

Political Negotiations during the China War of 1860: Transcultural Dimensions of Early Chinese and Western Diplomacy

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RESÜMEE

Der China-Feldzug der britisch-französischen Truppen von 1860 endete zwar mit einer Niederlage für China, leitete aber gleichzeitig eine neue Phase der diplomatischen Beziehungen zu den Westmächten ein. Die vorliegende Untersuchung der während des Krieges geführten politischen Verhandlungen zeigt, dass es zu Annäherungen kam, indem beide Seiten die diplomatischen Gepflogenheiten und Systeme des jeweils anderen zu erkennen trachteten und in einem transkulturellen Prozess in die Fortführung der Verhandlungen integrierten. Damit wird der traditionellen Deutung dieses Ereignisses als Meilenstein des europäischen Imperialismus eine neue Dimension hinzugefügt: Das chinesische System der Außenbeziehungen war wie das europäische sehr flexibel, und auch die „informal empires“ mussten stets neu verhandelt werden.

The China War of 1860 (or the “China expedition”, as it was called by British and French participants in their memoirs) changed the mode of negotiation between China and the European powers forever. In this war, lasting from August to October 1860, British and French allied troops were deployed in the north of China, reaching the gates of Beijing. European powers demanded not only the further opening of several more treaty ports on the coast of the Qing Empire, but also permission to establish European embassies in Beijing in order to gain direct access to the court.

The Qing government finally was forced to come to terms with the fact that the Western foreigners were no longer content to be confined to the southern borders of the empire, subject to the power of provincial governors, and now were insisting on negotiating with

the power holders in Beijing directly. The China War of 1860 was the last chapter and the pinnacle in a series of conflicts and struggles between China and the Western powers that started in 1839 with the First Opium War and continued with the Second Opium War in 1856–1858. The Treaty of Tianjin was negotiated to conclude the Second Opium War and was meant to be ratified in 1859. After the Qing reconsidered, then seemingly rescinded the treaty and forcibly repulsed the British and French ratification party's access to Beijing in 1859, inflicting a military defeat, Lord Elgin and Baron Gros, who had already led the negotiations in 1857/8, were sent with troops again to China to demand again the ratification of the treaty. In 1860, all tools of the Qing diplomatic system, according to which the elites of the Qing Empire had hitherto conducted their foreign relations, seemingly had failed. The Western allies were threatening the capital with their army and had caused the emperor to flee. In October 1860, British forces looted and burned the Yuanming Yuan, at the time one of the world's most beautiful garden ensembles, an act that speaks for itself.

In the end, the European allies were granted their demands in the Treaty of Beijing (concluded on October 24 and 25 of 1860), which granted them a considerable extension of their privileges in China, among them the opening of several more treaty ports and permission to establish embassies in Beijing, allowing a close and direct observation of Qing politics.

The China expedition of 1860 has usually been interpreted as another milestone of British and French imperialism in China on the way to China's subjection by the Eight-Nation Alliance in 1900 during the Boxer rebellion.¹ I do not contest this narrative. However, it is my contention that the diplomatic negotiations that accompanied the military actions of the allied armies also ushered in a new stage in the diplomatic relations between China and the Western powers, in which China was left with some room for agency and self-determination. Although the Chinese government, for the first time directly confronted in their own capital, had to come to terms with a Western system of diplomatic relations, its negotiators did not remain passive; instead they actively grasped the new conditions and even integrated several practices and techniques from the foreign system into their own and then used these transcultural elements to establish common ground between the Western powers and the Qing Empire.

The figure behind this strategy was Prince Gong (Yixin), who was forced to conclude the negotiations with the British and French after his brother, the Xianfeng Emperor, left Beijing and fled to Chengde. One illustration of Qing adaptation and agency was the foundation, in the aftermath of the China War of 1860, of the Zongli Yamen in Beijing,

1 For the China expedition of 1860 analyzed within the parameters of imperialism, see J. Hevia, *English Lessons: The Pedagogy of Imperialism in Nineteenth-Century China*, Durham 2003, and L. Liu, *The Clash of Empires: The Invention of Modern China in Modern World Making*, Cambridge 2004. A detailed analysis of the whole conflict beginning in 1857 in Canton is provided by J. Y. Wong, *Deadly Dreams: Opium, Imperialism and the Arrow War (1856–1860) in China*, Cambridge 1998.

an institution with the sole aim of getting to know and manage exclusively all affairs in connection with Europeans and other Western foreigners.²

What about the British and the French? Both Lord Elgin and Baron Gros, who served as heads of their respective British and French missions, knew from the negotiations in 1857/8 what to expect in China. Although the ultimate act of burning the Yuanming Yuan would not lead one to suspect it, the fact is that Elgin, as head of the British diplomatic mission, had received orders to act carefully: British China policy forbade any colonial adventures on Chinese soil in order to prevent it from becoming a second India.³ On the other hand, he had to take care not to be subjected by the Chinese government to what he perceived as their “traditional diplomatic customs”, but rather to act as an agent of a British Empire which desired to be treated on even footing with the Qing Empire. France had given her diplomatic representative, Baron Gros, almost the same instructions as Lord Elgin, but Gros often had to follow Elgin’s suggestions and leads since British forces outnumbered the French, and the French China policy was not nearly as clearly defined as the British. Despite their alliance during the expedition, Britain and France each followed more or less their own agenda and goals in China, particularly with respect to their “civilizing mission”: the British heralded free trade and Christian missions, while the French sought to establish itself as the protective power of Catholic missionaries and the Catholic Church in China.

In what ways, then, did the Western allies have to come to terms with the Chinese diplomatic system, appropriate it, and even integrate elements of it in a transcultural process? Additionally, in what ways did Britain and France follow their own agenda, and what were the repercussions?

I thus argue, the situation of war and violence notwithstanding, that an “appropriation” of some sort took place on both sides. All parties concerned had to come to terms with each other’s negotiating strategies, and had to integrate foreign elements into their diplomatic negotiations in a process of “transcultural acknowledgment”. From this point of view, and under the auspices of a theory of “entangled history”, a new perspective can be added to the history of Western involvement in China if we ask what *both* sides gained from their mutual engagement.⁴ The aftermath of the China War of 1860, for example, points to an agreement of some kind, since British troops supported the Qing government in defeating the Taiping rebels who were threatening the government in the south.⁵

2 One of the best studies about the founding of the Zongli Yamen is still M. Banno, *China and the West 1858–1861. The Origins of the Tsungli Yamen*, Cambridge 1964. The Zongli Yamen was dissolved in 1901 and replaced by the Ministry of Foreign Affairs, which finally really heralded in China’s emergence as a political entity with a way to conduct its foreign affairs corresponding with an international (meaning Western) standard of diplomacy that had developed during the nineteenth century.

3 J. Osterhammel, *China und die Weltgesellschaft. Vom 18. Jahrhundert bis in unsere Zeit*, München 1989, p. 152.

4 For theories of entangled history, please refer to S. Conrad/S. Randeria (eds.), *Jenseits des Eurozentrismus. Postkoloniale Perspektiven der Geschichts- und Kulturwissenschaft*, Frankfurt a.M. 2002, Introduction.

5 This is the conclusion of Stephen Platt, who claims that the Qing were saved through Zeng Guofan’s provincial military on the one hand and haphazard foreign intervention of the British on the other: S. Platt, *Autumn in*

I additionally argue that the different systems of diplomatic customs, or rather the different modes of conducting relations with the outside world, were not fixed entities, but rather were flexible, negotiable and renegotiable, particularly in situations of crisis and war as during the China expedition of 1860. Thus we have on the one side the system of the Qing Empire, which during the eighteenth century had analyzed and managed its heterogeneous frontier areas successfully according to changing political circumstances. In the nineteenth century, after a time of decline, the Qing Empire had to come to terms with a transformation from “frontier policy” to “foreign policy” as well as with the fact that it was no longer the sole contender for political power in the East, but rather was locked in competition with other entities, like Britain.⁶

On the other side were the ambitious and powerful British and French empires, allied here yet differentiated by slightly different motives, who acted as representatives and agents for free trade and the Christian mission in China. How did they come to terms with the diplomatic system of the Qing Empire? Which points were open to discussion, which points could not be discussed?

Although the Zongli Yamen is not the topic of this paper, if we consider an approach of entangled history between China and the Western powers and ask whether there were common interests between them, then we can also ask whether the Zongli Yamen as a platform of communication between Western and European diplomats was indeed forced on the Chinese government by the British and French, or whether it was established as an addition and a new instrument by the Qing Empire to a foreign policy undergoing transformation.⁷

It is the aim of this paper to disentangle the diplomatic negotiations between the allies Great Britain and France and the Qing Empire in order to show how they respectively perceived and acted upon mutual diplomatic systems and strategies. This will be undertaken in three steps. Firstly, the position of departure applying to all concerned parties will be determined in the form of a comprehensive “worldview”, the outlook of each party on its own system of state and politics and position in the world, its cultural practices with regards to the conduct of foreign affairs, and eventual political factors taking place during the negotiations (e.g. power struggles among different factions at the Qing court).

A second section describes crucial moments of the diplomatic negotiations that shed light on actual self-perceptions or on perceptions of the others. Finally, in my conclusion I describe the results of the negotiations and evaluate the mutual process of appropriation in comparison to the point of departure. This analysis relies mainly on materials found in British and French archives, as well as from eyewitness accounts that appeared

the Heavenly Kingdom: China, the West, and the Epic Story of the Taiping Civil War, New York / London, 2012, p. 525.

6 This is the argument of M. W. Mosca, *From Frontier Policy to Foreign Policy: The Question of India and the Transformation of Geopolitics in Qing China*, Stanford 2013, p. 3, on which I will elaborate elsewhere.

7 Jennifer Rudolph also argues in this direction: J. Rudolph, *Negotiated Power in Late Imperial China: The Zongli Yamen and the Politics of Reform*, Ithaca 2008, p. 3.

in Europe after the China War. The Qing court's perspective has been reconstructed from the Chinese correspondence found in British and French archives, as well as from the *Chouban yiwu shimo* (Complete Records on Managing Foreign Affairs).

The worldview and cultural set-up of the Qing Empire in 1860: Foreign relations, state and military

Theories of how the Qing Empire conducted its relations with the outside world have changed during the last few years. Until recently, John King Fairbank's theory of a "Chinese world order" served as a general framework to explain the Chinese worldview and the management of foreign relations during the Ming and Qing eras. This Chinese world order was, according to Fairbank, founded on a sinocentric ideology, with the emperor at the apex, and designed to enforce this hierarchy on foreign peoples. According to this thinking, the only possible relationship with the emperor of China was that of a "tributary".⁸ The Chinese emperor had several modes of conduct towards foreign peoples that he used to "convince" them of this world order. First, of course, there was military enforcement by an almost invincible army, and second, a system of bureaucratic regulations which was taught to and then exercised by the headmen of non-Chinese peoples, for instance, in the southwest. A third mode was the rule of virtue, in which the emperor, as the sage Son of Heaven, exercised a normative influence and thus impressed his superiority. Finally, for all foreigners who were out of reach geographically and culturally, the Chinese emperor was very skilled in the art of manipulating by means of material interests. Among the strategies employed against these foreigners were permitting trade or giving gifts (in particular the cupidity of Western foreigners was well-attested), keeping them at the border of the empire or using a strategy of playing out "one barbarian against another". This collection of institutional procedures made up the "tributary" system. This also meant that the rulers and officials had an a priori system of categorizing and managing foreign peoples and, according to Fairbank, did not require a clear knowledge of the outer world, that is, about the conditions among the tributary peoples or with each other. There have always been difficulties with the application of Fairbank's model of a sinocentric world order to the Qing Empire, since it has long been recognized that Qing policy toward Inner Asia differed significantly from that towards the European maritime empires and hints at a rather flexible scheme. But over the last twenty years, thinking on the empire's foreign relations has been undergoing reformulation.⁹ The result is that the Qing dynasty's Manchu rulers, whose vision was seemingly unclouded by sinocentric assumptions, can be shown to have been using logistical, technological and administrative innovations similar to the state-building projects carried out by European and Russian

8 D. Twitchett / J. K. Fairbank (eds.), *The Cambridge History of China*, Vol. 10, Late Ch'ing, 1800–1911, Part 1, Cambridge 1978, pp. 30ff.

9 Mosca, *From Frontier Policy to Foreign Policy* (6), p. 7.

governments of the same era. These Manchu rulers perceived the world surrounding them as consisting of a multitude of rulers and sought to make themselves “overlords” by analyzing and managing each according to its own political circumstances, developing a number of geopolitical strategies to maintain their top position as unifiers of the empire.¹⁰ From the leaders of the central Asian peoples they demanded recognition of the superiority of the Qing emperor while maintaining their freedom to rule locally. New artificial ethnic identities were created, and high local governmental posts were given to local princes while a variety of religious belief systems were integrated into their own.¹¹ Another strategy was the decentralization of power and the forging of loyalty not to a “China” (which was only one part of the Qing Empire) but to the ruling family of the Aixin Gioro.¹² The Qing Empire thus was multicultural, multiethnic and multilingual. This achievement still came at the heavy price of vast military expeditions in order to subject the peoples of central Asia. One must, however, assess the Qing rulers as well-versed and open to what can be called “transcultural techniques” in integrating new systems of governance to consolidate their power.¹³ European merchants and traders (represented in powerful trading companies) were during the eighteenth century limited to the port of Guangzhou, where a number of Chinese merchants (Cohong merchants) were specially licensed by the emperor to trade with them.¹⁴ Until the end of the eighteenth century, the Europeans integrated themselves into the Chinese system without protest. Once the conquest or integration of a foreign people had been completed, however, the daily routine was handled similar to the way described by Fairbank’s model of a Chinese world order.

By the beginning of the nineteenth century, the situation had changed, and the Chinese government was faced with a multitude of problems.¹⁵ Due to the long period of peace during the Qianlong era in the eighteenth century, many structural problems had developed that had not yet been properly met and confronted during the Xianfeng era (1850–1861).¹⁶ Among them were, first of all, rapid population growth (increasing from 100 to 450 million people during the Qianlong era), an overexploitation of natural resources and serious flooding in central China. Secondly, the expansive and expensive military

10 J. L. Hevia, *Cherishing Men from Afar: Qing Guest Ritual and the Macartney Embassy of 1793*, Durham 1995, p. 32.

11 This foreign policy has been identified by proponents of the New Qing History as typical for the Manchu emperors. The New Qing History is best characterized in a review: J. Waley-Cohen, *The New Qing History*, in: *Radical History Review*, 88 (2004), pp. 193–206.

12 Foret claims that the architectural design of the imperial retreat at Chengde, where the tributary missions during the eighteenth century came to pay their respects, reflects this foreign policy. See Ph. Foret, *Mapping Chengde, The Qing Landscape Enterprise*, Honolulu 2000, pp. 14ff.

13 P. K. Crossley / H. F. Siu / D. S. Sutton (eds.), *Empire at the Margins: Culture, Ethnicity, and Frontier in Early Modern China*, London 2006, pp. 3ff.

14 P. A. van Dyke, *Merchants of Canton and Macao: Politics and Strategies in Eighteenth-Century Chinese Trade*, Hong Kong 2011, pp. 2ff.

15 For an overview of the Jiaqing and Daoguang eras, see S. Mann Jones / P. A. Kuhn, *Dynastic Decline and the Roots of Rebellion*, in: Fairbank (ed.), *Cambridge History of China*, vol. 10 (8), pp. 107–162.

16 The term “Xianfeng” describes the motto of the government of the emperor. Accordingly, Qianlong and Kangxi are not the personal names of these emperors, but just the names of their reigns.

expeditions of the eighteenth century, undertaken by the Qianlong emperor in order to consolidate the empire, had caused a serious financial crisis in the nineteenth century. Local protests against the government were channeled into religious movements, which developed everywhere in China, the most serious of them being the Taiping rebellion in the south of China.¹⁷ The founder of the Taiping rebellion, Hong Xiuquan 洪秀全 (1814–1864), saw the reigning Manchu dynasty as the cause of China's abysmal situation and attracted followers from all strata of society. This enabled him to build a forceful army as well as a capable administration for his "Kingdom of Heavenly Peace", the Taiping Tianguo. In 1850, Hong had 20,000 followers, and from 1853 onward Nanjing became the capital of the steadily growing movement (by 1853 its members numbered 60,000).¹⁸

Rebellions also arose in the imperial border regions of the Empire from peoples who demanded independence from Qing rule and voiced discontent with the rulers; in consequence, the tributary system eroded. Moreover, European merchants, who had been confined to the southern borders of the Empire until 1842, caused unrest among the Chinese population and additionally demanded access to the capital and additional rights not compatible with a traditional tributary system.¹⁹ The Qing army during the 1850s had only limited capacity to defend the interests of the Qing government and to maintain peace since it was dispersed throughout the empire. But although a certain "outdatedness" of military technology has been noted, it would probably still have been able to defeat the Europeans in 1860 if commanded properly.²⁰

Matthew Mosca has recently demonstrated that since the beginning of the nineteenth century, the Qing elites were well aware that they had to face several challenges to their mode of conducting relations with the outside world. Far from being oblivious to the world outside their realms, archival records show that the Qing court was informed in at least the outlines of most military engagements fought in the Empire's vicinity, including those of India, as well as about the major conflicts carried out in Europe and among the European empires.²¹ This was also reflected in the scholarship of the period, in which connection one could mention the works of Wei Yuan, published in 1844 under the title *Haiguo tuzhi* (*Illustrated Treatise on the Maritime Kingdoms*), which is a compilation of all available knowledge on the interests of the Western European states in Asia, and

17 Among the religious uprisings were the Nian rebellion (1851–1868) in the north, the Muslim-Panthay rebellion (1855–1873) in Yunnan and Guizhou, and the White Lotus uprisings in southern China.

18 In the end (during the mid-1860s), the Taiping were not able to deprive the Qing of their power for several reasons, which became apparent only after 1860. At the end of the 1850s, however, with the Europeans approaching fast from the coast, the Taiping rebels still posed a threat to the Qing.

19 Although some of the religious rebellions arose due to the inability of the Qing government to keep the Western foreigners in check. See F. Wakeman, *Strangers at the Gate: Social Disorders in South China, 1839–1861*, Berkeley 1966, which deals particularly with the protest of the local population against the British in Canton.

20 This was suggested by R. Horowitz, *Beyond the Marble Boat: The Transformation of the Chinese Military, 1850–1911*, in: D. Graff/R. Higham (eds.), *Military History of China*, Boulder 2002, pp. 153–174, here: p. 173.

21 M. W. Mosca, *From Frontier Policy to Foreign Policy* (6), p. 10.

which exerted considerable influence at the Qing court during the 1850s.²² Wei Yuan also demanded a modernization of the military and projects to gather knowledge about the impressive Western military technology.

The Qing government was also aware of the fact that the rising British Empire was involved in most geopolitical struggles from Southeast Asia throughout the Indian subcontinent and to Afghanistan. But unlike European empires, which were about to develop a “grand strategy” including all tools of international negotiation and communication, and judging their crises on a global scale, Qing statesmen had their interests atomized across a range of discreet frontiers, while intelligence gathering was limited to threats in the immediate border areas. This frontier-based approach prevented Qing statesmen from piecing together a big picture of the geopolitical situation of the Qing Empire in total; here the culprit was not a sinocentric worldview, but rather a different perspective. Over time, at least some Qing observers shifted to a new perspective.²³ Observing the rise of the British on the borders of the Qing Empire from 1750, the ruling elites realized that they had to shift from a “frontier policy” to a “foreign policy”, and that they had to come to terms with the fact that they were not a solitary empire but one of several large entities locked in competition.²⁴

The divided Qing court in 1860

Although the Qing observers who realized what was at stake were a rather small faction at the Qing court, they nonetheless developed a more modern strategy to be employed against the allies. The European empires were still not easy for the Qing to assess, but during the 1850s it had become clear that, since the Opium War and the conclusion of the Treaty of Nanjing in 1842, they had decided to support the Qing government against the Taiping rebels.²⁵ Behind this strategy were obvious economic interests: European traders were aware that the Taiping leaders wanted to prohibit the opium trade and so they tried to convince the Qing government to legalize the trade by helping to keep the Taiping threat at bay. This help, however, was not gladly accepted by the imperial court in Beijing, where opinion about the Europeans and their mounting aggression towards the Qing government was divided. The Qing court at large and its head, the Xianfeng Emperor, adhered to a philosophical school of thought that sought reform and revitalization as the focus of internal politics and thus turned away from foreign politics and ne-

22 Wei Yuan, *Haiguo tuzhi*, 50 vols., Peking 1844. Wei Yuan died in 1856 and the influence of his work did not extend beyond his death. Jane Leonard demonstrates, however, that this work was a compilation: J. Leonard, *Wei Yuan and China's Rediscovery of the Maritime World*, Cambridge 1984.

23 M. W. Mosca, *From Frontier Policy to Foreign Policy* (6), p. 11.

24 *Ibid.*, p. 3.

25 J. Spence, *The Search for Modern China*, New York 1990, p. 177.

gotiations particularly with the Europeans, whose influence they dreaded and resisted.²⁶ The European allies recognized this and called this faction “the war party”.²⁷ Another, much smaller political faction (among them, until his death, Wei Yuan) saw the solution for the numerous problems of the Qing government in the opposite attitude. They believed that an orientation towards the Western powers, an attempt to learn about their motives and strategies, and an integration not only of new ways of thinking but also of their technologies, would stabilize the Qing Empire. These thinkers were impressed by the performance of the British army and their technological and military skills demonstrated during the confrontation of the First Opium War in Guangzhou in 1842, when the Chinese were for the first time confronted with the very efficient British gunboat.²⁸ It was when this party, headed by Prince Gong, took over negotiations that the Treaty of Beijing could be concluded.

The worldview of the British and the French empires in 1860

History and background

Rather than being a unified West, Great Britain and France, although they seemingly acted in China as allies, had very different concepts of their empires and thus had different visions for their mission in China. British peace and prosperity in the 1850s depended largely on foreign trade. Between 1841 and 1872, overseas exports quadrupled, free trade enjoyed almost unconditional support and most contemporaries were of the opinion that these were the preconditions for all development and progress worldwide.²⁹ To secure and continue this development for the British, commodities had to be imported from overseas and manufactured goods had to be exported and sold on the overseas markets. The wish for free access to the large markets in Asia thus became one of the most important points in British foreign politics in the 1840s, with China coming more and more into focus.

Since the beginning of the nineteenth century, the political framework of Chinese-British encounters had changed. Traders in eighteenth-century China, confined to Canton, had obeyed local rules and directed their protests to the local governors of Canton. This changed with the abolition of the trade monopoly of the East India Company (EIC) in China. Until 1833, the EIC represented the interests of British traders in China and was endowed with certain privileges of sovereignty and thus was able to conclude treaties

26 P. Kuhn, *Rebellion and its Enemies in Late Imperial China: Militarization and Social Structure 1796–1864*, Cambridge 1979, pp. 135ff.

27 M. Banno, *China and the West* (2), p. 60.

28 See also M. Wright, *The Last Stand of Chinese Conservatism: The T'ung-Chih Restoration, 1872–1874*, Stanford 1957; D. Pong, *Shen Pao-chen and China's Modernization in the Nineteenth Century*, Cambridge 1994; P. A. Kuhn, *Rebellion and its Enemies in Late Imperial China*, Cambridge 1970. Already Lin Zexu had taken measures after the defeat in 1842 to learn from the foreigners and their technology by founding a translation bureau.

29 F. Trentman, *Free Trade Nation: Commerce, Consumption and Civil Society in Modern Britain*, Oxford 2008, p. 17.

with foreign princes.³⁰ When the trade monopoly of the EIC in China was abolished in 1833 in favor of free trade, Chinese traders demanded that a new representative be named for the European traders. London therefore sent an envoy who represented the European traders in China on behalf of the British Crown.³¹ This envoy had to mind the reputation of Great Britain and her sovereign, and any assault on British traders or British subjects worldwide could now *de jure* be regarded and interpreted as an insult to the British Crown. Whereas the EIC had been able to handle any assault on one of their members flexibly, any assault on subjects of the British Crown could in theory be seen as a diplomatic incident. But in practice, the aim of British China policy was not to strive for political power, but rather to create (e.g. by manipulating the indigenous elites) “informal empires” rather than formal colonial rule. These informal empires were rather loosely defined, but they meant means of control without taking over actual political power. Their establishment was justified by the British demand for free trade (which was perceived as underlying all trade systems worldwide) and the establishment of a British judicial system for British or, in the beginning, for other Western subjects, and by the demand for free Christian missions in the country.

As for France, it was the goal of Napoleon III during the 1850s to return his country to its former splendor. Great Britain was France’s great rival in Europe and the two countries were several times at the brink of war due to this rivalry. France had emerged successfully from the Crimean War in 1857 and had demonstrated to all other European powers that it possessed a good army as well as a remarkable economic infrastructure and industry. In terms of foreign trade, possession of colonies and worldwide presence, however, France was no match for the British Empire. Its reconstruction of a colonial empire had begun only in the 1830s with the annexation of Algeria. With respect to its civilizing mission, Napoleon III not only had a system of free trade in mind to serve his empire, but was also eager to promote and accelerate the process of Christianization and “civilization” worldwide, an ambition which was critically eyed by his adversaries. In Asia, French interests were directed towards Indochina rather than China. In the 1850s, French influence in Vietnam consisted primarily of the Catholic Church founding missions in the name of France, rather than active French politics of economic expansion.³² French and British rivalries in Europe notwithstanding, they acted together whenever it was necessary outside of Europe to defend European political and trade interests.³³

30 See Christina Brauner’s contribution in this volume.

31 An excellent characterization of the preconditions of Britain’s imperialism can be found in J. Osterhammel, *China und die Weltgesellschaft* (3), pp. 137ff.

32 F. Quinn, *The French Overseas Empire*, Westport 2000, pp. 107ff. See also N. Cooper, *France in Indochina: Colonial Encounters*, Oxford 2001, p. 13.

33 R. Tombs/I. Tombs, *That Sweet Enemy: The French and the British from the Sun-King to the Present*, London 2006, describes the history of Great Britain and France, particularly their rivalry in the nineteenth century in full detail.

The British and French armies and the conduct of a European diplomacy

In 1860, both the British and the French China expedition forces were equipped with the latest technological standards and perceived by the Chinese armies as superior to themselves.³⁴ The British army had the advantage of more experience in the conduct of colonial wars, particularly in Asia. The experience abroad of the French army of the Second Empire was confined to Algeria and a short stint in Vietnam, but their guns and other technological armament impressed the Chinese government nevertheless. In terms of diplomatic negotiations, both Britain and France justified their aggressive style by their respective civilizing missions, consisting of the economic policies of free trade and the spread of Christianity. In the later stages of their negotiations with China, both European powers claimed to be acting in accordance with an “international law”.³⁵ Although it is not easy to define international law, the question is particularly difficult within a colonial context in the nineteenth century. For Europeans, this system of international law was supposed to regulate the conduct of European diplomacy and was, as the nineteenth century progressed, perceived as underlying political systems worldwide. All states with a European-defined “standard of civilization” were subject to this law, while the others were “uncivilized”.³⁶ This line of thinking made it possible for the European states to attack or invade political entities on the grounds that these were refusing European “civilization standards” and free trade.

Judging by Lord Elgin’s negotiation strategies in 1860, the European powers themselves found international law difficult to determine. The creation of an international law in the nineteenth century stemmed from the attempt to create a legal basis for the relationship with the world outside Europe, and it can even be argued that the interaction with the “colonized” was crucial for its genesis.³⁷ Verena Steller’s paper, also in this volume, shows that the adaption of the English rule of law in India has to be told as a story of interaction, relation and entanglement, and that the transposition of English law to India was by no means a simple transition, but rather a very complex process of “dis- and re-embedding”. This same term could be applied to the situation in China in 1860, where Elgin introduced the concept of international law only towards the end of negotiations, when the safety of hostages had to be negotiated, and with sketchy detail. He seems to have been more concerned with the reaction of the British public than the attitude of the Qing negotiators.³⁸

34 D. R. Headrick, *The Tools of Empire: Technology and European Imperialism in the Nineteenth Century*, New York 1981.

35 R. Horowitz, *International Law and State Transformation in China, Siam, and the Ottoman Empire during the Nineteenth Century*, in: *Journal of World History*, 15 (2005) 4, pp. 445-486.

36 B. Bowden, *The Colonial Origins of International Law: European Expansion and the Classical Standard of Civilization*, in: *Journal of the History of International Law*, 7 (2005), pp. 1-23, p. 2. Bowden quotes G. W. Gong, *The Standard of “Civilization” in International Society*, Oxford 1984, p. 3.

37 A. Anghie, *Imperialism, Sovereignty and the Making of International Law*, Ithaca 2002, p. 3.

38 N. Krisch, *International Law in Times of Hegemony: Unequal Power and the Shaping of the International Legal Order*, in: *The European Journal of International Law*, 16 (2005) 3, pp. 370-408. This created the contradictory

In the eighteenth century, and here I would like to draw a parallel to Christina Brauner's paper,³⁹ diplomatic agents, missionaries and trading companies believed in a shared political framework and concepts of empire and power; the Asian state system was accepted as "equally just" and acting according similar beliefs and values.⁴⁰ In the nineteenth century this had considerably changed: China was perceived in Europe as a stagnant society and Asian nations and rulers as "despotic" (with parallels to Christina Brauner's findings in the case of Dahomey). Since they were no longer envisaged as powers corresponding on the same levels as European societies in values and culture, and seemingly refused to become part of the "family of nations", warlike actions were considered appropriate in order to raise their standard of civilization.⁴¹

Within the societies of Great Britain and France, the inequality between states in the colonial context was known. The humanitarian catastrophe of the Crimean War as well as the Indian Mutiny had been photographed (both by the same photographer, who also took pictures from the China expedition from 1860, Felice Beato) and reported in newspapers, and thus information was available to a shocked European public.⁴² There were many opponents of the "small wars" that were carried out in the name of free trade and civilization outside of Europe, the most prominent in the case of the China expedition of 1860 being Victor Hugo. The public in Europe was very well aware of the injustices of this presumed international law, and voices of protest were often raised against it.

The China War of 1860: Historical background, events and actors

The Opium Wars consisted of violent clashes between Western powers and the Qing government over trading privileges and diplomatic representations, whereby the questions of trading privileges always took precedence over diplomatic representation. For the expanding British Empire, the closed Cohong system and the system of licensed merchants in Guangzhou, although accepted in the eighteenth century, was now in the nineteenth century a provocation; it was only a question of time before a war would break out. In the First Opium War (started in 1839 by the destruction of opium on a British vessel by special commissioner Lin Zexu, who had been dispatched by the emperor to stop the opium trade), Great Britain and France demanded retribution for the destroyed opium as well as the opening of more ports on the Chinese coast for Western trade. Both demands, as well as an indemnity, were granted in the Treaty of Nanjing in

situation where, on the one side, the claim to act in accordance with international law helped a strong state to enforce the demands of a weaker state, but on the other side prevented it from taking over total control.

39 C. Brauner in this volume, p. 99-123.

40 J. Fisch, *Die europäische Expansion und das Völkerrecht*, Stuttgart 1984, p. 482.

41 This argument is central to Hevia's interpretation of the pedagogical intention of an "informal empire". J. Hevia, *English Lessons* (1), p. 4. Gerrit Gong claims this "standard of civilization" caused most of the clashes in the nineteenth century.

42 Ch. Herbert, *War of No Pity: The Indian Mutiny and Victorian Trauma*, Princeton 2008, claims that the Indian Mutiny and its atrocities were greatly exaggerated in the British press.

1842. The clashes between the Western traders and the Chinese government continued over the following years, the Europeans demanding continuous improvement of their conditions, local administration always declining their requests. A small conflict in 1856 (which developed into the Arrow War or the Second Opium War) was finally used by Great Britain and France as a pretext for the dispatch of a large contingent of military troops to solve these conflicts and demand more privileges: diplomatic representation in Beijing, the opening of seven more treaty ports, as well as free inland travel in China for European traders and Christian missionaries. Lord Elgin and Baron Gros represented Great Britain and France respectively as diplomats, and were explicitly given permission to use military force if necessary. Russian and American diplomats backed the British and French negotiations but had been instructed by their respective governments to solve the conflict peacefully.⁴³ From April of 1858, the negotiations were held at the Dagu Forts. During this time, Elgin and Gros not only made the acquaintance of the Qing negotiators, but also became acquainted with the Qing diplomacy, concepts and strategies that they would all encounter again later during the China expedition of 1860. To name just a few of these, first the Qing court tried to keep the problem at the borders of the empire by sending provincial officials to negotiate, in consequence of which Elgin and Gros broke off the negotiations and occupied the Dagu Forts. Also, the Qing government opposed the demands for a diplomatic representation in Beijing as well as free inland travel for European traders and Christian missionaries. The attempt to draft a single reply from all the Western powers together to this answer almost caused a rift between the Westerners.

The United States and Russia were inclined to give in, abandoning the demand for diplomatic representation, but Elgin insisted on it, which put the Qing negotiators under pressure. In response, the Qing delegates Guiliang and Huashana tried to defuse the negotiations with a double-pronged strategy. On the one hand, they tried to convince the Qing court to accept the European demands, advancing several arguments for this purpose: the political situation was very difficult, and the military superiority of the British and French had been proven on several occasions. On the other hand, they tried to convince Elgin and Gros to abandon their demands.

In the end a compromise was reached between both sides: the Qing government agreed to allow free inland travel for traders and missionaries, but only with special passports. Also, the Qing granted the right of diplomatic representation, but demanded that the British and French only make use of this right one year later, in 1859, a condition which the allies gladly accepted. Although a contract was signed to this effect at the end of June 1858, the Qing court (now headed by the war party, which feared that the foreigners

43 For a description of the Second Opium War, see H. B. Morse, *The International Relations of the Chinese Empire*, 1910 reprint Taipei 1971, vol. 2: *The Period of Submission, 1861–1893*, London/New York 1910, pp. 489–538 [reprint Taipei 1971]. For Russian and American interests, see R. Quested, *The Expansion of Russia in East Asia*, Kuala Lumpur 1968, and E. Swisher/K. Rea (eds.), *Early Sino-American Relations, 1841–1912*, Boulder 1977.

would gain insights too close into Qing politics if they were in Beijing) reopened negotiations later in 1858 and attempted to rescind the contract.⁴⁴

The Qing court was offering to remove all taxes for merchants in exchange for the annulment of the points that were the most important for the British: diplomatic presence in Beijing and free inland travel on the rivers as well for Christian missionaries.

Lord Elgin declined this proposal but made a conciliatory counteroffer by promising to suggest to his government that they not exercise the right to permanent representation in Beijing, provided that the treaties would be respectfully ratified and exchanged in the following year and all other conditions fulfilled.⁴⁵

The government in Beijing was still alarmed by these arrangements since its main goal was to avoid any situation that would jeopardize the balance of power and the authority at the Qing court. In order to keep the foreigners out of the city, they offered to exchange the treaties in Beijing, but Guiliang objected, correctly, that the British would never accept this. Thus, the Qing government issued an edict on March 29, 1859, stating that Beijing would be a possible site for the treaty ratification. To this was attached the condition that the European entourage would consist of no more than ten people, and that they should arrive by sea and travel by a route suggested by the Qing court. The carrying of weapons would not be allowed, nor even transport in a sedan chair. After the negotiation of the contracts, the envoys should return home as soon as possible.⁴⁶ General Senggerinchin would be responsible for the protection of the foreigners.⁴⁷

British and French representatives found it advantageous to pretend not to be aware of all these developments in Beijing and refused further communication with the Qing negotiators. They were determined to carry out the ratification as agreed upon with Elgin and Gros. The reasoning behind this strategy, from the inconclusive hints available in all the source materials, may have been that the British and the French had a concept of a Chinese tributary system after all. The route suggested by the Qing court as well as the instructions according to which the foreign envoy was to be equipped resembled very closely those of the Korean tributary missions. Such treatment was completely unacceptable to Great Britain and France. Frederick Bruce, younger brother of Lord Elgin, accompanied by M. de Bourbolon, French representative, sailed in June 1859 to Tianjin with the intention of traveling to Beijing, bearing the “autographs” (meaning treaties with the Queen’s signature) of the Queen and the authorization to act as Her Majesty’s representative.

The British and French warships were attacked by Qing troops at the Dagou Forts and defeated. Frederick Bruce, having lost 432 men, returned to Shanghai a beaten man. He was further embarrassed by the fact that the American envoy John Ward, having obeyed the instructions of the Qing Empire, was granted a treaty on August 16, 1859, and a

44 See in addition H. Cordier, *L'expédition de Chine; histoire diplomatique, notes et documents*, Paris 1906, p. 8.

45 M. Banno, *China and the West* (2), p. 28.

46 *Ibid.*, p. 29.

47 P. Crossley, *The Manchus*, Cambridge 1997, p. 162. A short biography in A. W. Hummel (ed.), *Eminent Chinese of the Ch'ing Period*, Washington 1944, vol. 2, pp. 632-634.

Russian treaty was concluded as well.⁴⁸ Ward had been treated like any tributary mission and was chided for that by the British, but in any event he had concluded the treaty. The news of Bruce's behavior in Shanghai did not meet with full approval in London and was highly criticized. There were even voices who suggested that Bruce should also have traveled on the route of John Ward.⁴⁹ In the end, however, the situation prompted the governments in Great Britain and France to dispatch a new expedition, with orders to ratify the Treaty of Tianjin, if necessary by force, and to extract an apology from the Qing government.

This allied China expedition, consisting of roughly 17,000 soldiers (only British and French, since the American envoy was watching in the first days from a distance, and the Russian envoy was acting as an intermediary between the Chinese and Western allies) appeared in August of 1860 at the Dagou Forts, and remained for roughly twelve weeks on Chinese soil, attaining, after a series of battles and fierce negotiations, their goal of treaty ratification and indemnity.

London made the goal of this mission quite clear to Lord Elgin, who was appointed as diplomatic representative, as well as to Hope Grant, the commander of the military troops: they were to extract an excuse for the "unexpected" defeat in 1859, a financial indemnity for the damage of the ships in 1859, and the ratification of the treaties of Beijing. A military confrontation should be avoided in order not to further weaken the Qing government. If a military clash was unavoidable, it should be restricted to the vicinity of the original incident.⁵⁰ Elgin's mission was quite ambivalent: on the one hand, he was instructed to employ peaceful means; on the other, it was impressed on Elgin that it was important not to disturb the emperor since his flight from Beijing would have disastrous consequences. A military confrontation thus had to be avoided; the armies were solely for the protection of the diplomatic staff.⁵¹ Hope Grant, as a general and military commander, had to follow Lord Elgin's instructions.

The French general de Montauban and the French diplomat Baron Gros had received similar objectives from their government: extraction of an excuse, the demand of an indemnity, and the ratification of the treaties. Unlike the British case, however, and according to the memoirs of General de Montauban, the French diplomatic representative (i.e. Baron Gros) was subordinate to the military command (i.e. Montauban).⁵² Queen Victoria and Emperor Napoleon III were of the opinion that the war had to be limited to North China, and the British and the French received instructions to put their rivalries aside and act together. The Chinese government personnel, in contrast to the British and French negotiators, were very diverse. Beijing first dispatched the governor of Northern Zhili, Hengfu, to negotiate. During the later stages of the war, and when it

48 D. L. Anderson, *Imperialism and Idealism. American Diplomats in China, 1861–1898*, Bloomington 1985, p. 12, describes this as a defining moment of the young American foreign policy.

49 W. Costin, *Great Britain and China, 1833–1860*, Oxford 1937, p. 294

50 Sidney Herbert to Hope Grant, January 9, 1860, London, in *Foreign Office (FO) 405/5*, pp. 1–13.

51 Russell to Bruce, January 3, 1860, in *FO 881/847*

52 Ch. G. Montauban, *Souvenirs du Général Cousin de Montauban, Cte. De Palikao*, Paris 1932, p. 8.

became clear that Elgin and Gros were demanding to deal with high-ranking imperial officials, Hengqi, Wenxiang and Guiliang were dispatched, all of whom had already had negotiated with Elgin and Gros in Canton. Prince Yi Zaiyuan, uncle of the emperor, represented the Imperial Family alongside Muyin, the minister of war; Yi Zaiyuan was later replaced by Prince Gong Yixin, the younger brother of the Xianfeng Emperor, who concluded the negotiations. The Chinese military troops, allegedly numbering 30,000 men, were commanded by General Sengerrinchin, a Mongol, who already had fought successfully against the Nian rebels.

The diplomatic negotiations between Great Britain / France and China during the China Expedition of 1860

The first phase of the China expedition, August 1 to September 8, 1860

The plan of the allies was clear: the China expedition was supposed to have two stages. The first stage had the character of a punitive expedition. The Dagou Forts were to be captured in retaliation for the defeat from 1859. The allies were then to move forward to Tianjin, demand an apology for the defeat inflicted by the Qing army in front of the Dagou Forts in 1859, as well as an indemnity and ratification of the treaty, if necessary by force. In the second stage, it was hoped that no military action would be needed. Only the diplomatic envoys Lord Elgin and Baron Gros were meant to proceed onward to Beijing, with the troops being left behind in Tianjin.

The Qing government's actions and strategies against the allies were planned and carried out from August 1 until September 21 by the faction that the allies called the "war party". This party was backed by the Xianfeng Emperor and consisted of Princes Hui, Yi and Cheng, who, emboldened by the victory of 1859, argued for a continuation of the aggressive strategy against the foreigners.⁵³ The Qing government took notice of the disembarking of foreign troops on August 1. Apparently unaware of the heightened state of aggressiveness of the British position, the orders of the emperor were to maintain peace, and General Sengerrinchin was ordered not to attack. The plan was (and Elgin only learnt this later when a pack of letters, found at the Xinhe Forts on August 13, had been translated) to negotiate with the foreigners peacefully and perhaps subsequently enlist their help in defeating the Taiping rebels.⁵⁴ The Qing government pretended to consider the European demand for indemnities for the damages inflicted in 1859 as the

53 Princes Yi Zaiyuan, Hui Mianyu, Cheng Tuanhua. Prince Yi is mentioned in A. W. Hummel (ed.), *Eminent Chinese*, vol. 2 (47), p. 924. Prince Hui (1814–1865) is mentioned as the fifth son of the Jiaqing emperor, and direct superior of Sengerrinchin, in: *ibid.*, p. 968.

54 The letters were found at the conquered Xinhe Fort. For a translation of these letters refer to Foreign Office 405/5, pp. 147ff. Also, Banno believes that Sengerrinchin, who was perceived by the Europeans as rather belligerent and the culprit behind all the attacks on Europeans during the China expedition, was actually quite peaceful. M. Banno, *China and the West* (2), p. 76. Translation of an official communication between provincial governor Hengfu and De, commander of the forts, found later in Xinhe, in FO 405/5, p. 136.

principal point (rather than the demand for diplomatic representation), and the emperor signaled his intention to give in on this matter. All the other initial reactions of the Qing government to the sudden Western presence in August 1860 can be interpreted within the framework of a tributary system, in which the Western foreigners were categorized as culturally and geographically arriving from outside the realm. The government's first strategy was to attempt to restrict the problem to a local matter concerning relations with the foreigners, and thus assigned the provincial governor of Beizhili, Hengfu 恆福, with the task of communicating with the foreigners. Hengfu's responsibility was to find out the demands of the foreigners and to suggest that they take a special designated route to Beijing. Hengfu seemed unaware of the warlike attitude of the allies and enlisted the help of the American and Russian envoys John Ward and Nikolai Ignatiev, whose countries already had treaties with the Qing Empire. Ward and Ignatiev appeared in the French and British camps to notify the allies of Hengfu's messages: Hengfu assured Elgin and Gros that they would have free access to Beijing if they agreed to take the route prescribed by the Qing government. He also made it clear that the conflict concerned Great Britain and China, and that France had no part in it.⁵⁵ Elgin, suspecting renewed foul play, refused all communication and declined to respond to this overture to negotiate with Hengfu. Instead, he responded that his first task was to seek revenge for the defeat of 1859 by attacking the forts.⁵⁶ Additionally, and with respect to the diplomatic negotiations, he demanded to negotiate with imperial envoys only, not with the provincial governor, and declined to negotiate on the behalf of France, which should be addressed separately.⁵⁷ Elgin's response can be explained from his previous experiences with the Qing negotiators. It is clear also from his private correspondence that he had no inkling of a tributary system.

Elgin and Hope Grant retained the original plan of attack, and in the beginning everything went according to plan: the allies succeeded in capturing all the forts guarding the mouth of the Peiho (i.e. Baihe) River leading from the Bohai Sea to Beijing. Between August 9 and 14, they took the forts of Xinhe and Tanggu. On August 19, Governor Hengfu attempted one last time to avert the dreaded military attack on the Dagou Forts, explaining that Chinese troops would be withdrawn and the way to Beijing up the river cleared if European troops would stop the hostilities. He further signaled the intention of his government to acquiesce to Elgin's and Gros' request to negotiate only with imperial delegates, and for that reason announced the arrival of two imperial envoys, Hengqi and Wenxiang, in Tianjin. Wenxiang, explained Hengfu to Elgin and Gros, was one of

55 Hengfu to Elgin, August 19, FO 405/5, p. 129. The diplomatic negotiations have been reconstructed from a multitude of materials from the National Archives (Foreign Office [FO], War Office [WO]) in London and archives in Paris. For the reconstruction of the Chinese side, I have used published source materials: Chouban Yiwu shimo, Beijing 1979, Zhongguo diyi lishi danganguan (ed.), Yuanming yuan qingdai dangan shiliao, Shanghai 1991, 2 vols., and Y. Shen (ed.), Jindai Zhongguo shiliao congkan xubian, Taipei 1963, as well as the Chinese letters written to Lord Elgin and Baron Gros by Prince Gong (FO 682/1993).

56 Hengfu to Elgin, FO 405/5, p. 129.

57 Elgin to Hengfu, August 8, 1860, FO 405/5, p. 131.

the highest-ranking diplomats, along with Hengqi, and thus the European diplomats would no longer be dealing with provincial-level officials. From the Qing government's perspective, there thus ought to be no further obstacles in the signing of the treaties.⁵⁸ But Hengfu's efforts were to no avail since the British and the French needed to punish the Qing government for the embarrassment from the previous year. On August 21, the south and north Dagu Forts fell into the hands of the allies. Two thousand Chinese soldiers were killed along with their commander.⁵⁹ Between August 22 and August 31, the allies marched to Tianjin and quartered their troops there. Governor Hengfu wrote to Lord Elgin and Baron Gros on August 23 that he expected them in Tianjin to conclude the treaty, along with Wenxiang 文祥, Hengqi 恆祺 and Guiliang. Now that the defeat of 1859 had been avenged, Elgin and Gros became more outspoken with the Chinese negotiators and stated their demands.

Baron Gros, using the opportunity to gain a favorable position with the Qing government and to distinguish himself from the British, demanded an apology for the defeat in 1859 and the immediate signing of the Treaty of Tianjin, an exchange of treaties in Beijing, and their choice of means of transport. He also reduced his indemnity demands to 8 million taels, much less than before, reasoning that the Chinese government was in a difficult situation with the Taiping rebels and apparently wishing to accommodate the government.⁶⁰ Elgin demanded more: eight million taels indemnity, and additional money for the damage inflicted on the British troops by the defeat in front of the Dagu Forts in 1859. He affirmed his demands, emphasizing the gains the Chinese government could obtain through a treaty with the Westerners, by pointing to the fact that the Taiping rebels in Shanghai had been defeated successfully with the help of the Europeans.

Meanwhile, in Beijing, the Qing court was shocked by the defeat on August 21, as well as by Elgin's unbending demands. They feared that the allies would directly march to Beijing and would even demand an audience with the emperor, an unthinkable circumstance. The "war" as well as the "peace parties" both had to consider Senggerinchin's suggestion that the emperor should pretend to make an annual hunting trip to Chengde and thus escape the possible sack of Beijing.

All hope rested on Guiliang and his negotiations with Elgin. On September 2 he wrote to Elgin that as imperial commissioner he was authorized to ratify the treaties in Tianjin. Afterwards, the diplomatic mission could proceed to Beijing, without guns and with

58 Wenxiang and Hengqi were well known to Lord Elgin and Baron Gros. Hengqi had already negotiated with Elgin on behalf of the Chinese government in 1858, and came to Beijing in the summer of 1860 to become the director of the imperial arsenal. In an imperial edict from August 16, he had been ordered to Beitang to accompany the British and French envoys. Wenxiang (1818–1876) was considered even by the Europeans to be one of the ablest statesmen of the Qing. A. W. Hummel (ed.), *Eminent Chinese* (47), pp. 853–855.

59 For a detailed account of the events, see War Office (WO) 32/8232, Napier to Sidney Herbert. See also H. Cordier, *L'expédition de Chine* (44), pp. 263ff. H. Knollys, *Incidents in the China War of 1860* compiled from the private journals of General Hope Grant, Edinburgh 1875, pp. 92ff, and R. Swinhoe, *Narrative of the North China Campaign of 1860*, London 1861, pp. 141ff. The pictures of photographer Felice Beato are shown in D. Harris, *Of Battle and Beauty. Felice Beato's Photographs of China*, Santa Barbara 1999, pp. 63ff.

60 H. Cordier, *L'expédition de Chine* (44), p. 277.

only a small entourage, during which time European troops should cease all hostilities.⁶¹ Elgin responded that he would prepare a treaty within the next few days, sign it, and then march towards Beijing to exchange the treaties. Elgin had so much experience now with Qing policy and changing strategies that he did not want to order the troops to stop the hostilities yet, since this might give Qing officials a feeling of security. Thus, he added that hostilities would cease only after the signing of the treaties as a strategy to secure their signature.

Both parties believed that it was only a matter of days until the China expedition was over, and the date for the ratification of the treaties was set for September 8. But to the disappointment of all parties involved, the negotiations had to be broken off on September 8. This failure was attributed to the fact that commissioners Hengqi, Wenxiang and Guiliang failed to produce sufficient written authorization from the imperial government.⁶² The authorizations of Guiliang were sufficient only to ratify the treaties, not enough to grant indemnity and an excuse for the defeat of 1859.⁶³ Elgin and Gros thus assumed that the Chinese government was causing strategic delays to keep the Europeans in the country during the long and cold northern Chinese winter. They were also afraid that the Qing soldiers whom they had released from captivity after the sacking of the Dagu Forts would be gathering in and around Tongzhou and become a serious enemy once more.⁶⁴ The Qing negotiators, on the other hand, were seriously afraid that the allies would march on Beijing and sack the city. Their promises to deliver the additional imperial authorizations were in vain: Elgin and Gros were determined to march towards Beijing. As a last chance for the Chinese government, Elgin and Gros demanded that Guiliang himself come to meet Elgin and a small detachment of troops in Tongzhou on the way to Beijing and ratify the treaty there.⁶⁵

The second phase of the China expedition, September 8 to September 21

To recapitulate the mutual concessions and appropriations made by each party to the other's diplomatic mode during the first phase: Lord Elgin and Baron Gros went ahead and had the Dagu Forts conquered as retaliation for Bruce's defeat in 1859. From their own perspective, they had acquired the right to do so with the successful negotiations in 1858, which, with the attack on Bruce, the Qing government apparently had not honored. But the Qing government had agreed to sign the treaties in Tianjin, after which Lord Elgin and Baron Gros would travel with only a small entourage to Beijing to exchange the treaties. On the other side, the Qing government understood the necessity of having the treaty signed by a direct envoy of the emperor, realizing that other "diplomatic framings" of their own tributary system were necessary, and acted accordingly

61 Guiliang to Elgin, September 2, 1860, in FO 405/5, p. 187ff.

62 Elgin to Russell, in FO 405/5, p. 196.

63 Elgin to Hope Grant, September 8, Tianjin, in FO 405/5, p. 200.

64 Ibid.

65 Elgin to Guiliang, September 7, Tianjin, in FO 405/5, p. 199.

by sending Guiliang, a high official. The negotiations had to be broken off because the Qing government was still seemingly attempting (in Elgin's eyes) to deceive the allies by not delivering the full authorizations. Guiliang had been unaware of this, or at least pretended to be unaware of his authorizations being insufficient, but Elgin suspected that here was another trick to avoid recognizing the Western empires on equal terms. Thus, he declined to give Guiliang the time he needed to produce the written authorization, and the signing of the treaty failed. Guiliang's efforts have to be seen in the light of the two parties he negotiated for: the Qing government feared the direct confrontation of the emperor with Elgin and Gros, the humiliation of an apology for an action that they considered to be correct (1859) and the recognition of the Western allies as equal, all of which would be against their traditional notions of diplomacy. The Europeans, on the other hand, could not accept Guiliang's compromise since they were really striving for equal recognition by the Qing.

The second phase sees two major military confrontations and ends with the flight of the emperor to Chengde (disguised as an annual hunting trip). In order to put pressure on the Qing government, but also out of sheer necessity because now a long-term provisioning for the army had to be organized, the civil population became involved: villages were destroyed and food was confiscated. Official communications, declaring the intentions of the Chinese government and the allies respectively, were distributed in the form of posters that were pinned on the walls of official buildings.⁶⁶ The strategy of making use of Guiliang had failed, and the Qing court realized that the Europeans would negotiate only with imperial envoys. The Qing court dealt with this precondition and subsequently sent members of ministries and of the imperial family to negotiate with the Europeans: Elgin and Gros received news on September 11 that new negotiators had been appointed, namely Prince Yi Zaiyuan, an uncle of the Xianfeng Emperor, and Muyin 穆蔭, secretary of war. They were on their way to Tianjin to enquire about the difficulties with the negotiations and asked Elgin and Gros to return to Tianjin and await further instructions.⁶⁷ The strategy of "benevolence" and accommodation had failed, and Prince Yi and Muyin were humiliated by the necessity to meet with the foreigners. Meanwhile, members of the war party used other "traditional techniques": they threatened Elgin and Gros by pointing out that the Qing troops might attack if the allied troops advanced any further, and that the Qing cavalry far outnumbered the European allies.

Elgin and Gros refused to take notice of the new Qing strategies and marched towards Tongzhou, but started to negotiate with Prince Yi before they arrived in Tongzhou. Elgin had to abandon his original plan of delaying negotiations, firstly owing to the military situation: British general Hope Grant had pointed out that an occupation of Beijing had to be planned very carefully and that he needed more time, his troops not yet being ready. The second reason had to do with diplomatic strategy: Elgin was well aware that Prince Yi was a key figure at the imperial court and he hoped that the prince needed no

66 Edict of Zaiyuan and Muyin, in: Chouban Yiwu shimo (55), p. 2315.

67 Elgin to Russell, September 16, Hexiwu, in FO 405/5, p. 211.

further imperial authorization, making it possible to sign the treaties directly in Tongzhou. But he was still aware that he had to be careful in order not to scare the emperor into leaving Beijing, and that Prince Yi was not likely to alter his view on the European foreigners, negotiating only within the framework of the tributary system and using force to keep them away from Beijing. Elgin thus decided (after the “misunderstandings” in Tianjin with Guiliang) to prevent all misunderstandings by transmitting a message to Prince Yi via his accomplished translators Harry Parkes and Thomas Wade: he, Elgin, demanded only the ratification of the treaty of Tianjin and a compensation for the losses from 1859, and wanted in no way to threaten Qing power. Elgin then added that he would not come to Beijing if his presence was unnecessary; he understood this to be a very important point for Chinese negotiators.⁶⁸

Prince Yi met with Harry Parkes and Thomas Wade in Tongzhou at the Yamen. Prince Yi, for whom it must have been an unusual experience to be interviewed by two lowly translators, politely opened the negotiations and demanded to know the nature of Elgin's objections. Parkes explained that it was not quite clear to Elgin who actually was in charge of the negotiations and whether they had the authority to negotiate in the name of the emperor and the imperial government, or whether they were again only provincial governors acting on their own accord. Prince Yi did not make any attempt to explain Chinese concepts of authority, but seems to have understood that dealing with Europeans required an imperial envoy of a certain standing. Thus he replied and explained that he, an imperial prince, would manage the negotiations. He apologized for Guiliang's behavior from September 5, characterizing it as incompetent and due to old age. Then, Harry Parkes explained to Prince Yi the meaning of this “letter of legitimation” and explained that in the last version some key elements had been left out, among them the right to a diplomatic representation in Beijing, a key demand of the European envoys. Prince Yi agreed to bring a corrected version of this letter of legitimation, although his status as an imperial prince should convince the foreigners (who had explicitly demanded an imperial prince) that he could sign all treaties on behalf of the emperor.⁶⁹ But he insisted that he would grant only the economic demands of the Europeans, and that the Qing government would not allow foreign embassies in Beijing or the opening of the port of Tianjin to European trade.⁷⁰

Harry Parkes and Thomas Wade, experienced Chinese translators and negotiators who were well acquainted with Chinese strategies of double negotiations, explained later that it was their belief that Prince Yi was only pretending to object to their demands, as dictated by Chinese protocol, but would (much like Guiliang) try to find a solution. This impression was clearly wrong. Archival documents show that Prince Yi had the intention not to yield to the foreigners or to treat them as if on the same level, but instead to deal with them according to traditional diplomatic strategies. Prince Yi pretended to interpret

68 Wade to Elgin, September 23, 1860, Baliquiao, in FO 405/5, pp. 213-216.

69 Prinz Yi and Muyin to the throne, in: Chouban Yiwu Shimo (55), p. 2307.

70 Ibid., pp. 2303-2304.

the Western demands solely as economic interests and was prepared, in order to recognize these interests as the central demand, even to pay indemnity for the defeat in 1859. From his perspective, as a Chinese prince accustomed to receive tribute missions, these were magnanimous concessions; on the other hand, he needed to stop the foreigners from proceeding to Beijing and thus took threats related to this question very seriously.⁷¹ British and Chinese negotiators agreed that Elgin should come to Tongzhou, and that he and Prince Yi would once more discuss how he would proceed to Beijing. Negotiations between the French representatives and Prince Yi on September 15 produced similar results. Meanwhile, another crisis was starting to unfold, this time in the military sphere. Rather than withdrawing, the Chinese army was collecting in and around Tongzhou, obviously at Prince Yi's command. Parkes and Wade were able to observe the battle preparations underway. The emperor had given instructions to keep the European troops away from Beijing, or at least not to let them cross the bridge at Baliqiao, close to Beijing. In the end, it was decided that, rather than letting the allies into Beijing, the Qing army should attack in the vicinity of Tongzhou and drive the European forces away.⁷² The sources do not provide conclusive results regarding who ordered the abduction of thirty-two British and French officers on September 18 (among them the almost indispensable Harry Parkes and *Times* correspondent Thomas Bowlby), but this event was later used by Elgin as the pretext for burning the Yuanming Yuan.⁷³ It also destroyed the trust of Elgin and Gros in Prince Yi and his integrity as an imperial prince and heightened the aggressiveness of the military troops, who sought revenge for this further humiliation. Two open battles fought on September 18 and 21 at Baliqiao, which were won against a Qing army of 30,000 cavalry troops, cleared the way to Beijing for the foreign troops, and the British and French began to plan to sack the capital of the Chinese empire.⁷⁴ The emperor and his entourage of 4,000 men, expecting the worst, left Beijing hastily on September 21.⁷⁵ Prince Yi, hostile to the European powers, left with the imperial retinue, leaving Prince Gong, half-brother of the emperor, in charge. On him alone now rested the task of dealing with the expected foreign attack on the city of Beijing. The second phase had shown that both sides were still negotiating on different premises: Prince Yi realized that the foreigners would never agree to diplomatic relationships with the Qing Empire in tributary style. Thus, he continued to treat the problem as if it were solely economic in nature and insisted on refusing foreign representations in Beijing. His only concession to the foreigners was a letter of legitimation, which had apparently not been customary in previous Qing relations with foreigners. Elgin and Gros for their part had made it clear that what they needed was to ratify the treaties and extract an apology, and they would even waive the voyage to Beijing – that was the extent of the concessions they would make. They would not abandon the question of diplomatic representation.

71 Prince Yi and Muyin to the emperor, September 14, 1860, in *ibid.*, pp. 2303-2304.

72 Edict of the Xianfeng Emperor, in: Xianfeng Tongzhiliang Chaoshang shangyu dang, Guangxi 2002, p. 1498.

73 Elgin to Russell, September 23, 1860, Baliqiao, in FO 405/5, pp. 216ff.

74 Hope Grant and Sidney Herbert, in WO 32/8233. Ch.-G. Montauban, Souvenirs, pp. 277-280.

75 M. Banno, *China and the West* (2), p. 171.

The third phase of the China expedition, September 22 to October 25

Prince Gong Wang Yixin 恭王奕訢, now negotiating on behalf of the absent emperor, was the younger half-brother of the Xianfeng Emperor and the head of the “peace party” which favored relations with the foreigners. However, this by no means meant that his relationship with the foreigners was relaxed or amicable.

In addition to the failed negotiations, the abducted European officers, the fled emperor and the two big battles, the European diplomats were under considerable pressure as winter was approaching and European troops were badly equipped. Elgin and Gros feared that they would not be able to ratify or exchange treaties, and that they had put the Chinese government in serious jeopardy. The urgent wish on both sides was for a rapid and peaceful conclusion to negotiations.

The new Chinese plenipotentiary, Prince Gong, twenty-seven years old, certainly entertained no belief in European superiority, and according to some assessments he could be considered a traditional Confucian.⁷⁶ But he had been all of his life an adversary of the politics of the Xianfeng Emperor and, influenced by his father-in-law Guiliang, believed that good relations with the Western powers and the use of their technology could help solve the imminent problems of the Qing dynasty and restore a strong Confucian state. But Prince Gong’s first task was to prepare Beijing against an advance of the foreigners.⁷⁷ He re-appointed Guiliang, Wenxiang, Hengqi and Chonglun 崇綸 as his advisors for their considerable experience in dealing with the foreigners as well as for their belief in a peaceful coexistence with them. Chonghou 崇厚, an official from Tianjin, was also summoned to assist, as well as Huang Huilian, who had worked since 1858 as an unofficial “channel of information” between the British and the Chinese.⁷⁸ Then Prince Gong resumed the negotiations with Elgin, notifying him on September 21 that Prince Yi and Muyin had not acted in the best interests of China by keeping the foreigners waiting so long, and that he was now in charge.⁷⁹

Elgin and Gros now had a new problem at hand and replied that the diplomatic negotiations would be resumed only if all the hostages were returned safely and in good health.⁸⁰ Prince Gong did not consider the hostage issue an important matter for negotiation, and responded that the hostages, though healthy, would be returned only upon the signature of the treaty. They, Gros and Elgin, would certainly not want to risk the peace between their nations and China on account of the lives of a few men who had provoked Chinese troops. Then Prince Gong went on to explain the misunderstandings from September 15 from his perspective and as it had been explained to him. The only point of disagreement between Prince Yi, Muyin and the British was, according to Prince

76 M. Wright, *Last Stand of Chinese Conservatism, The T’ung-chi Restoration, 1862–1874*, Stanford 1857.

77 M. Banno, *China and the West* (2), p. 171.

78 *Ibid.*, p. 181. Banno states that Prince Gong’s committee was rather extensive and comprised probably fifty-five or more people, including Chonglun, sixty-nine years old, in charge of grain supplies for the capital, and Chonghou, thirty-three years old, salt commissioner of Tianjin.

79 Prince Gong to Elgin, September 21, 1860, FO 405/5, p. 222.

80 Elgin to Prince Gong, September 22, 1860, FO 405/5, p. 222.

Gong's account, the handover of the treaties between a representative of Queen Victoria and the Xianfeng Emperor. In this version, Parkes and Wade had provoked the battle of September 18, leading to an argument with Qing officers and resulting in their being taken as hostages.⁸¹

Elgin and Gros sent a letter clarifying their point of view, and now employing for the first time a notion of "international law" to justify their actions to Prince Gong. It is interesting to note that concepts of international law had not been used before with respect to the issue of foreign diplomatic representation in Beijing. But evidently the hostage incident changed the premises of negotiations, since another peculiarity of diplomacy had to be introduced to Prince Gong: the concept of diplomatic immunity. The delegation taken hostage on September 18, explained Elgin, had been carrying a white flag. This meant that they were sent as diplomatic envoys and were not subject to the laws of foreign countries, in this case China.⁸² The legal corpus justifying Lord Elgin's reasoning is mentioned on September 25, 1860. On this day, Elgin introduced international law into the game for the first time, explaining its logic to Prince Gong, who had never heard the term. Previously, the concept of international law had not yet, it seems, been deployed. The wish for a diplomatic representation in Beijing was understood to be a reasonable reaction to the corruption of the Cohong merchants in Kanton. It can be assumed that Elgin used the introduction of an international law as a last resort, and also as a manner of securing his defense in London. Not only had he failed as commanded to obtain the treaties peacefully, but he had also caused the emperor to flee. The taking of the hostages, explained Elgin to Prince Gong, was against international law, which guaranteed diplomats immunity from legal action. Also, it was considered a major diplomatic incident and sufficient reason for the Europeans to attack Beijing. Additionally, there had been another misunderstanding: the personal encounter with the Xianfeng Emperor had always been negotiable and had never been a precondition. Then Elgin added explanations for his behavior, which he had never offered before and which gave Prince Gong insight into the European system of diplomacy. Elgin added that the mutual exchange of papers of accreditation belonged to a European mode of conduct of diplomatic affairs, but was, although highly symbolic, negotiable. However, governments who refrained from engaging in such practices would make themselves vulnerable to the accusation that they did not wish to belong to the "family of nations". Montauban seconded Elgin's remarks.⁸³ Prince Gong's response gave no indication that he had any expectations that Elgin and Gros would behave in a way expected in China's tributary relations. In his response on September 27 he answered that if Prince Yi and the war minister Muyin had deceived Elgin and Gros, then he was very sorry. But he himself was a close relative of the emperor and had conceded every single point of negotiations since he wished peace.⁸⁴

81 Prince Gong to Elgin, September 23, in FO 682/1993/58.

82 H. Knollys, *Incidents* (59), p. 119.

83 Elgin to Prince Gong, September 21, in FO 405/5, p. 222.

84 Prince Gong to Elgin, September 27, 1860, in FO 682/1993/60.

Then he pointed to the contradiction in Elgin's and Gros' behavior: the aggressive behavior of the European military and their wish to destroy the city was not in accordance with their wish for peace and a desire for a harmonious "family of nations". (It cannot be determined whether Prince Gong knew that the concept of Lord Elgin's family of nations included mainly European "family members", but it can be assumed that he was able to relate this concept to a Confucian world order.) Also, the emperor would not be able to exchange the treaty ratification with them personally, but he, Prince Gong, would do it in his stead. Regarding the hostages, he had no knowledge of the affair.⁸⁵ This situation persisted for a few days: Prince Gong demanded the retreat of the allied forces while Elgin and Gros demanded the return of the hostages, and meanwhile the troops advanced towards Beijing. Meanwhile, Prince Gong, despite the implications of international law and the question of the missing hostages, proceeded with his plans and had the treaty ready and translated by October 8. But Elgin and Gros still refused to sign because the hostages had not yet been returned, a difficulty which was not understandable to Prince Gong. It seemed to him incomprehensible that Elgin and Gros, having almost achieved their objectives, should stall now because of a few men, abducted during an incident regarding which he, Prince Gong, had no knowledge.

In the course of the next days, several things happened that both sped up the process and caused the conflict to escalate. Between October 6 and 9, European troops looted the Yuanming Yuan (the looting was started by the French, the British followed the next day), and confiscated many of its treasures. The theft of works of art was considered legitimate during the China War of 1860 and was only banned in 1954 by the Hague Convention. But since the looting of the Yuanming Yuan greatly endangered the negotiations, it must be classified as an escalation and loss of discipline among the French troops.⁸⁶ The European hostages, some of them mutilated and dead, were found there and freed and the dead bodies recovered. The British general Hope Grant declared the looted goods from the Yuanming Yuan as war booty and made his officers hand over all the goods they had taken to him since they belonged rightfully to Queen Victoria. On October 10 and 11, the looted goods from the Yuanming Yuan were auctioned off among the British officers in front of the Lama temple, near the city.⁸⁷ The French general also declared the goods looted by the French as prizes of war and shipped a large part of them back to France as gift for Empress Eugénie, while also letting his men keep their individual "treasure".

Meanwhile, the European troops gathered in front of the city gate of Beijing, ready to attack. Prince Gong refused all responsibility for the death of the hostages. He also criticized Elgin and Gros for following such a belligerent course. On October 14, the city gate Andingmen was taken peacefully by the European troops, and the remaining

85 Prince Gong to Elgin, September 27, FO 682/1993/62.

86 A description of the act of looting can be found in A. Lucy, *Lettres intimes sur la campagne de Chine*, Marseille 1862, pp. 101ff. The Xianfeng Emperor first heard of these events on October 10. Memorial of Yixin, Guiliang and Wenxiang, in: Chouban Yiwu shimo (55). The Chinese eyewitnesses, who were very few, usually reported the burning of the Yuanming Yuan and only rarely mentioned this first looting at the beginning of October.

87 G. J. Wolseley, *Narrative of the War with China in 1860*, London 1862, p. 240; R. Swinhoe, *Narrative* (59), p. 311.

hostages were freed. Of thirty-nine hostages, twenty-six survived while thirteen had been killed. Prince Gong conceded to the demands for the Treaty of Beijing made by the British as well as the French. Elgin accepted, but felt obliged to additionally demand a financial indemnity for the families of the dead hostages. To underline the gravity of his demands, Elgin used means that would be in no way justified by an international law: he threatened that if Prince Gong did not agree to these demands by October 20, he would burn down all imperial palaces in Beijing.

Baron Gros also had additional demands in the wake of the death of French hostages, and for France as the protective power of the Catholic Church, such as the return of the property of the Catholic Church in Beijing. Prince Gong answered the demands by granting them all.

During the next few days, Lord Elgin proceeded to demonstrate to Prince Gong the opposite of what he had been trying to impress on him: that he belonged to a civilized nation operating according to international law. By burning Yuanming Yuan to the ground, Lord Elgin (though he justified it by the remains of the dead hostages found there) proved that his talk of “international law” and “family of nations” was shallow and apparently not to be applied to China. On the contrary, he justified this act in London with the reasoning that he felt he had to teach the Qing government a “lesson” for making the negotiations so difficult. He was thus conducting a civilizing mission with no civil content.⁸⁸

Elgin also claimed that it had to be impressed on the Chinese government that foreign diplomats had to be granted immunity and could not be taken hostage. General de Montauban, although his soldiers looted heavily on October 6 and 7, did not participate in the final burning of the Yuanming Yuan, which he believed to be too severe a retaliation. He rather suspected, wrongly, that Elgin was indeed attempting to take power from the Chinese emperor.⁸⁹ The European powers however, had just demonstrated their barbarianism despite all their talk of a “civilizing mission”, free trade and Christian values.

Conclusion

To come back to our question: how did the representatives of the Qing Empire and those of Great Britain and France come to terms with each other's diplomatic systems, and were there processes of transcultural appropriation?

Firstly, a process of mutual appropriation definitely took place and was necessary to conclude the treaties. The point of departure for the European allies, particularly the British, was the firm belief in their civilizing mission, free trade and their rights in seeking to force the Chinese empire to bow to their principles. Initially, the British perceived

88 Elgin to Prince Gong, October 16, Beijing, in FO 405/5, pp. 279ff. See also Elgin to Russell, October 25, in FO 17/331.

89 H. Cordier, *L'expédition de Chine* (44), p. 398.

the Qing Empire as not interested in bowing to their demands, as deliberately delaying the signing of the contract, and interpreted their actions accordingly, usually as hostile. Elgin, although becoming increasingly aware of the difficulties of the Qing Empire as the negotiations unfolded, performed nevertheless as an “incontrollably fierce barbarian”.⁹⁰ The question of whether Elgin and Gros had a full vision about an existing traditional tributary system cannot be answered in full, since no explicit reference is made in the texts. However, they understood the largest obstacles for the Qing government with respect to the signing of the treaties: their declining to accept other powers as equal or to allow diplomatic representation or free inland travel, as well as their refusal to send imperial envoys and dispatching provincial governors instead. On the other hand, Elgin and Gros connected the fact that the Russian and American envoys traveled the prescribed routes with an existing tribute system and clearly reacted to it by deciding on their own route.

That the British and French did not form a unified “West” and tried to act according to their own civilizing missions, in which the French represented the Christian mission and the British defended notions of free trade, surfaced on only two occasions: firstly, when the French demanded less indemnity than the British at the beginning of the negotiations, and secondly, when Baron Gros and General de Montauban refused to participate in the burning of the Yuanming Yuan at the end of October, but instead reclaimed all the Catholic churches and buildings in Beijing for France. They certainly would have liked to pronounce their “civility” more, but during the diplomatic negotiations Baron Gros often had no choice and had to follow the lead of Lord Elgin, who had, due to his much stronger troops, a considerable advantage.

The point of departure for the Qing government at large was the traditional tributary system, which had developed during the eighteenth century. The Qing Empire, multinational and multi-lingual (Han China being just one part of it), ruled during the eighteenth century with a very flexible set of diplomatic practices that allowed them to also integrate the European traders at the southern fringes of the empire. Peace was maintained through a very strong army, through administrative practices, through the impressive sage-like behavior of the emperor, or through keeping foreign traders at the borders and pacifying them by meeting their economic demands. Although facing a multitude of crises in the mid-nineteenth century, particularly rebellion at the fringes of the empire and erosion of this tributary system, the imperial court at large, with the exception of a small faction around Prince Gong, the younger brother of the Xianfeng Emperor, refused to adapt this system to the demands of the Europeans, who wished for access and diplomatic representation in Beijing. The China War of 1860 shows for the first time a direct conflict between these two diplomatic systems. Both parties had to avoid war: Elgin and Gros had been instructed accordingly in Europe and had the difficult task of accommodating the interests of the aggressive British and French empires and at

90 Letter from Elgin to his wife, June 5, 1860, in: T. Walrond (ed.), *Letters and Journals of James, Eighth Earl of Elgin*, London 1872, p. 215.

the same time not endangering the legitimation of the government of the Qing Empire, which was in a multitude of crises.

In the end, the negotiations came to a conclusion only because the first set of Qing negotiators, opposing the Europeans and their access to China and acting in accordance with the Xianfeng Emperor, was replaced by Prince Gong, who acted on behalf of the emperor after his flight to Chengde. But also during the first part of the negotiations, both parties had to deviate from their initial demands. The first party of the Qing government acted in accordance with traditional diplomatic customs: they refused diplomatic representation in Beijing, inland travel, indemnity and an apology for the events in 1859, as well as direct contact with imperial officials. Elgin and Gros insisted on their demands, but offered not to take up the embassies immediately, instead deferring this to the following year. Also, they ensured that a personal encounter with the emperor remained negotiable. The Qing officials deviated from their customs insofar as they sent imperial princes to negotiate with Elgin and Gros, which means that they recognized the wish of the foreigners to negotiate with high-ranking imperial officials.

Only during the third phase of the negotiations, and after Prince Gong had taken them over, did the full scale of deviation from the tributary system become apparent. Originally attempting to ignore the diplomatic dimension of the European demands and pretending to understand them in purely economic terms, Prince Gong eventually had to grant the diplomatic representation. At the same time, he had to appropriate and integrate European diplomatic customs, like diplomatic immunity, the exchange of ratified treaties, and the fact that Europeans wanted to deal only with imperial commissioners (a fact that had already been conceded by his predecessors).

Elgin and Gros, who were able to act much more in accordance than the Qing government, had to concede only the fact that the embassies would be taken up in the following year.

The question of international law was raised only during the last phase of the negotiations, when Elgin was in contact with Prince Gong, who seemed to have a much better grasp of the worldview of the British and the French than did his predecessors. Elgin explained it as underlying the system of his diplomatic negotiations but remained rather hazy about it, and only certain rules were mentioned to Prince Gong. Prince Gong, however, followed up on it, and Henry Wheaton's *Elements of International Law* was among the first books translated into Chinese in the aftermath of the war. But the international law unfolded as a major relevance in connection with the fate of the abduction of a high-ranking delegation of European diplomats. In order to guarantee the safety of further diplomats in China and to make the point that their taking hostages was not an option for further negotiations, Elgin explained the concept of "diplomatic immunity" within the framework of international law. When some of the hostages were returned mutilated and dead, Elgin retaliated using the reason that this was a violation of international law and so put the Yuanming Yuan to the torch.

Eventually Prince Gong had to acknowledge during the negotiations not only the existence of a European diplomatic system, but particularly the fact that the British and

French empires wanted to be accepted as equal. Additionally, this European system employed its own notion of what underlay all political entities in the form of an international law. In the end, the Qing government was able to suffer the humiliation of the burning of the Yuanming Yuan without losing all legitimacy of rule over China. With the emperor gone to Jehol, it became possible to follow a path of foreign policy that included other types of diplomatic worldviews.

The Zongli Yamen, from this perspective, certainly is a transcultural institution. By establishing the Zongli Yamen, the Chinese government integrated international law as a transcultural element and technique of governance.

In the years to come, the Qing court took many measures to improve its situation, including even the help and technology of the Westerners. On the other side, during this phase until the 1890s, the interest of the Westerners and Europeans was always to stabilize the Qing government insofar as they were able to accommodate Western interests. Under these premises, it seems, theories of informal empires still remain a valid framework of interpretation. But the approach of entangled histories and the analysis of transculturality show, as in the case of the China War of 1860, that an informal empire was also a constant process of negotiation and renegotiation, and that the Chinese government indeed initiated the most important reforms themselves.