

## **CHINESE CUSTOMARY MORTGAGE PRACTICES UNDER BRITISH COLONIAL ADMINISTRATION**

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### **Key implications**

- The impacts of the British colonial administration on the development of the two Chinese customary mortgage practices in rural Hong Kong.
- The role of kinship, agnatic one in particular, in formally-registered moneylending activities.
- The patterns and characteristics of Chinese customary mortgages.



### **Background**

In the New Territories of Hong Kong in imperial times, dian(典) was a common moneylending practice. It was a redeemable/conditional sale under which the landowner transferred land to the lender in exchange for a sum of money but the latter retained the right to redeem the land at any time by repaying the principal of the loan. Though not receiving interest, the lender had the right to use and collect the products of the mortgaged land. This custom was legitimized by the Qing code. Another form of moneylending was diya (抵押), the use of land as collateral for a loan. In the contract, a mortgagor did not forfeit the use of the land and a mortgagee could only claim the proceeds of the sale of the mortgaged property if the mortgagor failed to repay the loan. This form of land transaction, nevertheless, was not codified in the Qing code.

### **Focus of study**

The current literature has focused on the dian practice in late imperial and republican China. The development of this practice, and also the diya, in a Chinese society under British colonial rule has not yet explored. My research is to fill this gap. A single-surname (Tang 鄧) lineage village in Fanling known as Lung Yeuk Tau is a case study to illustrate the development, patterns and characteristics of those two customary practices under British colonial administration.

### **Research methods**

Data in this research is drawn from an archival research conducted in the Land Registry, HKSAR. A large volume of mortgage transactions pertaining to the Tangs (鄧) in Fanling during the period 1905–65 (when modern banking services were unavailable) are collected. In 2011 and 2012, 1489 land lots and 646 house lots owned by the Tangs of Fanling were searched, and 205 and 109 mortgage records were found from these land and house lots, respectively.

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## Key findings

1. The British had actively imposed a set of standardized administrative rules and legal measures to govern and regulate these customary practices. It did not follow the imperial Chinese government's legal policy of discriminating against the practice of diya. Instead, the two practices were treated equally.
2. The dian practice was no longer popular; whereas diya became a common form of mortgage in the Tang lineage. One-year loans were the most common in both land and house mortgages. Interest rates were usually in the range of 1 per cent to 2 per cent of the principal loan, much lower than the 3.5 per cent charged by pawnshops in Hong Kong during the researched period.
3. Non-kin ties played the more active and dominant role in the diya mortgages. Tang mortgagors did not receive special interest rates from kin mortgagee.

## Significance of the study

1. In the process of normalizing, rectifying and codifying Chinese customary mortgage practices, the British colonial administration bore the characteristics of noninterference, stringency, active intervention, and enforcement. Some coexisted or took precedence over others in different circumstances and periods. This finding echoes the existing literature arguing that indirect rule or non-interference policy was not the only form of colonial governance. The British had actually deployed different measures for tighter control over customary mortgage as they saw fit.
2. The significance of kinship, particular the agnatic one, which has been highlighted in the current Chinese lineage study, should not be taken for granted in the formally-registered

## RELATED PUBLICATIONS

Chan, Kwok Shing. 2015. "The regulation of customary practices under colonial administration: Kinship and mortgages in a Hong Kong village." *China Information*, Vol. 29, Issue 3 :377-396.

Chan, Kwok Shing. 2016. "Mortgage in a Chinese Lineage Village in Rural Hong Kong: Patterns and Characteristics." *Australian Journal of Accounting, Economics and Finance (AJAEF)*, Vol. 2, Issue 1: 33-48.

## REQUEST FOR MORE DETAILS

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