actually suggest that agriculture's share of the economy actually increased during this period—even as taxation did.

Second, and much more importantly, it only makes sense to keep agricultural taxes untouched if raising non-agricultural taxes alone could fully meet the state's spending needs, but this was clearly not the case: the late 19th Century growth in non-agricultural taxes, while rapid, ultimately fell well short of putting the state on solid fiscal or administrative footing. Therefore,

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[119] ROSENTHAL & WONG (2011).
[120] PERDUE (2005).
[121] HE (2013).
[122] HE (2013).

the relative institutional advantages of indirect taxation cannot, by themselves, explain why the Qing state did not raise non-agricultural taxes even further, and certainly cannot explain why it did not raise agricultural taxes *at all*. As noted above, other early modern states that made the shift to indirect taxation continued to expand direct agricultural taxation whenever necessary, but the Qing did not.

Over the past couple of years, several scholars, including Debin Ma, Jared Rubin, Tuan-Hwee Sng, and others, have proposed political economy-based models to fill in some of these gaps. They argue that the Qing's unusual geographic size and population prevented it from acquiring the necessary administrative ability to increase agricultural taxes, and that any such attempt would set off socioeconomically destabilizing levels of local corruption and illegal extraction. The central mechanism in these models is the central government's ability to monitor and control its local agents, which, *ceteris paribus*, decreases with demographic and economic expansion. The weaker these controls are, the more informal surcharges local agents will be able to collect, which, under certain circumstances, forces the central government to lower tax rates to avoid over-taxation. As a result, the Qing, due to its unusually large size, could not tax nearly as aggressively as smaller early modern states—even after 1850, when it badly needed to.

Combined with some other factors mentioned above, these models largely succeed in explaining the limitations of non-agricultural tax hikes after 1850: there is considerable evidence that the creation of new commercial taxes was accompanied by large amounts of informal surcharges, which incited serious opposition to them among political elites, both within and beyond the bureaucracy. The central government did manage to overcome this opposition, but there can be little doubt that it slowed the pace of fiscal expansion. Commercial taxation could potentially have expanded more quickly had the Qing state invested more heavily in local administrative infrastructure, but, as explained above, the state's overall fiscal weakness throughout the later 19th Century left very few resources for such investment.

However, when it comes to explaining the stagnation of the agricultural tax or the differential treatment of agricultural and non-agricultural taxation, even these political economy models fall short. First, they generally predict that tax *rates* will fall with demographic and economic expansion, but do not predict that the absolute volume of taxation will remain unchanged, and certainly not that it might decline over significant periods of time. Second, in most other Chinese dynasties, demographic and economic expansion was usually followed by significant agricultural tax hikes, at least in absolute volume—and yet the principal-agent dynamics illustrated by the models apply equally well to those dynasties. This suggests that there was something unique about the Qing that these generalist models do not capture.

Third, and most importantly, there is simply no evidence that a significant agricultural tax hike during the 19th Century—with the possible exception of 1850-1870[123]—would have led to "overtaxation" in any real sense, even with the rise in informal surcharges that might have accompanied it. Quite the opposite: when the Qing state finally raised agricultural taxes after 1901 as a desperate final attempt to ward off bankruptcy, rural populations grumbled and occasionally resisted, but for the most part, they acquiesced with few significant economic consequences.[124] Even more tellingly, the Qing's Republican (1912-1949) successors were able

[123] That is, the Taiping Rebellion and its immediate aftermath. Recent data show significant economic recovery from the rebellion by 1870.

[124] There were a number of violent tax resistance movements, such as the one at Laiyang, Shandong Province in 1910, but historians tend to believe that these were scattered, local, and posed no serious threat to the Qing regime—at least, they played no significant role in its eventual collapse. See Roxann Prazniak, *Tax Protest at Laiyang,*

to sustain significantly higher tax quotas for decades—up to three times the level of Qing extraction—without triggering unmanageable levels of local corruption, social backlash, or serious economic hardship. It is hard to believe that a similar policy change was either impossible or undesirable in the 18th or 19th Centuries, when local administrative capacity was likely stronger than in the early 20th Century, the financial stress faced by local governments was already quite excessive, and the rural economy was at least as strong.

One could ask, of course, whether political elites resisted higher agricultural taxes simply because they, too, would be subject to them. The preexisting literature does not seriously indulge this possibility, and for very good reason: Qing officials and prominent local gentry often enjoyed substantial agricultural tax loopholes due to their possession of imperial examination degrees and political influence. In fact, the creation of new commercial taxes after 1850 probably placed significantly larger financial burdens on political elites, who were heavily invested in proto-industry and commerce by at least the later 18th Century, than any potential increase to the agricultural tax. While many elites were indeed opposed to the new commercial taxes, the Qing state's ability to implement them strongly suggests that, at the very least, financially self-interested resistance by political elites would not have been an insurmountable obstacle to agricultural tax hikes either.

All in all, the rationalist explanations discussed above are capable of explaining very large chunks of Qing fiscal history, particularly the development of non-agricultural taxation, but they struggle to explain the agricultural part of the story: the near-absolute stagnation of agricultural taxation, its contrast with non-agricultural taxation, and the sharp contrast between the Qing and earlier dynasties in this regard. The clear image that emerges from the above discussion is of a state—and a political elite—that was clearly unwilling, but not unable, to raise agricultural tax quotas, despite powerful incentives to do so. Not only was the Qing state consistently unable to meet its financial obligations without additional revenue from the agricultural sector, but agricultural taxes were low enough that even a large increase would probably have been socially and economically tolerable. But if the state had both strong incentives and adequate capacity to raise agricultural taxes, why was it so reluctant to do so?

Ideological Analysis in Decline

For much of the past three decades, cultural and ideological analysis has been under siege in institutional and economic history. Scholars have challenged traditional Weberian or pseudo-Weberian theories of Asian, and especially Chinese, history, targeting, in particular, an early and mid-20th Century historical and sociological literature that issued sweeping cultural and ideological explanations for the relative lack of "modern" and "rational" institutional change in East and South Asia.

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In fiscal history, too, the past three decades have seen older claims about the fundamentally "Confucian"—and therefore ideological—nature of Chinese taxation gradually overtaken in both volume and influence by the rationalist explanations discussed above. Scholars in the former camp traditionally argued that a significant portion of the Qing political and intellectual elite believed, as did their Ming and Song predecessors, that it was simply

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Shandong, 1910: Commoner Organization versus the County Political Elite, 6 MODERN CHINA 41 (1980). Moreover, it is unclear whether these movements were triggered by higher taxes *per se*, or by new taxes that were created by unauthorized private collectors—that is, by the perception of local corruption.

morally wrong for the state to tax heavily—that, in doing so, it was selfishly "snatching profit away from the people," and therefore unjustly harming their interests.[125] Taxes were, by nature, a necessary evil, and should be kept as low as possible.[126] Such observations have been made, for example, by Madeleine Zelin, Susan Mann, and William Rowe.[127] Several times in Qing history, the emperor and his advisors initiated fiscal reforms that would strengthen and rationalize government finances, but, the argument goes, they encountered stiff resistance on dogmatic moral grounds, which imposed serious constraints on state capacity over the long run.

These traditional arguments are not necessarily *wrong*—quite the opposite, benevolent governance ideals almost certainly mattered to Qing elites—but they are fundamentally incomplete in ways that significantly limit their explanatory power, and likely explain their falling influence. The most obvious problem is that they cannot explain the sharp differences between Qing fiscal policy and that of previous dynasties: As noted above, Qing taxation levels fell well below those in other major dynasties by the mid-18th Century, and never recovered thereafter. Moreover, unlike the Song and Ming, both of which significantly expanded their agricultural tax regime around or before mid-dynasty, the Qing put the absolute volume of its agricultural taxes under near-total lockdown until the final years of the dynasty, despite a tripling of its population and economy. In other words, the Qing was far more fiscally conservative, especially with regard to agricultural taxes, than its predecessors, even though the Confucian moral bias against "profit-seeking political behavior" was no less powerful in those dynasties.

If anything, the bias was probably much *more* powerful before the Qing: a major development in Qing political thought, compared to its Ming predecessors, was the rise of a more consequentialist, utilitarian, and pragmatic mode of analysis and argumentation. Many intellectuals who lived through the Ming-Qing transition believed that the overly moralistic and metaphysical tendencies of Ming political thought were at least partially responsible for Ming decline and collapse: "hollow people speaking of empty ideas," as Gu Yanwu argued, left the Ming state with a weak and distorted sense of socioeconomic realities.[128] As a result, from the 17th Century onwards, officials and scholars tended to distance themselves, at least in their published political discourse, from similarly moralistic approaches towards governance and administration. Instead, they emphasized the need to "manage society" (*jingshi*) in a pragmatic and realistic manner: aware, tolerant, and even supportive of materialistic and profit-seeking behavior by both private and state actors.[129] More generally, there was a powerful intellectual

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[125] The following works have made brief arguments to this effect, although, as argued below, they miss important parts of the ideological history (which, to be fair, was not a central concern of these books): MADELEINE ZELIN, THE MAGISTRATE'S TAEL: RATIONALIZING FISCAL REFORM IN EIGHTEENTH-CENTURY CH'ING CHINA (1984); SUSAN MANN, LOCAL MERCHANTS AND THE CHINESE BUREAUCRACY, 1750-1950 (1987); ROWE (2009).

[126] It should be noted that this was, in many ways, the opposite of what mainstream Neo-Confucian ethics demanded from the father-son relationship: A father's obligations to his children commonly included education and economic provision until manhood, whereas one of the state's primary obligations to its people was to not "compete with them for profit" (*zhengli*) and, essentially, the leave them alone. That said, the state also had obligations to provide some moral education and famine relief—both of which were more natural fits with the state-father moral analogy. The tension between these various ideas remains an underappreciated and understudied aspect of late imperial Confucian political thought.

[127] ZELIN (1984), at 98, 264; MANN (1987), at 96-103; ROWE (2009), at 33, 43-44.

[128] Gu Yanwu (顾炎武), *Yu Youren Lun Xue Shu* (*与友人论学书*) [The Book on Learning with Friends], HUANGCHAO JINGSHI WENBIAN (皇朝经世文编) [COLLECTED ESSAYS ABOUT STATECRAFT OF THE DYNASTY] [*hereinafter* HCJSWB] ch. 1 (He Changling & Wei Yuan (贺长龄, 魏源) eds., 1826).

[129] WANG ERMIN, WANQING ZHENGZHI SIXIANG SHI LUN (晚清政治思想史论) [ON LATE-QING POLITICAL THOUGHT] (1969).

and political shift away from deontological moral argumentation in favor of more consequentialist and "realist" thinking.[130]

Fiscal discourse, too, changed accordingly. A systemic examination of Qing political and intellectual writings shows that elites tended to argue about state revenue and tax institutions in predominantly utilitarian and self-avowedly "realist" terms rather than moralist ones. There *was* a strong consensus that agricultural taxes, in particular, should not be raised, but most political and intellectual elites anchored their arguments in the state's need to avoid unrest and potential rebellion rather than in the innate justness, or lack thereof, of financial extraction. Thus, instead of arguing that "increasing agricultural taxes is an inherently unjust action," as the Confucian morality thesis discussed above would have expected, Qing elites were more likely to argue, even in private debates and treatises, that "increasing agricultural taxes will lead to severe economic hardship among the general population, and therefore lead to social unrest and rebellion." The latter kind of argument eclipsed the former in both volume and influence throughout the dynasty, and especially in the 19th Century.

These developments raise a challenging question: why should we believe that Qing fiscal policymaking was "ideological" if Qing political elites saw themselves as fundamentally pragmatic and realist? The inability of rationalist explanations to explain the state's approach to agricultural taxation may behoove us to give the ideological analysis a second look, but how can we square any sort of ideological narrative with the elite turn against "empty moralizing"? If we reject as overbroad the idea that Qing fiscal politics were driven by "Confucian morality," what are we left with in terms of ideological explanation?

Reinstating Ideology, but in a Different Form

This book argues that the Qing's turn towards political pragmatism did not render its fiscal policymaking, at least in agricultural taxation, any less ideological than its Ming or Song predecessors. Instead, it merely rendered it ideological in a different sense: empirical and descriptive, rather than deontological and normative. Qing agricultural taxation was premised on the empirical belief that agricultural production was constantly in real danger of falling below subsistence levels, and simply could not support additional government extraction. By the early 18th Century, the empirical validity of this belief had become *deeply* questionable, and would remain so for the rest of the dynasty, but it would maintain a vise-like grip over fiscal politics for another two centuries. Much more than any normative distaste for "snatching profit away from the people," the longevity and political power of this dubious empirical belief was what made Qing tax policy ideological. In fact, only when we see Qing fiscal ideology through this empirical, rather than normative, lens, can we begin to explain the fundamental differences between Ming and Qing tax policies, or explain the latter's differential treatment of agricultural versus non-agricultural taxation.

From the very beginning of Qing rule, its political elites perceived a sort of fiscal "red line," based largely on late Ming extraction levels, beyond which, they believed, rural households would take extreme measures to evade tax increases, including abandoning their land and rising up in revolt. Its proponents usually made some combination of the following

[130] See Chapter Four for detailed discussion. *See also*, HELEN DUNSTAN, STATE OR MERCHANT: POLITICAL ECONOMY AND POLITICAL PROCESS IN 1740S CHINA (2006), BENJAMIN A. ELMAN, FROM PHILOSOPHY TO PHILOLOGY: INTELLECTUAL AND SOCIAL ASPECTS OF CHANGE IN LATE IMPERIAL CHINA (1984) for general discussion on the realist or pragmatic turn in Qing political thought.

arguments[131]: First, they suggested that the empire's overall agricultural output was constrained by its limited arable land, and that the rural economy had likely reached its output ceiling by the late Ming, and again by the early 18th Century. Second, they often argued that the Ming collapse—more on this shortly—was triggered by a series of tax increases implemented a few years before the Dynasty's end, which pushed the peasantry below basic subsistence, and therefore forced them to revolt.

Finally, from the mid-18th Century onwards, they routinely argued that the Qing population had grown well beyond late Ming levels, which suggested that living standards were *decreasing* in a Malthusian combination of fixed agricultural output and demographic expansion. Therefore, if late Ming production levels were unable to sustain higher taxation without setting off massive rural rebellion, then surely the more fragile Qing economy was even less capable of doing so. These concerns involved, for their more sophisticated proponents, a number of fairly exact but often wildly inaccurate assumptions about agricultural productivity, arable acreage, and per capita income.[132] In theory, they could be either verified or refuted by relevant economic data, but the Qing state, for reasons explained below, made such data systemically unavailable, leaving these problematic assumptions unchallengeable in the political sphere.

Despite their empirical—and therefore "pragmatic"—veneer, these were very much *ideological* beliefs. Although a century-old Marxist intellectual tradition negatively understood ideology as "false consciousness" that misled oppressed social classes into internalizing beliefs contrary to their fundamental material interests,[133] more recent generations of scholars have defined the term more neutrally: as a internally coherent "belief system" that produces a certain kind of intellectual or political rigidity,[134] a "*systematic* model of how society functions," or as a "worldview which is perceived as contestable by those who do not share it."[135] Under any of these definitions, there is an implied willingness to assume these systemic beliefs without empirical verification.[136] This is, as social scientists might notice, very similar to how institutional economists define "culture," and one could therefore argue that the term "ideology,"

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[131] Many examples are cited throughout the book, but especially in Chapter Four, Sections A, B and D.

[132] See, for example, the discussion of Hong Liangji in Chapter 5, Section C.

[133] See discussion in, e.g., JORGE LARRAIN, MARXISM AND IDEOLOGY (1983); Louis Althusser, *Ideology and Ideological State Apparatuses*, *in* LENIN AND PHILOSOPHY AND OTHER ESSAYS 121 (1971).

[134] *See* Giovanni Sartori, *Politics, Ideology, and Belief Systems*, 63 AM. POL. SCI. REV. 398 (1969). By the later 20th Century, even Marxist philosophy had begun to transition into somewhat more neutral understandings of ideology, which is readily apparently in the way that ALTHUSSER (1971) defines the term (as representing "the imaginary relationship of individuals to their real conditions of existence," and therefore having a "material existence").

[135] RAYMON GEUSS, THE IDEA OF A CRITICAL THEORY 10 (1981); KEITH MICHAEL BAKER, INVENTING THE FRENCH REVOLUTION 17-18 (1990); DAVID ARMITAGE, IDEOLOGICAL ORIGINS OF THE BRITISH EMPIRE 4 (2000).

[136] It should be acknowledged, perhaps, that different disciplines still have a tendency to understand the term "ideology" in different ways. Historians and anthropologists may still insist on a thicker, more normatively well-defined concept, with "false consciousness" undertones, whereas political theorists, economists, and legal scholars—and some historians—are more likely to accept a thinner concept of ideology as merely systems of contestable beliefs. Note here the emphasis on "systems," which implies the existence of a strong mutual reinforcement-mechanism between different parts of the ideology, especially its normative and empirical components. This differentiates the idea of ideology from simple collections of contestable beliefs that are not systemically linked, and plays a crucial role in this book's analysis. If historians find this too thin and non-substantive for their liking, I would ask them to suspend their definitional discomfort for the time being and attempt to understand the book's thesis in light of the thinner definition. These conceptual matters are taken up again in Chapter Seven in greater detail.

as applied in this fashion, is simply political culture at a higher level of abstraction and systemization.[137]

Other scholars distinguish between ideology and mere intellectual hypothesis or oversight, noting that the former must contain some normative content that drives and organizes empirical assumptions.[138] In other words, ideologies have both normative and empirical components. The former comment directly on the moral value of an action, while the latter shape—or, as some scholars have put it, "program"[139]—one's empirical beliefs about cause and effect, origin, and consequence. Whereas the normative elements often affect one's objectives and ends, empirical ones tend to affect the logic one employs to realize those ends: "how" we pursue a particular goal, rather than "what" we pursue. Most often, these elements mutually reinforce, and come together to form a single, internally coherent worldview.

These conceptual frameworks apply readily to the Qing fiscal context: the normative component of Qing fiscal ideology asked whether taxation was morally justifiable, whereas the empirical one predicted the socioeconomic consequences of tax hikes.[140] The empirical belief that increasing agricultural taxes would trigger severe social unrest was often presented as one element of a comprehensive social model—a real "worldview" of "belief system," in other words—that contained interconnected assertions about agricultural productivity, demographics, economic behavior, market efficiency, socioeconomic mobility, social obedience, and political ethics.[141] More fundamentally, it owed much of its initial popularity, as explained below, to traditional "Confucian" skepticism towards state taxation, and could quite plausibly be seen as an empirical extension and reinforcement of those moral arguments.

At risk of considerable understatement, these were clearly "contestable" beliefs that produced, as explained below, no small amount of political rigidity despite the self-professed "pragmatism" of Qing elites. To the extent that these beliefs prevented elites from maximizing their economic self-interest—for example, by persuading them to tax substantially less than what socioeconomic conditions allowed for—they might even be considered a kind of "false consciousness," although the remainder of this book will only apply the more neutral

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[137] *E.g.*, Avner Greif, *Cultural Beliefs and the Organization of Society: A Historical and Theoretical Reflection of Collectivist and Individualist Societies*, 102 J. POL. ECON. 912 (1994); Robert C. Ellickson, *Bringing Culture and Human Frailty to Rational Actors: A Critique of Classical Law and Economics*, 65 CHI.-KENT L. REV. 23 (1989).

[138] JACK M. BALKIN, CULTURAL SOFTWARE: A THEORY OF IDEOLOGY 111 (1998). Tommie Shelby defines ideological beliefs as beliefs that, among other characteristics, "form, or are derived from, a prima facie coherent system of thought, which can be descriptive and/or normative." Tommie R. Shelby, *Ideology, Racism, and Critical Social Theory*, 34 PHILOSOPHICAL FORUM 153 (2003).

[139] BALKIN (1998).

[140] There are, of course, many other examples: For example, the brand of Marxism that the Chinese Communist Party advocated during the later 20th Century not only argued that proletarian revolution was just, but also that, as a matter of historical development and social evolution, it was eventually inevitable. The former is a normative claim, the latter an empirical one. Similarly, many versions of capitalism argue that heavy state intervention with private wealth accumulation is not only unjust—a threat against personal liberty or the pursuit of happiness, perhaps—but also leads to lower levels of economic productivity and technological innovation—which may or may not be desirable in any specific social setting.

[141] Discussed in detail in Chapter Four. In addition, such ideas were mutually reinforcing with the increasingly popular belief among Qing elites that "market flows" (*liutong*) unburdened by state regulation would generate stable growth and improved living standards. MARGHERITA ZANASI, ECONOMIC THOUGHT IN MODERN CHINA, C1500-1937, at 50-107 (2020); DUNSTAN (2006) at 91-190; William T. Rowe, *State and Market in Mid-Qing Economic Thought*, 12 ÉTUDES CHINOISES 8 (1993); Man-houng Lin, *Two Social Theories Revealed*, 12 LATE IMPERIAL CHINA 1 (1991).

understanding of ideology as a "contestable, systemic worldview," with special emphasis on the "systemic," internally coherent nature of these beliefs.

To say, in this fashion, that something is ideological is not to say that it was unreasonable, or that modern scholars, armed with the analytical tools of contemporary social science, would necessarily have done any better than historical actors. An ideological actor may not be an fully, objectively "rational" one, if we assume a highly rigid, semi-mathematical ideal of self-interested rationality, but she can nonetheless be a fully *reasonable* one, in the sense that most sociopolitically consciousness human beings thrown into the same situation would likely have assumed the same kinds of ideological beliefs. Describing someone as ideological is therefore not necessarily a criticism, nor does it necessarily imply subpar decision-making. It is merely a claim that the person has internalized a coherent system of beliefs, at least some of which are *assumed*—as opposed to someone whose assumed beliefs lack such systemic intellectual coherence.

Paradigm Shifts and Institutional Reinforcement

Good ideological explanations cannot be "just so" stories, but must instead uncover the deeper connections between ideological beliefs, political institutions, and intellectual change. In other words, they must give a satisfactory account of the ideology's internal logic, and how it evolved in response to external conditions. Conceptual gymnastics aside, what, specifically, explains the creation, influence, and longevity of these dubious empirical beliefs within the context of Qing politics? This book supplies a two-step answer: first, it explains how early Qing elites came to widely believe in the existence of a fiscal "red line" beyond which the state could not step without risking collapse. Second, it explains the belief's continued popularity in later stages of the dynasty, well after it had lost any semblance of empirical accuracy. The two explanations rely on very different mechanisms: the former was most likely a case of widespread cognitive bias shaped by *a priori* moral preferences, whereas the latter was a complex mixture of cognitive bias with a variety of institutional entrenchment mechanisms, some created, in fact, by the assumption itself.

The rapid rise of fiscal conservatism in the early Qing was largely fueled by a desire to avoid the Ming's fatal mistakes.[142] Late Ming decline and fall was, quite naturally, *the* paradigmatic event from which early Qing elites drew their core political and economic ideas, largely as a negative example of what to avoid. Motivated in this fashion, most officials and scholars rapidly coalesced around the position that over-taxation of a fragile rural economy was a major cause, indeed *the* major cause, of the Ming collapse. To the modern scholar, this interpretation is problematic and controversial. Many have argued that Ming Collapse was probably triggered by a lack of state fiscal capacity to provide sufficient economic relief in the wake of natural disasters,[143] which would suggest that the Ming should have maintained a *more* robust revenue stream, not less, at least from those parts of the empire that were not famine stricken. For our present purposes, the most important point is not whether the historical interpretations of Qing elites were objectively right or wrong, but rather the speed and uniformity with which those interpretations became mainstream: Qing elites seemed overeager to accept certain kinds of narratives that were, at best, "contestable."

[142] See discussion in Chapter 4.

[143] Ray Huang was most prominent proponent of this argument. See Chapter 4 for more detailed discussion.

The driving force behind the rapid formation of a new consensus was, this book argues, ideological bias. In the decades surrounding the Ming-Qing transition, the moral and deontological condemnation of "profit-seeking" government behavior was still popular, if weakening. This created a deep and prevailing normative anxiety over late Ming tax hikes among political elites, even among those who supported the hikes, and the more they worried about the move's moral legitimacy, the more likely they were to blame it if anything went seriously wrong in its aftermath—for example, if there were massive peasant rebellions that eventually overthrew the dynasty. This kind of cognitive inclination almost certainly colored early Qing analyses of Ming collapse. Indeed, reading elite reflections on the cataclysmic event, it is very difficult to escape the impression that the historical narrative of "high taxation triggering Ming collapse" was formulated both to abate this moral anxiety, and as a direct consequence thereof. Quite a few scholars and officials, in fact, expressly argued that the collapse validated preexisting moral skepticism of taxation. Social scientists and legal scholars familiar with cultural cognition theories will probably find these processes intuitive: Upon encountering new data, individuals tend to interpret it in a way that conforms to and reinforces their preexisting normative leanings.[144]

One can see further evidence of these biases in mid and late Qing political writings, which continued to interpret virtually any major episode of social unrest or revolt as evidence that rural taxes must remain low: the White Lotus Uprising in the late 18th Century and the far more serious mid-19th Century rebellions all became part of this anti-tax increase narrative, reinforcing the paradigmatic lessons of Ming collapse. This expanded narrative was, if anything, even more problematic than the early Qing belief that tax hikes caused Ming collapse: The mid-19th Century uprisings, in particular, came at a time when taxation was already *very* low across the empire, and were far more plausibly fueled by natural disasters and the state's fiscal inability to provide adequate famine relief than by over-taxation.[145] Nonetheless, mid and late Qing elites continued to attribute serious social unrest to high tax quotas and, consequently, to argue for lower taxes. They seemed to share many of the cognitive biases of their early Qing predecessors.

Because, however, we are talking about biases that had an unusually long lifespan of some 200 years, we must probe more deeply into the sources of their longevity. Most intellectual biases do not last that long, especially those that have extremely problematic empirics. The question becomes even more challenging when we remember that the moral condemnation of government taxation—which likely generated the early Qing interpretive biases discussed above—seemed to lose steam as the dynasty went on. How did the empirical biases retain their popularity despite this "moral erosion"? Part of the answer is, of course, that many mid and late Qing elites probably continued to harbor some moral distaste towards agricultural taxes, even after they became skeptical of the political utility of moral argumentation. Much more importantly, however, the notion that higher agricultural taxes would trigger massive social upheaval turned out to be institutionally self-sustaining: by the mid-18th Century, it had deprived the state of the financial resources and political will to extract and certify economic information from local communities, which made it virtually impossible to politically reverse , or even challenge, the state's commitment to fiscal conservatism.

In most large political regimes, including modern ones, politically usable information—especially information about macro-level socioeconomic patterns—almost never organically

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[144] See, for example, the wide array of papers that Dan Kahan et al. have made available through the Cultural Cognition Project Website, http://www.culturalcognition.net/ (last visited June 28, 2021).

[145] See Chapter One for more detailed discussion.

emerge from social reality. Instead, they are usually manufactured by authoritative organs through highly institutionalized process: think, for example, of the Bureau of Economic Statistic in the modern United States, or the National Bureau of Statistics in the People's Republic of China. These institutions not only provide the necessary administrative infrastructure and resources for the collection, analysis, and processing of raw data, but also lend the final informational product an aura of rigor and authority, thereby facilitating its widespread acceptance and use in political discourse. At the same time, the highly institutionalized nature of political information production also renders it vulnerable to potential systemic bias, misperceptions, or even "disinformation,"[146] should those institutions ever be tampered with.

Within the late imperial Chinese political apparatus, nationwide land surveys were traditionally the most important means of obtaining information about local production capacities, living standards, and tax burdens.[147] State officials had few means of collecting and verifying local economic information beyond centralized surveying: because local populations usually disliked paying taxes[148]—even when they were economically capable of doing so, and would not have rebelled against a tax hike—they were highly selective about the information they shared with state authorities: Information that might encourage greater levels of extraction, such as productivity growth and land reclamation, was rarely reported, whereas famines and natural disasters were routinely exaggerated.[149] Locally volunteered economic information tended, therefore, to severely underreport the actual level of agricultural production. If the government wanted better information, it had to collect its own.

In response, all major Chinese dynasties after the 8th Century AD—the Tang, Song, and Ming—conducted land surveys at multiple points during their history, usually as a prerequisite for substantial fiscal expansion. The Qing, however, attempted its last national land survey in 1688 and, in fact, formally banned provincial and local land measurements from 1740 onwards. As a result, Qing political elites collectively had very little state-certified information about the rural economy, beyond some outdated data collected via 17th Century surveys. This is reflected in the increasingly inaccurate assertions about arable acreage, productivity, and tax burdens in many court memorials and governmental records after the mid-18th Century.[150]

The economic worldview of most mid-Qing elites was, as noted above, essentially Malthusian—that the population had grown dramatically but total agricultural output remained

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[146] On the modern idea of political disinformation, see, e.g., Deen Freelon & Chris Wells, *Disinformation as Political Communication*, 37 POLITICAL COMMUNICATION 145 (2020).

[147] For detailed discussion see Chapter Four, Section D.II and Chapter Five, Section B.II. *See also*, ZHANG YAN (張研), QINGDAI JINGJI JIANSHI (清代经济简史) [A SHORT HISTORY OF THE QING ECONOMY] 72-75 (2002).

[148] It goes without saying that disliking and attempting to evade taxes is not nearly the same thing as rebelling against tax hikes. There is an enormous behavioral gap between the two.

[149] *See* KUNG-CHUAN HSIAO, RURAL CHINA: IMPERIAL CONTROL IN THE NINETEENTH CENTURY (1960); CH'U TUNG-TSU, LOCAL GOVERNMENT IN CHINA UNDER THE CH'ING 168-92 (1962); BRADLEY W. REED, TALONS AND TEETH: COUNTY CLERKS AND RUNNERS IN THE QING DYNASTY (2000); HO PING'TI, ZHONGGUO LIDAI TUDI SHUZI KAOSHI (中国历代土地数字考实) [STUDIES ON CHINESE LAND STATISTICS THROUGH THE AGES] 21-52 (1995); ZHOU JIAN, WEI ZHENG ZHI GONG: QINGDAI TIANFU YU GUOJIA CAIZHENG (维正之供: 清代田赋与国家财政) [LAND TAXES AND STATE REVENUE IN QING] 214 (2020).

[150] Looking only at official records of land usage and production, one can sometimes arrive at estimates of agricultural tax burdens that are several times higher than what more recent scholarship has generally agreed upon. For an example of such estimates, *see*, *e.g.,* KATHRYN BERNHARDT, RENTS, TAXES, AND PEASANT RESISTANCE: THE LOWER YANGZI REGION, 1840-1950, at 47-49 (1992); Usui Sachiko, *Shindai Fuzei Kankei Suchi no Ichi Kento* [A Study on the Tax Rate in Qing], 1 CHUGOKU KINDAISHI KENKYU [MODERN CHINA STUDIES] 43 (1981). More accurate estimates, reflecting the near-consensus of the current academic literature, are laid out in Chapter One.

fixed—when, in reality, total output largely kept up with demographic expansion due to technological changes and land reclamation.[151] This empirical misconception and, more importantly, the lack of systematic surveying to refute it played a critical role in sustaining the Qing Court's fiscal policies: in the absence of systemic, authoritative empirical evidence to the contrary, there was very little chance that political elites as a group could overcome their long-standing belief in the existence of a fiscal "red line," which was only aggravated by the perception of Malthusian decline.[152] Only in the late 19th Century did provincial-level surveying resume in some parts of the country, shortly before the government finally began to rethink its refusal to raise agricultural taxes—and it was no coincidence that the former proximately preceded the latter.

But why did the Qing state abandon land surveying? Surveying was, of course, very expensive and very labor-intensive, requiring many months of field work and accounting, but this was true of all Chinese regimes before and after the Qing. Much more importantly, the Qing Court believed, probably correctly, that extensive surveying would be socially received as the harbinger of future rural tax increases: everyone, from officials to commoners, knew that the only reason why the state would spend resources on a large-scale land survey was to raise taxes, and would respond to them just as they would to an actual tax hike. In other words, all the political and intellectual forces that directly pushed against tax hikes also indirectly pushed against land surveying.[153]

These institutional developments coalesced in the 18th Century to create a political and intellectual environment where it was extremely difficult for anyone, particularly risk-averse government officials, to challenge them. In fact, by around mid-dynasty, the mere suggestion of raising the agricultural tax became an almost automatically impeachable offense at court, with often serious consequences for the proponent's career.[154] By eliminating the primary institutional mechanisms that could have challenged its empirical assumptions, Qing fiscal conservatism had effectively become politically self-reinforcing.

[151] By the later Qing, official estimates of arable acreage were only 60 to 70 percent of the actual acreage, and estimates of productivity were also extremely archaic. See Chapter Five.

[152] Preexisting scholarship has sometimes raised this point in passing, but has yet to go more deeply into its political logic. *See, e.g.*, ZHOU (2020), at 376.

[153] *E.g.,* HCJSWB 31-24.

[154] See discussion in Chapter Five, Section D.