

Paper for the Conference 'Law and Economic Development: A Historical Perspective'
20-22, September 2007; Utrecht University

NOT FOR CITATION WITHOUT PERMISSION OF THE AUTHOR

CONTRACTS, LITIGATION, AND ECONOMIC REGULATION IN IMPERIAL CHINA:
THE CASE OF TENANT DISPUTATION IN
HUIZHOU (ANHUI) DURING THE SIXTEENTH CENTURY

By

Harriet T. Zurndorfer
(Leiden University)
h.zurndorfer@kpnplanet.nl

Introduction: Contracts, Litigation, and Economic Regulation before the “Great Divergence”

The roots of Chinese legal culture lie very deep in the earliest stages of Chinese history. Evidence of both written contracts and litigation was recorded in Western Zhou (1045-771 BCE) bronze inscriptions (Zhang Chuanxi), while the classic *Zhouli* 周禮 (Rites of Zhou; fourth to third century BCE) chronicled a number of disputes over particular contracts (Hu and Feng; Hulsewé). Documentation originating in the Han dynasty (207 BCE—227 CE) indicates that contracts had become commonplace, and were an important feature of land sales and commercial exchanges (Scogin 1990). Other records, some 250 contracts dating from the seventh and eighth centuries and preserved in the desiccated regions of northwest China and Central Asia (Dunhuang and Turfan), give us more information about the contents of these agreements. Japanese scholars (Niida; Ikeda; Ikeda et.al.) who have studied these documents extensively, suggest that by the Tang era (618-906) contractual thinking in China was well-developed, and that there was a common understanding of what needed to be in a contract: date, name of the purchaser, specification of boundaries (in land contracts), price indications, offer and acceptance, penalty for renegeing, the private nature of the agreement, the signatures or marks of the participants, including witnesses, and (often) agreements for sharing ceremonial wine. Contracts (*hewen* 和

文) specified transactions about the purchase, sale, or rental of a house, a plot of land, a draft animal, a slave, a concubine, or even a child; people drew up contracts every time they pawned a possession, hired a maid, adopted a child, announced an engagement, secured a divorce, or purchased a pig or a horse (Hansen:1). Printed handbooks containing sample contracts became available during the Song dynasty (960-1279), and by the fourteenth century, the Jianyang (Fujian) ‘pulp publishing’ industry regularly produced extensive information on all the legalities and peculiarities of contract formulation (Chia; Morita).¹

Thus, the contract in imperial China became an instrument for negotiating the practicalities of daily life, as well as an indicator of the economic regulation of society. And yet, if we examine the first formal set of laws in China, the *Tang Code* (promulgated in 653, and reissued in 737),² we see that, despite its commitment to comprehensiveness, it says relatively little about contracts. What it does say suggests that the Tang government did not want to intervene in such private matters (Johnson; MacCormack). Evidence of this attitude may be found in statements from Tang contract documents discovered in Dunhuang: “The officials have governance and law; the people proceed [on the basis of] private contracts”; “People fear lack of truthfulness and therefore establish private contracts in order to use afterwards for examination” (Scogin 1994:295n.34).

¹ The almanac-encyclopedia *Shilin guangji* 事林廣記 (Wide-ranging notes from the forest of life; ca.1330), stressed the importance of making ‘tight contracts’ in order to minimize the chance of conflict and litigation. See Hansen:127-8. But in the event of disputation, there were also model forms to teach people how to compose congratulatory letters to friends who had succeeded in winning lawsuits. See Ch’en:89-93.

²The *Tang Code* became the foundation for all subsequent imperial codes.

In the Song period when China experienced a profound economic and social transformation,³ governmental interest in contracts extended to collecting a revenue tax based on four percent of the value of the transacted item mentioned in the contract. Because the Song regime was in need of funding to support its armies fighting the steadily-growing number of incursions by northern nomadic peoples on the Chinese border, and did not wish to increase the land tax for fear of alienating powerful landowning families, it came to rely on this revenue tax more and more, and raised the rates higher and higher. This strategy was not short-sighted given the changing circumstances of the Song: as the state-controlled land system of the former Tang dynasty gave way to private ownership, and trade and commerce expanded on an empire-wide scale, the government could, in principle, lay claim to this tax on every exchange agreement. The Song government compendium, *Songhui yao* 宋會要 refers to contracts for the buying and selling of ordinary goods such as salt, tea, and rice, as well as for exotic items like lichees or flowering peonies (Jiang Xidong). Another contemporary source, the *Yijianzhi* 夷堅志 (Record of the listener; ca.1170) reveals that contracts, and eventually the revenue tax, were mandated at every level of exchange: country people in southeast China used contracts to record small loans of just two strings of cash, while traveling merchants relied on them for consignments of goods worth tens of thousands of strings of cash (Elvin:162-63). The government red-stamped contract meant that its holder had a legitimate claim, in case of conflict, to take his contract dispute to a local court.

For revenue collection, the Song government relied on the lowest level of administration, the *xian* 縣 (county or district), headed by a local magistrate, to collect and transmit these taxes to

³ The ‘Tang-Song transition’, first identified in the seminal work of the Japanese scholar Naitō Torajirō 内藤虎次郎 (1860-1934), has been the subject of much historical discussion. For info about the thesis, see Miyakawa; see also Fogel, and Zurndorfer 1997 on the impact of Naitō’s work for the writing of Chinese history.

prefectural authorities. The magistrate had the ultimate responsibility over local government, with all its fiscal, policing, and juridical components (Watt).⁴ He was aided by a variety of clerical subordinates who maintained the day-to-day management of his office. As commerce and trade expanded and the numbers of contacts grew, the amount of disputation over these agreements also increased, with the result that the average magistrate found himself with a tremendous backlog of cases, and an ever-growing dependency on local forces to help him sort out his administration. Literati, witness to the government's burdens and the people's enthusiasm for litigation, deplored the populace's easy access to books advising them on how 'to doctor' documents. Shen Gua 沈括(1035-95) remarked in his collection *Mengxi bitan* 夢溪筆談 (Dream book notes) that schoolchildren in Jiangxi province, which had a reputation for the local people's 'love of lawsuits', studied litigation manuals instead of the Confucian classics (Shen Gua 25:252-3).

Contracts and litigation remained enduring features of the Chinese legal system in the imperial era. In this paper we shall explore how these practices were intertwined in Chinese economic development before the 'Great Divergence' when 300 years of economic expansion that had realized comparable living standards in the Lower Yangzi region and northwest Europe came to an end (Pomeranz). During the afore-mentioned Song transformation and the 'second commercial revolution', which spanned the sixteenth through eighteenth centuries, contracts were given effect by the Chinese legal system. Because contract principles were enunciated by the state not in terms of abstract generalizations, but in terms of models that were embodied in specific written forms (which were easily available in printed format), it was not uncommon for ordinary people to make contracts and to seek adjudication, if necessary. Our goals in this paper

⁴ Because of the 'law of avoidance', the magistrate was never a native of the region where he served, usually for a three-year term.

are first, to unravel some of the intricacies between economic and social developments, and legal institutions in mid-to-late imperial China, and second, to investigate how changing economic circumstances affected people's attitudes toward contracts and litigation in one region of China, Huizhou, during the Ming dynasty (1368-1644). We begin with an analysis of the connection between the changing Song political economy and local juridical administration.

The Transformation of the Song Political Economy and the Realization of Local Juridical Administration

The demographic shift from the dry cereal regions of north China to the rice-growing zones of the south in the tenth century, and the building of a series of canals linking local markets to larger waterways, are generally considered by modern scholars the 'primary engine' behind China's first major 'economic revolution' (Smith 2003:2). As peasants moved to the lower Yangzi region, and even further south to exploit newly opened territories and to escape the depredations of steppe nomads, the Song state began to erect an empire-wide water network (Hartwell 1971:307). The construction of new canals and the improvement of existing rivers and their tributaries into a series of wider and well-connected waterways linked north and south, and helped spawn a commercial economy. With goods easier and cheaper to move and deliver, a complex hierarchy of articulated markets developed, ranging from great urban trading centers to periodic markets in small villages; these commercial entrepôts thereby stimulated market expansion even further, and increased product specialization (Shiba; Skinner). Whole regions in south China became market-orientated in their production of tea, fiber crops, timber and livestock, while other locales focused on mining and salt production, or textile, pottery, and metallurgical handicrafts and industries, or ship-building (Hartwell 1967; Shiba; Golas; So). Population size rose as new areas filled up: whereas in the mid-Tang, what is now south China held only 25

percent of the population, by the beginning of the Song, the population in south and southeast China was 46 percent of the total, and climbed to 65 percent in 1080, and to 71 percent by 1200 (Hartwell 1982:369; 383-94). Although accurate population statistics are problematical, the population of Song China may have reached 100 million by the close of the thirteenth century (Ho).

Another element in this transformation was the changing relationship between the state and the elite. In the long run, that metamorphosis may be described as the collapse of the Tang medieval aristocracy, a small number of great families who through endogamous marriage had dominated the Tang court and had held vast landed estates, and their replacement by localist gentry as China's dominant class. During the first phase of the Song, known as the Northern Song (960-1127), descendants of the Tang aristocracy which had allied with military satraps during the Tang-Song transition years, developed into a coherent status group by becoming what the late Robert Hartwell termed a "professional elite"--- families claiming pre-Song great-clan ancestry, who placed their sons in the higher offices of the bureaucracy generation after generation, and who controlled the [Song] government between 980 and 1100 (Hartwell 1982:406). As the authority of the central government expanded, members of these families sought official positions in the burgeoning civil service. This "professional elite" focused on the capital Kaifeng, and the execution of central government policies. The combination of an expanding economy, a state-orientated elite, and the encirclement by powerful steppe rivals fostered a unique activist approach to statecraft during this period. To meet its military expenses, the government enacted a series of 'new policies' that mobilized this ideologically activated "professional elite" to push the state ever more deeply into the economy. In effect, what this meant was government extraction through monopolies and state-run enterprises, e.g. the state buying Sichuan tea and trading it with Tibetan tribesmen for cavalry horses (Smith 1991). But

this centralist, interventionist approach to the economy did not prove successful.⁵ The loss of north China in 1126 to the Jurchen steppe people (initiating the Jin dynasty [1126-1234]) put a stop to state activism which had already faltered for years before the Jin takeover because of factional conflict among the officials themselves.

One of the consequences of this situation was the absorption of this “professional elite” into a much wider base of local gentry who viewed government service as just one option in an array of marriage and mobility strategies, and whose primary focus was local (Hartwell 1982; Hymes). During the second phase of the Song, known as the Southern Song (1127-1279), local gentry solidified their economic base through diversified investments in land, commerce, and money-lending. Although the civil service examination system continued to hold its sway as a means of gaining status and office, this local elite had lost faith in state activism, and turned to local networking through marriage and friendship with other local elite families to gain, and re-enforce their status. Their orientation was also bolstered by a new interpretation of the Confucian message articulated by Daoxue philosophers such as Zhu Xi 朱熹 (1130-1200) who emphasized the importance of education as a path to personal salvation through cultivation of the self, rather than as a route to success in the examinations. As the elite shifted its goals from national government service to moral transformation, it also redirected its loyalties from the centralized bureaucratic state to the local voluntaristic community (von Glahn). One’s own region became the central focus of concern, as central government authority devoluted ever further, and elite families became entrenched in their locales.

⁵ It is beyond the limitations of this paper to discuss all the economic, social, and cultural changes occurring during the Northern Song period, but suffice to mention the monetization of the economy, the use of fiduciary money and credit instruments, and wood block printing which facilitated the spread of practical information. For an assessment of how these phenomena, as well as cheap water transportation, affected the Northern Song economy, see Kelly.

The convergence of these dramatic economic and social changes also had a tremendous impact on the exercise of local juridical authority. Population increases brought more legal disputes over contracts—with more transfers of privately owned land, and greater economic interaction among strangers in marketplaces and urban conclaves—and the levels of litigation swelled. The *Minggong shupan qingming ji* 名公書判清明集 (Luminous collection of judgments by illustrious figures; hereafter, *Qingming ji*), compiled by Zhan Yanfu 詹琰夫 in 1261, documents the legal dimensions of the Song transformation. It was the first casebook in China that reproduced the texts of judicial decisions. This compilation recorded thousands of instances of people of all social classes, from all over southern China (Guangdong, Fujian, Jiangsu, Jiangxi, Zhejiang) who fought and defended contracts not only over land and goods but also about household affairs, educational matters, and human relationships (betrothal, marriage and divorce) (McKnight and Liu).⁶ With regard to land disputes, they went to court over widely diverse amounts of property---anywhere from several Chinese feet to more than fifty sixth-acres, plots worth seven strings to those worth 50,000.

The *Qingming ji* is divided into seven sections: *guanli* (officials), *fuyi* (taxes and services), *wenshi* (academic affairs), *huhun* (households and marriage), *renlun* (human relationships), *renpin* (categories of persons), and *cheng* (chastising evil). The most important topic in this compilation was property, either land or the division of a family estate (which might be a mix of land and liquid assets). In all seven sections cases involving disputes over land or some other form of material goods were reported. Some of these lawsuits dragged on for years, even decades, and in the majority of cases, the litigants were family members and neighbors originating from the same rural location. In contrast to the plaintiffs or defendants, the officials

⁶ McKnight and Liu's volume translates about forty percent of the cases included in the *Qingming ji*.

responsible for solving the litigation (in the main, the local magistrate) were portrayed in the *Qingming ji* as enlightened, rational, compassionate bureaucrats (hence, the title of the compilation) who were forced to deal with an endless stream of quarrels arising among ignorant and recalcitrant locals. Many of the officials with cases recorded here were associated with the increasingly influential Neo-Confucian (Daoxue) movement which meant that their decisions were based on an amalgam of legal precedent and moral conviction. It would seem that some of these officials felt free to express their prejudice against the written contract, and there were also instances of judges overturning contracts. Hansen recalls one *Qingming ji* case where a particular judge negated a contract on the ground that according to Song law, land could not be sold in order to pay off debts or the interest accruing on debts (Hansen:105). In any event, the besieged Song government's enthusiasm about contracts as a source of revenue could not erase the doubts some magistrates held against contracts.

The *Qingming ji*'s judicial vignettes convey the problems of a commercialized economy that engendered insecurity, and the resulting fierce competition for resources, especially agricultural land. The solution to these problems, as this digest makes clear, involved continuous negotiation between litigants and local government, mediated through various groups of people, including the district magistrate, his assistants, village officers, and not least, the local gentry elite. Members of these groups combined bureaucratic skills, legal knowledge, and in the case of this last category, 'symbolic capital', manifested in their support of liturgical and local welfare projects such as building temples and schools, or maintaining bridges and dikes. For his part, the magistrate (judge) as an outsider brought with him knowledge of the legal code which he attempted to impose locally in order to maintain stability and justice for the local community. The local gentry for their part represented the power and prestige within the local community. Thus, one may well ask whether in their involvement in the litigation of local lawsuits, this group

took action on the basis of their own particularistic interests, exercising the advantages of their authority and influence, or out of commitment toward the greater good of the local community. In order to answer this question, we should say a few words about administrative ‘retrenchment’ and the legal institutions responsible for the enforcement of contracts.

Government Retrenchment, Contentious Litigation, and China’s Second Commercial Revolution

Recent revisionist scholarship on China’s legal system during the imperial era has moved away from the hollow debates whether China had civil law or whether traditional Chinese culture was an obstacle to legal institutions (Zelin et.al.).⁷ As modern China scholars shun paradigms about ‘the strong and confiscatory state’ or, at the opposite end, ‘the weak indifferent dynastic regime’, they have also confronted more sophisticated analyses that focus on the multiplicity of legal practices at a local level. Liang Zhiping 梁治平’s 1996 study *Qingdai xiguanfa: shehui yu guojia* 清代 習慣法社會與國家 (Qing customary law: society and the state) documents a rich and diverse body of legal customs and practices in the countryside, and emphasizes the highly localized phenomena of contract litigation and disputation. Liang assumes that the agrarian-based Chinese state had little interest in private commercial matters, and remained detached from legal processes enforcing property rights. In contrast, Philip Huang has demonstrated that the two conventional images of the Chinese legal system, the formal portrait with codes and examples of court-adjudicated cases, or the informal conception with “its ethnographic accounts of community or kin mediation” (Huang 1993:251; cf. Huang 1996:119-37), are insufficient to account for the complexities of litigation. He proposes a ‘third realm’ in which a broad mix of local interests contended for justice and control (cf. Liang Zhiping:11-14). In Huang’s ‘third

⁷ For a penetrating discussion concerning the terminology ‘customary law’ and ‘civil law’ in imperial China, see Bourgon.

estate', the formal and official met the informal and communal. In this 'intermediate space', the magistrate functioned more as mediator than adjudicator.

An important figure in the 'third realm' was the 'litigation master' (*songshi* 訟師) who went into action precisely when the normative power structure, both formal and informal, was unable or unwilling to cope with contentious issues (Macauley). The litigation master emerged in the Southern Song era as local courts and magistrates faced increasing backlogs of disputed contracts, and bureaucratic excesses inhibited local government efficiency. The *songshi*'s role in local judicial administration was fragile. On the one hand, records show he could advocate for the local community on issues related to the official abuse of power, to the unfair or corrupt imposition of taxes, surcharges, and fees, or to the official inability to adjudicate cases in a timely fashion. On the other hand, the litigation master was also known to play off one group against the other, and thereby stir conflicts between local groups and undermine the social order. Not unexpectedly, the judges writing in the *Qingming ji* voiced their objections to that "class of people whose sole means of livelihood was helping others draw up complaints and suits" (Guo Dongxu). Such vilification was countered in the contemporary popular media, e.g. folk operas, which conveyed a much more positive image: the litigation master who stood up for the socially marginalized and the economically disadvantaged.

The litigation master did not disappear from China's judicial system until 1949, but this does not mean that the state infrastructure within which he operated, nor the conventions related to contracts and their litigation, remained constant during the last thousand years of imperial China. While the Mongol Yuan dynasty (1279-1368) adopted most Song legal institutions to govern Chinese people under its suzerainty, this government lowered the revenue tax on contracts to one thirtieth of the value of the given transaction, and recognized the validity of those

contracts made during the Song era (Hansen:118; cf. Ch'en; Ratchnevsky). But like its predecessors, this regime was committed to a system of 'under-administration' (it had limited resources which to do otherwise). Although the population had grown steadily since the early Song, neither that regime nor its successor had adapted bureaucratic administration at a local level to accommodate this demographic change. Yuan magistrates might have had twice as many persons under their jurisdiction than their predecessors 200 years earlier, depending on the location. "Retrenchment forced by growing scale of empire" (Skinner:20-1) overburdened the local judicial administration, just as before. And as in the Song period, the common people's "litigiousness" (*haosong* 好訟) remained just as intense. Moreover, with the explosion of cheap commercial printing, colloquial and rhymed versions of litigation manuals became even more easily available for the semi-illiterate anxious for legal knowledge.

This vibrant 'freewheeling' legal world of the Yuan era ended with the strident anti-litigation ethos of the Ming dynasty (1368-1644). In contrast to earlier dynasties, this government viewed the resolution of contract disputation, not a matter for the local magistrate and his associates, but the sole duty of 'village elders'. The first Ming emperor, Ming Taizu (r.1368-98), who aimed at a full-scale reconstruction of China after the long period of division and foreign domination, enacted a series of laws and policies that he supposed would set in motion the moral renovation of the Chinese people. To accomplish this he created administrative institutions below the county level known as *lijia* 里甲 (village community) and *laoren* 老人 (village elder system). The *lijia* system grouped together 110 households, under the authority of a *lizhang* 里長 (tax captain, chosen from among the ten richest households) who paid their land taxes jointly to the capital, thus bypassing the magistrate (Chang; Tsurumi). This emperor cancelled the tax on contracts, and expected that the land registers he mandated be

acceptable evidence of land ownership. Villagers were also expected to avoid the magistrate's court by taking their disputes to village elders (generally speaking, any male over fifty years of age), thereby keeping their "disputatiousness" confined to their hamlets or urban neighborhoods. Clearly, what this emperor had in mind was "the Daoist model of little elite of virtuous elders supervising self-sufficient villages and forwarding modest taxes to a minimalist state" (Brook 1998a:19; cf. Zurndorfer 2002).

The decline of these two systems began almost immediately after Ming Taizu's death.⁸ The key factor to the breakdown of the emperor's bucolic idyll was the revitalized commercial agriculture which had been ravaged during the civil wars of the Yuan-Ming transition period. The emperor's effective restoration of agricultural production "propelled the economy toward the production of surplus that had to be traded" (Brook 1998b:580). Because his regime did not regulate merchants, there was no institutional obstacle preventing traders from making use of the extensive state transport system he had also refurbished during his reign, to convey this surplus. By the end of the fifteenth century, the effects of the Ming government's surrender to the forces of the marketplace became evident. As Timothy Brook writes about the Ming 'Spring century' (1450-1550), the ideal of a self-sufficient rural community was fast fading, and central government officials saw the value of commuting some grain tax levies into silver (Brook 1998a:88). Local gentry too began to tap into the wealth of the commercial economy as urban consumers, enjoying the 'good life' as buyers of select furniture, high-quality silks, rare antiquities, and finely-printed books. The sixteenth century saw the intensification of commercial textile production (and in particular, of cotton cloth manufacture), the development

⁸ Traditional Chinese historiography has appraised the first Ming emperor as both a malicious despot and an effective architect of state and society. But recent revisionist work has emphasized the "shaky foundations" of his regime, and exposed his legacy to the tensions between the power of central government and the authority of local society. See Zurndorfer 2007a.

of maritime trade, the use of silver (imported from the New World) for the assessment and payment of taxes and goods, increased cash-cropping (especially along coastal regions), and finally, ‘the meshing of agricultural, commercial, and industrial activities’ in the Lower Yangzi region (see Li Bozhong 2003:377-445). These are all factors contributing to what a number of historians call China’s second commercial revolution.⁹

Another facet of this commercialization concerns tenants, property rights and contracts. Landlord-tenant relations changed too as commerce penetrated Ming mores. “Tenants were no longer willing to think of their relationship to their landlords as a personal bond, symbolized by the obligation to give them ‘winter gifts’” (Brook 1998a:85). Now the contractual relationship became ever more important: an economic agreement that entailed no terms other than those specified in the rental contract. Of all the regions in China with surviving contract records, there is no place with as many as Huizhou prefecture, an area as famous for the servitude of its agricultural laborers as it was for the wealth of its merchants.¹⁰ In the rest of this paper we will focus on contracts and litigation originating in this locale.

⁹ There is controversy over the significance of this second economic revolution in the long term. For some scholars, mid-sixteenth century developments delineated the beginning of ‘late imperial China’ which endured until the 1930s. The coherency of this era, they posit, was marked by the rise of a market economy, urbanization, and mass literacy, as well as the growth of the gentry class and the progressive elaboration of its formal (but non-bureaucratic) and informal roles in the governance of local society (Wakeman; Rawski). This periodization in effect challenged the notion that ‘modern China’ began with the Opium War, and minimized the impact of Western imperialism to a secondary level of historical causation. Nowadays, China historians are more likely to view the eighteenth century as the culmination of all those economic and social trends originating in the mid-sixteenth century. Thus, the first 150 years of the Qing were more than a mere revival of the Ming dynasty. “It [early-to-high Qing] was more expansionary, institutionally innovative, and ethnically diverse than a simple dynastic revival would imply.” (Goldstone:262). The question these historians are likely to ask is: when did these ‘high Qing’ bursts of total output, and gains in population and per capital consumption end, and usher in ‘the Great Divergence’?

¹⁰ It is estimated that there are some 200,000 documents now in the possession of various research institutes, universities, libraries, and musea in Beijing, Nanjing, Tianjin, and Huizhou. These documents consist not only of land and labor contracts, but also rent books, official tax registers, account books, and judicial administrative papers, and date from the fourteenth to the twentieth century. These documents were first noticed during the 1950s Land Reform campaigns when Huizhou residents, under instructions from local authorities, brought them to a local collection point in Tunxi. Thereafter, these educational and cultural institutions bought them; since the late 1970s, scholars from China, and later from Japan and Korea have studied them. In addition, Huizhou offers a huge number of extant family genealogies and local gazetteers, dating from the Ming-Qing era. My 1989 book was the first major

The 'Servile Tenants' of Huizhou Prefecture and Contract Disputes during the Ming Dynasty

Huizhou prefecture, located in the southeast corner of Anhui province, is approximately 360 km. southwest of present-day Shanghai.¹¹ First populated during the late Tang-early Song era, this region, with its myriad sheltering mountains, attracted settlers fleeing depredations and revolts elsewhere. Although land for growing grain or other foodstuffs was limited there to narrow valley plains and upland basins, the topography and soil conditions were ideal for tea production and forestry. The local economy thrived on the sale of tea, timber, and timber products (tung oil, ink, lacquer, paper), and by the Song dynasty, Huizhou achieved a reputation as a center of commercial agriculture. Local traders and merchants exported these goods along the abundant river ways that linked the prefecture to Hangzhou on the coast, and inland commercial centers such as the well-known porcelain-making center Jingdezhen (Jiangxi). These merchants operated within extended family or lineage networks, with bases in their home towns or villages, and in the guildhalls of the towns in which they traded. By the Ming era the most successful Huizhou merchants dominated the commerce in tea and timber, and the salt trade; they set up pawnshops in many cities, and forged commercial alliances that rivaled no others except those held by bankers from Shanxi province (Ma). They were known to sojourn long distances, but always considered Huizhou their home region, and returned there for New Year festivities and other important ritual celebrations.

The lineage organization, a collectivity of families (with the same surname) acknowledging group cohesion through their male members, was central to Huizhou merchants' operations. Not only did this extended family association provide credit, capital, and commercial

publication in English to utilize a portion of these records for a comprehensive study of the Huizhou region.. For an introduction to the sources for Huizhou study, see Nakajima:3-65; also, see McDermott 1985 for a brief synopsis in English.

¹¹ For a comparative study of another region, albeit located on China's littoral, that featured similar characteristics to Huizhou, see Zurndorfer 1992.

intelligence to their members (Fujii), it was also the central reference point of their identity. Many Huizhou lineages claimed long pedigrees, tracing their ancestry from the time of their southward migration. They maintained their solidarity by keeping their settlements in the locale limited to only a few villages,¹² and regularly meeting together to engage in prescribed Confucian rituals. Also, they periodically issued genealogies. Genealogies would generate consciousness of common identity and prestige, and merchants associated themselves with the degree and office holding members of their lineages. Successful merchants channeled the wealth they earned in commerce into financing lineage institutions: they provided funds for schools, teachers, travel expenses for candidates taking the exams, and cash prizes for the successful; they built temples in honor of illustrious ancestors, helped the needy members with weddings and funerals; and not least, they contributed their profits toward the purchase and maintenance of their lineage's corporate estates. By the sixteenth century, merchant assimilation into the scholarly elite strata of their lineages was no longer exceptional---the sons and grandsons of mercantile families sat the examination system, held office, patronized the arts, and married their sons and daughters into prestigious Huizhou scholar-official families. At that point in time, the heads of lineages along with their wealthy and degree-holding relatives formed the core of Huizhou's local gentry elite.¹³

Membership in Huizhou lineages covered a wide social spectrum, from this landholding gentry elite and rich retired merchants, to peasants with small-landholdings and those without. Surviving tenancy and rent agreements indicate that land ownership in Huizhou was somewhat more dispersed than in other parts of the Lower Yangzi region, but that at least seventy percent of the peasants had access to some land, whether as owners or tenants (Zhang Youyi:4-18). The

¹² Local gazetteer records suggest that single lineage villages dominated the Huizhou countryside. See *Huizhou fuzhi* (1699) 1.78b.

¹³ A recent study by Guo Qitao argues that Huizhou lineages were 'gentrified mercantile lineages'. See also Zurndorfer 2007b.

same documentation distinguishes ‘free’ tenants who had commoner status (like their landlords), and ‘servile’ tenants (*dianpu* 佃僕) who were categorized as ‘mean’ people.¹⁴ *Dianpu* had the status intermediate between that of commoners and household slaves.¹⁵ They were recruited from nonkin members by individual and corporate landlords, and were barred from marriage with ordinary people and participation in the examination system, but it is not clear if all *dianpu* inherited their status. However, unlike ‘free’ tenants, ‘servile’ tenants could not just sever the relationship with the landlord (Hansson:144; Wiens 238-9, 241-8). They worked for the landlord for a minor share of the production—in many cases, one-third—and were also expected to execute other duties (recreational services during weddings, funerals, and festivals, repairing and constructing houses, paving roads, building stages for operatic performances during festivals, carrying sedan chairs). In some cases, the services demanded from servile tenants were demeaning and ‘spiritually polluting’—they were required to handle corpses, protect graves, and assume abject positions in lineage rituals (Ye Xian’en:249-68; 329-46). For his part the landlord provided *dianpu* with productive land, housing, and a burial place for their families.

From the rich collection of extant Huizhou documents, we know that *dianpu* entered this status by contract, and that they did so because they were extremely poor and needed burial land, or they had no other means to acquire a wife (see Appendix for sample contracts). A severe shortage of good farming land in Huizhou meant that lineages rivaled each other to

¹⁴ Other people categorized as ‘mean’ or *jianmin* 賤民 included government runners, prostitutes, actors, musicians, slave-servants. Because these people served or entertained others, their labor was considered nonproductive. ‘Mean people’ were not emancipated until 1727 when the Yongzheng Emperor (r. 1722-36) decreed their release from discriminatory statutes. See Hansson:163-70.

¹⁵ The category of ‘servile tenants’ should not be confused with bondservants (*nupu* 奴僕) who were also classified as ‘mean’ but in terms of duties were a heterogeneous group of people. Bondservants could serve as household servants or as field hands, but they also could own property, supervise ‘free’ tenants, and even in some cases, take control over their master’s property. See Zurndorfer 1989:200-04. The well-known late Ming literatus Gu Yanwu 顧炎武 (1613-82) wrote in his compilation *Rizhi lu jishi* 日知錄集釋 (Record of knowledge gained day by day, with commentaries) 13:29a “(sometimes) the bondservants act like a master and the master acts like a bondservant.”

acquire property, and tenants competed to obtain contracts for laboring on that land. The relations between the landlord and his *dianpu* were paternalistic, so any violation of the contractual terms was labeled “unfilial.” These servile tenants were supposed to behave according to Confucian kinship principles (*en* 恩 [kindness], *xiao* 孝 [filial piety], *zhong* 忠 [loyalty], and *yi* 義 [dutifulness]), and to recognize the absolute ruling authority of the lineage head and other esteemed elders. But the family head and senior lineage members also had obligations toward their inferiors: they were expected to show benevolence, forbearance, conciliation, toleration, and patience. In the cases of crop failure or famine, and sometimes as a reward for a servile tenant’s extra labor, the rent could be reduced or exempted. In sum, both ritual and the ethos of collective welfare were seen as key instruments in preventing conflict between lineage members and servile tenants.

The first generation of China scholars who researched on Huizhou’s ‘servile tenants’ stressed this group’s inferior social standing, but tried to go beyond conventional Marxist-Maoist interpretations that cast all tenants as victims of rapacious gentry landlords. Ye Xian’en in his path-breaking 1983 study *Ming Qing Huizhou nongcun shehui yu dianpuzhi* 明清徽州農村社會與佃僕制 (Huizhou’s rural society and servile tenant system in the Ming Qing period) showed that neither Huizhou gentry nor merchants were keen about land acquisition for private use because of the relatively low returns on land investment as compared to commerce, and because of the restrictions against the sale of lineage properties to outsiders. Ye’s work probes the complexities of landlord-*dianpu* relations, and finds some occurrences of servile tenants cultivating the land of a master (or one of their masters) where the contract did not include any other obligations than their paying rent. Moreover, from statistics he compiled based on the activities of one particular lineage, he argued that in some cases the incomes of those who

labored as tenants and ‘servile tenants’ on the same piece of land were not all that different (Ye Xian’en:314-15). Both Ye and another well-known scholar of Ming rural relations, Fu Yiling 傅衣凌, discussed instances where servile tenants, like free tenants, had property rights to a particular field which they might sub-lease, sell, mortgage or bequeath to another party, in lieu of cash compensation for their labor input (Ye Xian’en:256; Fu Yiling:10-11). On the other hand, both scholars have also found significant a series of written contracts from the years 1557 to 1604 involving three generations of a family of tenants from Huizhou’s Qimen county that demonstrate how this group became progressively more subservient to their master---their landlord put more pressure on them to perform extra services (Ye Xian’en:234-35; Fu Yiling:14-15).

Since the publication of Ye Xian’en’s and Fu Yiling’s pioneering studies, there has been a great effort to collect systematically the Huizhou documentation scattered in various PRC institutions and to print these records.¹⁶ To date, the most thorough and innovative analysis of these published Huizhou records is *Mindai gōson no funsō to chitsujo: Kishū monjo o shiryō to shite* 明代郷村の紛争と秩序:徽州文書を史料として (Disputes and order in Ming rural society: An analysis based on Huizhou documents) by the Japanese scholar Nakajima Gakushō 中島樂章. Nakajima’s study encompasses more than an appraisal of *dianpu* relations. His investigation begins with the impact of the *lijia* and *laoren* institutions in Huizhou during the early Ming. He argues convincingly that despite the decline of these two systems elsewhere, many contract disputes in Huizhou were settled by *lizhang* and *laoren* until the early sixteenth century. In some instances, ‘village elders’ did confer with the magistrate, lineage heads, and other influential persons, but in the main the *laoren* were able to solve disputes without their intervention (Nakajima:113-48). Disagreements over mountain land boundaries or graveyard

¹⁶ I have listed the principal printed collections in the References at the end of this paper.

land ownership would often go first to the attention of the magistrate, but he would order the *laoren* to investigate the disputed site. On the basis of his report, the magistrate gave instructions to the village elders to define the boundary or re-examine the original deeds and thereby settle the litigation. Nakajima argues that those who worked under the magistrate (prefect, clerks, runners) rarely visited the rural locations themselves, and this official supervised dispute resolution through the exchange of documents with the *laoren*.

During the Ming dynasty, Huizhou was well-known for the disputatiousness of its inhabitants which some contemporaries deplored. In an essay written in 1488 to advise the newly appointed local magistrate to Huizhou, the famous local literatus Cheng Minzheng 程敏政 (1445-99), who was then serving in the capital, apologized to him for the people's penchant for "easily resorting to lawsuits."

...Though legal disputes are numerous in Huizhou, the reasons for these disputes are indeed of only three categories: over land, over graveyards, and over adoption...These disputes could span the tenure of several local officials, or last many years. It looks that people there are really disputatious. However, these are indeed excusable. Lands are the properties inherited from ancestors, graveyards concern the ancestors resting place, and adoptions relate closely with lineage principles. Although the involvement of selfish interests is undeniable, it also out of the imperative of the situation and principles...(Huangdun wenji 篁墩文集 27:12a-13b).

Ten years later when Cheng was back in Huizhou, he again wrote to his successor with a similar apology: as for local people "resorting to legal disputes for trivial issues...they may engage in argument for years, even at the cost of bankruptcy. In this sense, it is hard to govern indeed." (*ibid.*).

Nakajima's research indicates that litigation in Huizhou took on new dimensions in the sixteenth century. At that time, *laoren* as mediators appear less frequently in the documentation, while the *lizhang*, who were most closely related to powerful local lineages, assumed more influence in the settlement of local disputes, both in the investigation and in the mediation of these matters. They were assisted by two other kinds of local community organizations, *baojia* 保甲 (mutual security association), and *xiangyue* 鄉約 (village covenant association) which aimed at maintaining local safety and upholding moral exhortation, respectively.¹⁷ These alliances, which were organized pretty much on the same lines as the *lijia* but brought lineages of various surnames together, represented the interests of both concerned officials and local influential people. They had become dismayed at the deterioration of rural defense and the movement of financial capital from rural investment into market towns and city-based activities (such as the salt trade and the acquisition of pawnshops) (Nakajima 214-33; see also Zurndorfer 1989:208-10). In mid-sixteenth century Huizhou, there was a general decrease in the land per person ratio, which left a smaller margin of rural productivity to provide for the prestige of the lineages, and the general material well-being of common rural inhabitants. Not unexpectedly, there was also a rise in the number of litigated contracts—these disputes were handled by a combination of lineage organization representatives, and in some instances *songshi*. Nakajima finds that Huizhou society in general from the 1550s had become more fluid and unstable (Nakajima 234-65).

Nowhere was the impact of this growing social discontent felt more than by 'servile' tenants who too felt the need to litigate their contracts with their masters. Nakajima's examination of some 52 contract disputes involving *dianpu* for the period 1487 to 1645 yields

¹⁷ McDermott 1999:317-29 posits that Huizhou local elites enforced village covenant rituals that exhibited devotion to the emperor as a way of reinforcing their own hold on local society.

some interesting results. Only 15 cases were brought to the magistrate while the other 37 were settled by various mediators, including those landlords named in the contracts. Also remarkable is that in some of these disputes, *dianpu* were in conflict with their overseers because of the extra income they had earned through commerce. Seizing new economic opportunities, they planted other commercial crops on the land allotted to them, and sold them for a profit. In other instances, some of these *dianpu* who accompanied their masters to markets outside Huizhou found ways to make money on their own initiative, and thereafter tried to break the contact with their lords (Nakajima 266-95). Nakajima's analysis allows us to contemplate how the general instability affected Huizhou society with the majority of *dianpu* not being able to access this new wealth. Ultimately, they resorted to violence and insurrection, which culminated in a major peasant rebellion throughout Huizhou during the time of the Ming-Qing transition (1644-46) (Nakajima:296-321; see also, Zurndorfer 1989: 195-218).

Implications

In this paper we have attempted to demonstrate how the use of contracts functioned in the economic regulation of Chinese society in the mid-to-late imperial era. Our analysis has focused on the thinly spun web of judicial authority successive imperial governments fostered upon local institutions. The Chinese state acted as a superstructure over a diverse range of autonomous local arenas where economic and social issues were adjudicated according to local priorities. The success of this superstructure may be measured in the important communication and commercial developments of the Northern Song era that culminated in China's 'first economic revolution'. A key turning point in our narrative occurred in the eleventh century with the rise to power of conservative, localist gentry at the expense of this interventionist, centralized bureaucratic state. From that time onward, the reach and strength of imperial control at the local level became a

delicate balancing act. Nevertheless, both central and local authorities had the common goal of sustaining order and stability among the inhabitants, and entertained moral enforcement through the institutionalization of Confucian ideals in ritual practices to fill the moral universe of the common people. But this idealized order was flexible enough to permit the challenge of contract litigation which in principle could undermine the Confucian ideal of social harmony.

The Huizhou evidence highlights the role of ‘corporatism’ at a local level in imperial China (cf. Greif:388-400) and its impact on contracts and litigation. The collectivist interests of Huizhou society, which were organized within extended kin groupings formalized as lineages, permeated all social strata. Horizontal economic interaction between lineages’ landed elite and wealthy merchants, and the vertical flow of surplus wealth to disadvantaged lineage members, insured social unity and the promise of economic well-being. For those outside this extended family corporation, such as the ‘servile’ tenants we have discussed, the contract institution provided a relatively secure means to realize a meager livelihood and coveted burial land. Moreover, kinship ethics and Confucian values also applied to the landlord’s treatment of his ‘servile’ tenants.

During the first 200 years of Ming rule, the settlement of contract disputes which took place within Huizhou’s ‘third estate’ was seemingly unproblematic, despite the local people’s reputation for litigiousness. But with the tensions unleashed by the ‘second commercial revolution’ beginning in the 1550s, the majority of the region’s ‘servile’ tenants became dissatisfied; those who did not profit from the rapid commercialization, at first turned to litigation to free themselves from their bonds and their masters, and failing that, to violence. By the close of the Ming, the Huizhou lineage corporation was no longer an effective means to sustain order and stability. And thus, one must ask how do powerful exogenous economic forces, even those ushering in trajectories of prosperity, impact the efficacy of local institutions of control and

economic welfare. In this situation, it was the economic thrust from outside that destroyed the inside of Huizhou's equilibrium.

APPENDIX

Sample Huizhou Contracts

1) Sample contract of an ordinary tenant (commoner) renting land from another lineage.

Hu Sheng, a resident of the fifth *du*, now rents two clumps of land, paddy field and dry land, of the Hong (family) in the fifth *du*. Their location is at the place called 'Atop the Pond and Below the Raised Plot'. Each year [Hu] agrees to pay back four *cheng* and ten *jin* of grain, and each year on the day of the autumn harvest he will allow his master to check the harvest. If there is additional land to be opened up, allow Hu Sheng to open it and work at it, with also no increase in rent. Now fearing that there is nothing to rely on, we set up this contract as evidence.

Signed (in the year) Hongzhi 13.11.13 (1500.11.13)

The person who sets up the contract Hu Sheng,
scribed by Rao Yongshan

cited in Liu Hehui, "Mingdai Huizhou Hushi dianpu wenxue," *Anhui shixue* (1985), p.64.
[The author of this article uses this contract to show how different it is from a *dianpu* contract].

2) Sample contract of someone becoming a 'servile' tenant, in order to acquire burial ground.

The servants Hu Shengbao, Hu Zhubao, Hu Chibao, and the sons and grandsons of the four Hu branch families, draw up this contract. Previously our ancestors, Hu Ang and Hu Sheng, besought from Master Hong Shou one piece of land, the Lower Pond Hill, located in our county, for the purpose of burying our ancestors, Hu Fu and his wife. Since then, fifteen more coffins have been buried there. Each coffin occupies the space of nine paces. Kept in this cemetery was also one small coffin of the master's family and one stone tablet. Our ancestors had drawn up statements specifying that we could bury no one outside these given spaces. It stated that we could only have further burials in the master's cemetery with his permission. It is agreed that the descendants of our Hu family will observe this regulation in perpetuity; no arbitrary burial is allowed. If there are any violations of this rule, the master can present the case to the court and have us punished as violators.

Recently because of our failure to perform adequately our duty of escorting his children to school, the master expressed his intent to present the case to court. All the four branch families, realizing our weak position, pleaded for forgiveness and were willing to accept punishment. It is agreed that from now on, whenever there are marriages, funerals, or sacrifices in the master's house, we will offer our services.

The master, in consideration of the fact that we live far away from his estate and that the servants on the estate are sufficient, only requests to send over two people to help with the sacrifice and cleaning during the Clear and Bright Festival [for honoring the dead]. In addition, on occasions when members of the master's family are going to school, going to the examinations, or responding to the call to serve in public office, the descendants of the four families will each dispatch one person to serve for one day. We dare not refuse the call for service. We also agree to keep watch carefully over the master's family graveyard.

After the drawing up of this contract, the descendants of the four Hu families will observe the regulations in perpetuity. Should there be any violations, the master can present the case to the court and have us punished as violators.

In order to guarantee the agreements, we draw up this contract as evidence.

Dated the 17th day of the twelfth month of 1605.

The servants who draw up the contract: Hu Shengbao, Hu Xibao, and their sons and grandsons....

Scribe: Hu Chengming

cited in Fu Yiling, "Mingdai Huizhou zhuangpu wenyue jicun," *Wenwu* (1960) 2, pp.11-13.

3) Sample contract of someone in need of a wife and becomes a 'servile' tenant.

Tenant Wang Mengxi draws up this contract. The resident-tenant Lu San of the Old Father Temple Estate, Hu Family Mountain, passed away, leaving behind him his widow, Juxiang, nee Lin, and two sons. The elder son is Yushou; the younger one is Baoshou. They are both young and weak and unable to perform the duty of cultivating the field for the estate.

The master, considering that I have not been married, permitted me to marry the widow, Lin, to enter her family, to raise her two children, and to pay the rent to the master.

Previously, Lu San had separated his property from that of Lu Xing. I will take possession of the house and lands which belong to Lu San. Upon entering the widow's house, I will carefully serve the master, diligently cultivate the land, and earnestly raise the two children. I do not dare to come or go at will or to make trouble. Later on if I have children of my own, I will divide my earnings and the field and the house equally among all of them. If I am lazy or indolent, the master can proceed against me.

In order to guarantee this agreement, I have drawn up this contract as evidence.

Dated the 27th day of the eleventh month of 1634.

The person who drew up the contract: Wang Mengxi

Witnesses: Lu Xing (younger cousin)

Lin Fahu (roommate)

cited in Ji Liuqi, *Mingji nanlue* (Taiwan wenxian congkan, ed.), ch.9, p.266.

REFERENCES

Printed Huizhou Contracts

Anhui Sheng Bowuguan, ed.. 1988-90. *Ming Qing Huizhou shehui jingji ziliao congbian* (Collected materials concerning economy and society from Huizhou during the Ming and Qing dynasties). 2 volumes (Beijing: Xinhua shudian jingxiao).

Zhongguo shehui kexue yuan (Lishi yanjiu suo), comp. 1991. *Huizhou qiannian qiyue wenshu: Song, Yuan, Ming bian* (A thousand years of Huizhou contract agreements from the Song, Yuan, and Ming dynasties) (Shijiazhuang shi: Huashan wenyi chubanshe).

Zhongguo shehui kexue yuan (Lishi yanjiu suo), comp. 1993. *Huizhou qiannian qiyue wenshu: Qing, Minguo bian* (A thousand years of Huizhou contract agreements from the Qing and Republican eras) (Shijiazhuang shi: Huashan wenyi chubanshe).

Other references

Bourgon, Jerome. 2002. "Uncivil Dialogue: Law and Custom Did Not Merge into Civil Law under the Qing," *Late Imperial China* 23.1:50-90.

Brook, Timothy. 1998a. *The Confusions of Pleasure: Commerce and Culture in Ming China* (Berkeley: University of California Press).

-----, 1998b. "Communications and Commerce," in Denis Twitchett and Frederick Mote, eds., *The Cambridge History of China*, vol. 8, part 2: *The Ming Dynasty 1368-1644* (Cambridge: Cambridge University Press), 579-707.

Chang, George Jer-lang. 1978. "The Village Elder System of the Ming Dynasty," *Ming Studies*, 7:53-62.

Ch'en, Paul Heng-chao. 1979. *Chinese Legal Tradition under the Mongols: The Code of 1291 as Reconstructed* (Princeton: Princeton University Press).

Cheng Mincheng. ca.1500 [1983]. *Huangdun wenji* (Collected works) [Siku quanshu 1252-3 ed.] (Taipei: Taiwan shangwuyin shuguan).

Chia, Lucille. 2002. *Printing for Profit: The Commercial Publishers of Jianyang, Fujian (11th-17th Centuries)*. (Cambridge, MA: Harvard University Asia Center).

Elvin, Mark. 1973. *The Pattern of the Chinese Past* (Stanford: Stanford University Press).

Fogel, Joshua. 1984. *Politics and Sinology: The Case of Naitō Konan (1866-1934)* (Cambridge, MA: Harvard University Press).

Fu Yiling. 1961. *Ming Qing nongcun shehui jingji* (Rural society and economy in the Ming Qing period) (Beijing: Sanlian).

Fujii Hiroshi. 1953. "Shin'an shōnin no kenkyū (san) (A study of the Xin'an merchants) (part 3)," *Tōyō gakuhō* 36.3:65-118.

Golas, Peter. 1980. "Rural China in the Song," *Journal of Asian Studies*, 39:291-325.

Goldstone, Jack. 2004. "Neither Late Imperial nor Early Modern: Efflorescences and the Qing Formation in World History," in Lynn Struve, ed., *The Qing Formation in World-Historical Time* (Cambridge, MA: Harvard University Asia Center), 242-302.

Greif, Avner. 2006. *Institutions and the Path of the Modern Economy: Lessons from Medieval Trade* (Stanford: Stanford University Press).

Guo Dongxu. 1990. "Songdai zhi songxue (The study of suing in the Song dynasty," in Qi Xia, ed., *Songshi yanjiu luncong* (Collected essays in Song studies) (Baoding: Hebei daxue chubanshe), 133-47.

Guo Qitao. 2005. *Ritual Opera and Mercantile Lineage: The Confucian Transformation of Popular Culture in Late Imperial Huizhou* (Stanford: Stanford University Press).

Hansen, Valerie. 1995. *Negotiating Daily Life in Traditional China: How Ordinary People Used Contracts 600-1400* (New Haven: Yale University Press).

Hansson, Anders. 1996. *Chinese Outcasts: Discrimination and Emancipation in Late Imperial China* (Leiden: E.J. Brill).

Hartwell, Robert M. 1967. "A Cycle of Economic Change in Imperial China: Coal and Iron in Northeast China, 750-1350," *Journal of the Economic and Social History of the Orient*, 10:102-59.

-----, 1971. "Financial Expertise, Examinations, and the Formulation of Economic Policy in Northern Sung China," *Journal of Asian Studies* 30:281-314.

-----, 1982. "Demographic, Political, and Social Transformations of China, 750-1550," *Harvard Journal of Asiatic Studies*, 42:365-442.

Ho Ping-ti. 1959. *Studies on the Population of China* (Cambridge, MA: Harvard University Press).

Hu Liuyuan and Feng Zhuohui. 1983. "Cong Shaanxi jinwen kan XiZhou minfa guifan ji minshi susong zhidu" (A view based on inscriptions from Shaanxi of the norms of civil law extending to the system of civil suits in the Western Zhou), *Kaogu yu wenwu* 6 :72-8; 63.

Huang, Philip C. C. 1993. "Between Informal Mediation and Formal Adjudication: The Third Realm of Qing Civil Justice," *Modern China*, 19.3:251-98.

-----, 1996. *Civil Justice in China: Representation and Practice in the Qing* (Stanford: Stanford University Press).

Hulsewé, A.F.P. 1985. *Remnants of Ch'in Law* (Leiden: E.J. Brill).

Hymes, Robert. 1986. *Statesmen and Gentlemen: The Elite of Fu-chou, Chiang-hsi, in Northern and Southern Sung* (Cambridge: Cambridge University Press).

Ikeda On. 1973/1975. "Chūgoku kodai no sodenkei" (Contracts for renting land in ancient China), *Tōyō bunka kenkyūjo kiyō* 60:1-112 (part 1), 65:1-112 (part 2).

Ikeda On, Yamamoto Tatsuro, and Okano Makoto. 1980. *Tun-huang and Turfan Documents Concerning Social and Economic History* (Tokyo: Toyo Bunko).

Jiang Xidong. 1991. "Songdai maimai qiyue chutan" (A preliminary study of Song dynasty contracts for buying and selling), in Deng Guangming and Qi Xia, eds., *Zhongri Songshi yantaohui: Zhongfang lunwen xuanbian* (The Sino-Japanese conference on Song history: Selected papers from the Chinese side) (Baoding: Hebei daxue chubanshe), 91-106.

Johnson, Wallace. 1979. *The Tang Code—Volume 1: General Principles* (Princeton: Princeton University Press).

Kelly, Morgan. 1997. "The Dynamics of Smithian Growth," *Quarterly Journal of Economics* 112.3:939-64.

Li Bozhong. 2003. *Duo shijiao kan Jiangnan jingjishi (1250-1850)* (An economic history of Jiangnan according to multiple perspectives, 1250-1850) (Beijing: Sanlian shudian).

Liang Zhiping. 1996. *Qingdai xiguan fa: shehui yu guofa* (Qing dynasty customary law: society and state) (Beijing: Zhongguo Zhengfa daxue chubanshe).

Ma Debin. 2004. "Growth, Institutions and Knowledge: A Review and Reflection on the Historiography of 18th-20th Century China," *Australian Economic History Review*, 44.3:259-77.

MacCormack, Geoffrey. 1985. "The Law of Contract in China under the T'ang and Sung Dynasties," *Revue internationale des droits de l'antiquité*, 32:17-68.

Macauley, Melissa. 1998. *Social Power and Legal Culture: Litigation Masters in Late Imperial China* (Stanford: Stanford University Press).

McDermott, Joseph P. 1985. "The Huichou Sources---A Key to the Social and Economic History of Late Imperial China," *Ajia bunka kenkyū*, 15:49-66.

-----, 1999. "Emperor, Elites, and Commoners: The Community Pact Ritual of the Late Ming," in J.McDermott, ed., *State and Court Ritual in China* (Cambridge: Cambridge University Press), 299-351.

McKnight, Brian E. and James T.C. Liu. 1999. *The Enlightened Judgements 'Ch'ing-ming chi' The Sung Dynasty Collection* (Albany, NY: State University of New York Press).

Miyakawa Hisayuki. 1955. "An Outline of the Naitō Hypothesis and Its Effects on Japanese Studies of China," *Far Eastern Quarterly* 14:533-52.

Morita Kenji. 1991. "Guanyu zai Riben de *Shilin guangji* zhuben (About the different editions in Japan of 'Wide-ranging notes from the forest of life)," in Deng Guangming and Qi Xia, eds., *Guoji Songshi taolunhui lunwen xuanji* (Selected papers from the international Song studies conference) (Baoding: Hebei daxue chubanshe), 266-80.

Nakajima Gakuhō. 2002. *Mindai gōson no funsō to chitsujo: Kishū monjo o shiryō to shite* (Disputes and order in Ming China: An analysis based on Huizhou documents) (Tokyo: Kyūko shoin).

Niida Noboru. [1937] 1983. *TōSō hōritsu monjo no kenkyū* (A study of legal documents of the Tang and Song eras). Reprint. (Tokyo: Tōkyō daigaku shuppankai).

Pomeranz, Kenneth. 2000. *The Great Divergence: China, Europe, and the Making of the Modern World Economy* (Princeton: Princeton University Press).

Ratchnevsky, Paul. 1937-1985. *Un code des Yuan*, four vols. (Paris: Presses universitaires de France).

Rawski, Evelyn. 1985. "Economic and Social Foundations of Late Imperial China," in David Johnson, Andrew Nathan, and Evelyn Rawski, eds., *Popular Culture in Late Imperial China* (Berkeley: University of California Press), 3-33.

Scogin, Hugh T. 1990. "Between Heaven and Man: Contract and the State in Han Dynasty China," *Southern California Law Review* 63.5:1325-1404.

-----1994. "'Civil Law' in Traditional China: History and Theory," in Kathryn Bernhardt and Philip Huang, eds. *Civil Justice in Qing and Republican China* (Stanford: Stanford University Press), 13-41.

Shen Gua. [1975 ed.]. *Mengxi bitan: Xin jiaozheng* (A newly annotated and corrected edition of 'Dream Book Notes') ed. By Hu Daojing (Hong Kong: Zhonghua shuju).

Shiba Yoshinobu. 1970. *Commerce and Society in Sung China* (Ann Arbor: Center for Chinese Studies, University of Michigan).

Skinner, G. William. 1977. "Introduction: Urban Development in Imperial China," in G. William Skinner, ed., *The City in Late Imperial China* (Stanford: Stanford University Press), 3-31.

Smith, Paul J. 1991. *Taxing Heaven's Storehouse: Horses, Bureaucrats, and the Destruction of the Sichuan Tea Industry, 1074-1224* (Cambridge, MA: Harvard University Press).

-----, 2003. "Introduction: Problematizing the Song-Yuan-Ming Transition," in Paul J. Smith and Richard von Glahn, eds., *The Song-Yuan-Ming Transition in Chinese History* (Cambridge, MA: Harvard University Asia Center), 1-34.

So, Billy. 2001. *Prosperity, Region, and Institutions in Maritime China: The South Fukien Pattern, 968-1368* (Cambridge, MA: Harvard University Asia Center).

Tsurumi Naohiro. 1984. "Rural Control in the Ming Dynasty" (trans. by T. Brook), in Linda Grove and Christian Daniels, eds., *State and Society in China: Japanese Perspectives on Ming-Qing Social and Economic History* (Tokyo: University of Tokyo Press), 245-77.

Von Glahn, Richard. 1993. "Community and Welfare: Chu His's Community Granary in Theory and Practice," in Robert Hymes and Conrad Shirokauer, eds., *Ordering the World: Approaches to State and Society in Sung Dynasty China* (Berkeley: University of California Press), 221-54.

Wakeman, Frederic. 1975. "Introduction," in Frederic Wakeman and Carolyn Grant, eds., *Conflict and Control in Late Imperial China* (Berkeley: University of California Press), 1-25.

Watt, John. 1972. *The District Magistrate in Late Imperial China* (New York: Columbia University Press).

Wiens, Mi Chu. 1990. "Kinship Extended: The Tenant/Servants of Hui-chou," in Kwang-ching Liu, ed., *Orthodoxy in Late Imperial China* (Berkeley: University of California Press), 231-54.

Ye Xian'en. 1983. *Ming Qing Huizhou nongcun shehui yu dianpuzhi* (Huizhou's rural society and servile tenant system in the Ming-Qing period) (Hefei: Anhui renmin chubanshe).

Zelin, Madeleine, Jonathan Ocko, Robert Gardella. 2004. "Introduction," in Madeleine Zelin, Jonathan Ocko, and Robert Gardella, eds., *Contract and Property Law in Early Modern China* (Stanford: Stanford University Press), 1-13.

Zhang Chuanxi. ed. 1995. *Zhongguo lidai qiyue huibian gaoshi* (Selected annotated contracts from China) (Beijing: Beijing daxue chubanshe).

Zhang Youyi. 1984. *Ming Qing Huizhou tudi guanxi yanjiu* (Studies on Huizhou land relationships in the Ming and Qing periods) (Beijing: Zhongguo shehui kexue chubanshe).

Zurndorfer, Harriet T. 1989. *Change and Continuity in Chinese Local History: The Development of Hui-chou Prefecture, 800 to 1800* (Leiden: E.J. Brill).

1992. "Learning, Lineages, and Locality in Late Imperial China: A Comparative Study of Education in Huichow (Anhwei) and Foochow (Fukien) 1600-1800," *Journal of the Economic and Social History of the Orient*, 35.2:109-44; 35.3:209-38.

-----, 1997. "China and 'Modernity': The Uses of the Study of Chinese History in the Past and the Present," *Journal of the Economic and Social History of the Orient*, 40.4:461-85.

-----, 2002. "Old and New Visions of Ming Society and Culture," *T'oung Pao* 88:151-69.

-----, 2007a. Review of *Community Schools and the State in Ming China* in *The American Historical Review*, 112.2 :477-8.

-----, 2007b. Review of *Ritual Opera and Mercantile Lineage* in *Harvard Journal of Asiatic Studies*, 67.1:229-37.