

# Social Customs and Dispute Settlement among the Miao People as Seen in Contractual Documents of Qing Period Guizhou: The Role of Divine Judgment and Alliance Formation

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## Introduction

The present article is an attempt to trace social change in the Qingshui River basin of southeastern Guizhou Province during the 18th and 19th centuries by focusing on how disputes were settled according to a collection of Qing period privately negotiated contractual documents found in the two Miao villages of Wendou 文斗 and Pingao 平鳌 in Guizhou's Jinping 錦屏 County. The importance of this collection of documents related to the Miao people of Guizhou was first indicated in the research done by Yang Yougeng 楊有賡 of the Guizhou Institute for Nationalities. During the 1960s, while participating in a socio-historical survey of the Dong people of the Qingshui River basin, Prof. Yang visited Wendou and succeeded in collecting over 490 contractual documents, then during the 1980s published a very detailed body of research on the history of forestry and social organization of the Miao and Dong peoples of the region based on those documents.

During August of 1994, this author was fortunate enough to receive the opportunity to accompany Prof. Yang briefly to the villages of Wendou (now in the district of Pinglue 平略) and Pingao (across Wudu Creek, a branch of the Qingshui). On that occasion, I was able to read many new contractual documents related to forest life, mostly kept in the archives of the village councils. These documents have been published recently as part of the forestry-related contractual document collection *Guizhou Miao Zu Linye Qiyue Wenshu Huibian* 貴州苗族林業契約文書匯編 (hereafter *Huibian*).<sup>1)</sup> Then in 1995 Profs. Yang and Christian Daniels conducted a survey of both villages, once more in search of documents, which yielded a large collection from the households of Pingao. The following year I was able

to study the documents that were being temporarily kept by Prof. Yang at his home in the city of Guiyang.<sup>2)</sup> Incidentally, the documents discovered in the 1995 survey proved to be an important supplement to the sources contained in *Huibian*, adding a great deal of useful information for the study of Miao society.

Large collections of documents from the private sectors of China's ethnic minority districts being few and far between, the existence of a collection like *Huibian* itself shows the drafting of contracts as a characteristic cultural feature of Miao society in the Qingshui River basin, not to mention its importance to the researcher as a source for tracing the turbulent social changes that were taking place in the region during the 18th and 19th centuries. Even in the districts of Jingzhou 靖州 (in present day Hunan Province) in the lower reaches of the Qingshui, "Promises [*yaoyue* 要約] are contracted by using [i.e., notching] wood and iron" date back at least to the 15th century.<sup>3)</sup> However, it was not until the beginning of the 18th century that the commercialization of Chinese fir (*Cunninghamia*) logs, which were being imported to the middle and lower reaches of the Changjiang River, developed on a large scale, bringing about sweeping changes in the societies of the non-Han ethnic groups of the Qingshui basin.<sup>4)</sup> To begin with, the non-Han contractual practice of "notching wood" was at that time replaced with drafting paper documents in Han characters. This change not only encouraged non-Han peoples, including the Miao, to learn to read and write Han Chinese, but also provided for the researcher various types of record describing the various problems encountered in the everyday life of these peoples from that time on. From the private sector documents discovered in their mountain settlements one is able to observe and study such customs not covered by the conventional gazetteers as how disputes among villagers were actually settled.

This article will focus on the documents forms, known as *hexinzi* 合心字 and *qingbaizi* 清白字, found among the sources from Wendou and Pingao in depicting social customs and unique forms of dispute settlement among the Miao of the early 19th century. Unless otherwise indicated, all of the sources quoted here are from those photographed by this author at Guiyang in 1996.

## “Caveman” Society in Qing China

### 1. “Kuan” 款 Organization and Covenants

Let us begin with a brief overview of the history of the middle and lower reaches of the Qingshui basin. The Qingshui, whose source is the Dou River as it runs through Guizhou, forms a branch of the Yuan River parallel to the Zhenyang (present day Wuyang) River, which flows through Shibing 施秉 and Zhenyuan 鎮遠 and empties into Lake Dongting. The stage road that was built between the two rivers that runs from Hunan through Guizhou into Yunnan mainly follows the route of the Zhenyang, and points along the way, such as Zhenyuan, boast a long history of social and cultural development. In contrast, the utilization and development of the Qingshui basin, with its high concentration of non-Han ethnic groups, only began in earnest during Qing times. The Qingshui basin was long known as the region settled by “Cavemen” (Xidongman 溪峒蠻; lit. savages of the gorges and caves); that is, such non-Han ethnic groups as the Miao, Yao, Dong and Zhuang peoples.

The villages of Wendou and Pingao, where so many of our forest-related contractual documents were found, are Miao villages (of present day Jinping Country) facing the river. The present day Jinping county seat of Sanjiang-zhen 三江鎮, located at the confluence of the Xiao and Liang Rivers facing the Qingshui in the upper reaches of the Yuan River, was originally a large settlement of the Dong people called Wangzhai 王寨, and then from the 18th century on it grew into a commercial center as a timber depot.<sup>5)</sup> However, the town has only relatively recently come to be the administrative center of Jinping, the county seat being moved there in 1913 from the garrison town of Tonggu 銅鼓, which was the main political and cultural locus during the Ming Period.

During the Qing Period Jinping was subsumed under Liping 黎平 Prefecture, then during the Song and Yuan Periods six native chief offices were set up in the prefecture and a great deal of the territory became governed by native administrators (*tusi* 土司). Although from the Song-Yuan period on efforts were made by the central government to effectively rule over the non-Han “Xidong people” of the Dou River basin, such efforts met with strong local resistance, thus long hindering the realization of direct rule via the commandery-county administrative system. For example, in 1080 the Song Dynasty attempts to reorganize Chengzhou 誠州 and Huizhou 徽州 into prefectures met with strong “Xidong” resistance, which

then led to initial consideration of direct rule, but in the end, the Dynasty was forced to appoint the Yang 楊 Clan, chief of the Gelao people, to the post of sub-prefectural prefect and recognize the post as the Clan's inheritable right.<sup>6)</sup>

When the newly established Ming Dynasty attempted to strengthen its control over the entire Yuan River watershed, one Wu Mian 吳面 of Wukai 五開 (Liping Prefecture), who was called “King Chanping (鏟平王),” mobilized “*Xidong*” forces from all over the region and lay siege to Jingzhou, site of frontline military encampments during the Song and Yuan periods. The uprising was summarily suppressed and a garrison was placed at Wukai. Again in 1397 a rebellion led by Lin Kuan 林寬 a “*guzhou* 古州 barbarian” had to be quelled and another garrison was placed at Tonggu to police the region from the Qingshui River south to the Douliu River.<sup>7)</sup>

The term “*kuan*” 款 among the *Xidong* people indicates a social organization for the purpose of establishing mutually acceptable articles of association on a village-by-village basis and ultimately maintaining law and order throughout the region. According to Zhu Fu 朱輔's *Ximan Congxiao* 溪蠻叢笑 (Amusing Tales of the Cavemen), the origin of *kuan* organization is *menkuan* 門款, a term that dates back to the Song Period. *Kuan* social organization became once again the focus of attention from the Ming Period on, when garrisons began to be placed in the region to keep the non-Han population under control. Garrison troops who were surrounded by Miao village settlements and were often the objects of Miao armed resistance were forced to pay attention to the specific forms that that resistance took. For example, during the last years of the Ming Dynasty, Liu Qin 劉欽, the headman of 100 households at Pingchasuo 平茶所, Liping, gave the following explanation of *kuan* social organization among non-Han peoples in a report on defense of the frontier contained in *Jinping Xian-zhi* 錦屏縣志 (Gazetteer of Jinping County).

There are three types of villages among the savages who dwell in the territory of Quyang 渠陽: uncivilized Miao, civilized Miao and cavemen [*Xidong*]... Although the *Xidong* differ from the Miao in both language and customs, they all coexist by means of what they call leagues (*tuanha* 團譚; *hekuan* 合款) of one thousand or one hundred people with no paramount chieftain or any other hierarchical organization. This is because of the diversity of their tribal origins and the power of mutual distrust in their hearts. They merely ally themselves

with pledges over libations of the blood of sacrificial animals [*mengzu* 盟誼] with no need for any other legal arrangements. Consequently, they are free to ally as quickly or disperse as easily as they please.

What is most noteworthy here is Liu's emphasis on the fact that the social organization of the *Xidong* people is characterized more by a league covenant community formed by pledges made in divine rituals (*mengzu*) rather than relying on tribal or charismatic leaders. Moreover, *kuan* was a way of organizing people in response to the necessity of military self-defense within a situation of extreme fluidity in the social order; that is, in response to a particular shared purpose necessitating the formation of a large plurality to successfully implement that purpose.

Although historical sources are extremely scant as to what exactly the act of *mengzu* involved and how it was conducted, one clue is provided by Zhou Qufei 周去非, a policy expert on the *Xidong* people of Jingjiang 靜江 Prefecture (present day Guilin 桂林), Guangxi, around the middle of the 12th century. Quoting the *kuan* oath made among the Yao people, Zhou states, "Anyone who betrays this oath will upon the birth of sons bear donkeys and upon the birth of daughters bear boars, thus bringing ruination upon his whole family."<sup>8</sup>) Here we see the character of *kuan* as an organization tied together by pledges sanctioned under threat of divine punishment.

Terada Hiroaki 寺田浩明 in his detailed investigation of the essential character of promissory instruments in traditional Chinese society, from village covenants to personal contracts, has identified two behavioral norms shared by all the parties to such agreements: 1) reliance on and fear of the supernatural and 2) pronouncements and promises made by group leaders as the background upon which parties to the agreements formed bonds of mutual trust.<sup>9</sup>) In the case of *kuan*, however, we are able to identify only the egalitarian nature of behavioral norm 1), while observing the complete absence of the hierarchical nature of norm 2).

The character of *kuan* as described by Liu Qin would continue unchanged throughout the Song and up to the last years of the Ming Period. Then during the Yongzheng Era (1723–35) in its efforts to bring the Qing-shui basin under its full control, the Qing Dynasty promoted a program of non-Han tribal chieftains swearing fealty to the emperor, often in ceremonies conducted by local administrators in the style of the *kuan* alliance ritual. Fang Xian 方顯, the prefect of Zhenyuan and chief adviser to Ortai 鄂爾泰, governor-general of Yunnan and Guizhou, who proposed setting

up a prefectural system in the Qingshui basin and from 1728 on took personal charge of travelling through the Miao villages to administer the oath of fealty, states the following about *kuan* organization.

Forming alliances through animal sacrifice is the custom among the Miao. This corresponds to the Han custom of swearing oaths while smearing sacrificial blood on one's mouth. This is also called *hekuan* 合款 (forming alliances) or *guhua* 話話 (alliance through pledge). The place where alliances are formed is called *kuanchang* 款場, its presiding headmen [of the pledge community] are called *touren* 頭人, and the leader of the *touren* is called *langtou* 榔頭. Anyone who breaks the alliance is sentenced to the punishment of forfeiture [*peilang* 賠榔]. All of these terms are words in the Miao language.<sup>10)</sup>

Fang Xian was attempting to more firmly establish fealty to the Qing Dynasty through the customary practice of forming (pledging) alliances in Miao society. The Miao term for the custom, *zaikuan helang* 宰款合榔, was also expressed as *zainiu helang* 宰牛合榔 (forming alliance through buffalo sacrifice). According to *Zhenyuanfu-zhi* 鎮遠府志 (1793) Vol. IX on local customs, "Alliances are consecrated at the time of formation by killing a buffalo and dividing up the meat. [The pledge] is never forgotten, even in the case of death."

Even today, there are places in the Qingshui basin called "Kuanchang,"<sup>11)</sup> probably indicating locations often designated for holding assemblies for forming alliances. However, it is only from the 17th century on that accurate records were kept in Chinese regarding the covenants determined at alliance formation assemblies. Although the examples cited so far indicate only alliances for military protection and for swearing fealty to the Qing Dynasty, since the 1920s ethnographic surveys have clearly shown that among all the ethnic groups of the "Xidong" people, *kuan* was a means by which all contracts related to everyday life—agriculture and ecological protection, penal action and all aspects of the life and annual cycles, (birth, coming of age, marriage, festivals, funerals)—were strictly observed in efforts to maintain the social order.<sup>12)</sup> The ethnographic reports document that the stipulations of *kuan* covenants were not written down or inscribed in stone, but rather handed down by word of mouth or carved in wood, and expressed unchanging legal efficacy. However, it was always possible for writing to take the place of oral tradition.

To the knowledge of this author, the earliest recorded *kuan* stipula-

tions date back to a stone inscription constructed in the village of Gaozeng 高增 (Liping) in 1672.<sup>13)</sup> It reads,

Recently among the people of our coterie there has appeared fairly emboldened persons who do as they please, bring in bandits and do harm to the law abiding population. This is because their actions are not in accordance with the bylaws of the village. This is extremely deplorable. For this reason, the village elders will gather and determine rules to deal with the situation.

What is noteworthy about this inscription is the presence of trial by ordeal. In “*Xidong*” society, often in cases where a solution could not be reached through the intercession of the village elders, divine judgment would be resorted to. We find in Gaozeng inscription the words, “There are Chinese fir trees in the hills marking the village boundaries. In the case of [boundary] disputes, settlement will be reached by *youguo* 油鍋 [a pot of boiling oil].”<sup>14)</sup> Assuming that *youguo* indicates a form of trial by ordeal, settling disputes in “*Xidong*” society was much different from the village covenants of Han society, which were based on the sense of crisis among the participants and rational judgment. It is in this way that inscriptions that began to appear among the “*Xidong*” during the last years of the Ming Period, while influenced by village covenant institutions, can be placed within the context of hardily maintaining the *kuan* tradition that was ardently formed in the days of illiteracy.

## 2. *Hexinzi*

It goes without saying that the fact of the Miao people acquiring the ability to draft contractual documents originated from the necessity to confirm relationships regarding the income derived from the sale of products through the plantation and harvesting of trees. However, it was this same ability that enabled them to record in Chinese characters the norms that had been transmitted by either oral tradition or wood carvings and thus share them in perpetuity.

Documents that reflect the practices arising from shared stipulations originating from the conclusion of alliances are called *hexinzi* 合心字. Its typical form is illustrated by a document related to Jiang Shichao 姜仕朝 (Shizhao), who was one of the earliest residents of Wendou to venture into the forest industry.

## Document 1

We of the four Jiang Family branches—Aixiong, Shiheng, Shichao and Tingyi of the Zhong Branch, Hongdao, Tingsheng, Tingwei and Jiangming of the Liu Branch, Zhouyi, Zhoujie, Deming and Yingfei of the Shang Branch and Guozhen, Zuozhou, Dengchao and Guozhong of the Xia Branch—who hereby enter into this contract in solidarity and good faith, have dwelt on the Qingshui River for generations offering buffaloes in honor of our ancestors. [From the age of our founding fathers] through many generations to the present day, we have honored and respected them, and based on that honor and respect, we residents of Wendou have so resolved in complete unanimity of mind.

However, following our resolution, merchants once again began to populate [Wendou] and among those who slaughter [our animals], there were those who chose to ignore the will of the region, failed to distinguish between diseased and healthy buffalo, driving them all into Wendou; and it is due to the appearance of slaughterers that [Wendou] is no longer able to maintain hygienic conditions. Upon making this unanimous resolution, no merchant or other person within the borders of the village will be allowed to slaughter animals. However, there will probably be those who will slaughter pigs, so in that case the slaughter of only healthy pigs will be allowed. When pigs are purchased from outside the village, [slaughterers] are to wait seven days; also when pigs which have been raised by foreigners [residing in the village] are purchased, the same seven-day wait is also required.

立四房同心合意字人中房姜愛熊·士橫·士朝·廷遺，六房姜弘道·廷盛·廷偉·姜明，上房姜周翼·周傑·德明·應飛，下房姜國珍·佐周·登朝·國中等，爲我等住居清河屢代以牯敬祖爲例。因革（=隔）年久，仍舊照思驗（=念）敬祖敬宗。故我所文堵同心計議。自議之後又有鋪戶雜居屠宰，不以地方作意，不俱瘟牛好牛，概丘（=抵）進內宰殺。所以不得清寧。我等齊心自議之後，不許店戶竝內人宰殺。恐有殺豬，只許寨內之好豬，買外的又過一七，買養者也又過七。恐有何人大膽不聽包承宰殺不滿一七之養牲。我文堵四房上下兩寨皆有名人等，同心一口同詞，如有那房不肯齊心聽眾憑公罰不得番悔。恐有此情字迹可證人心不一，立字爲據。依眾口姜廷瑾筆。乾隆五十五年九月二十三日立），嘉慶七年八月十六日合同字（文斗）



In this document attested to by the four indigenous lineages of Wendou and sanctioning the slaughter of buffalo and pigs within the village boundaries, Jiang Shichao appears as the leader of the Zhong Branch of the family. Upon my visit to Wendou in 1994, I was given the opportunity to study a handwritten copy of the Jiang family genealogy recorded by Shichao's family. The document put a great deal of emphasis on the fact that the Jiang clan were the descendants of Han people who during the early Qing Period migrated to Wendou from the Ming Period Han cultural center of Tonggu in the district of Liping.

In the 12th year of Shunzhi [1654], our founding ancestor, the honorable Chunli 春黎 moved here from Tonggu. Those of the same name [as Chunli] agreed to treat [him] as a family member, but [he] was looked upon as an outsider [*kejia* 客家] and therefore according to conventional wisdom, was suspected of deception. [The indigenous Jiang clan] then conferred clandestinely with the Long clan and consequently bestowed our founder with the middle part of the village for his residence... Chunli led and integrated his people with a great sense of moral obligation and invited a master to promote education and scholarship among them. He made preparations for a go-between when the marriage proposals were made... In the case of funerals, he never failed to make sure that an auspicious burial site was chosen and would not permit the deceased to be taken into the wilderness and abandoned.

Before the introduction of Han culture into the Qingshui River basin, the Miao people were accustomed to putting corpses to rest by placing them in isolated places like cliff edges.<sup>15)</sup> According to the research done by R. von Glahn on “*Xidong*” society in Sichuan, this funereal practice can be interpreted as an act of bestowing the flesh of the deceased as a gift to the spirits of the forest animals. von Glahn interprets this as a belief fundamental among “forest peoples” that the gift of flesh could restore the harmony between man and nature that had been upset by the act of hunting.<sup>16)</sup> In contrast, the Jiang Family, the descendants of a native of Tonggu, a Han colony during the Ming Period, by employing the principles of *fengshui* 風水 in their choice of burial sites and introducing Han-style marriage and funeral rites, became involved in a series of cultural “improvement” programs which they considered beneficial in promoting social uplift and development. However, the activities which the leading

foresters of Wendou, like Jiang Shichao, strongly promoted progress gradually during the Qianlong Era, but their “improvement” efforts did not permeate Miao society in its entirety.

For the present paper, the most important fact gleaned from Document 1 is the phrase “we honor and respect our founder through the sacrifice of buffalo,” which shows retention of at least one aspect of local Miao traditional culture. The valuable importance of buffalo in that culture stemmed specifically from its use as a sacrificial animal, rather than as an agricultural beast of burden. The above mentioned Vol. IX on local customs of the gazetteer *Zenyuanfu-zhi* states,

Once every three years, they worship their spirits of their ancestors, they call “*laogui*”老鬼... For the ceremony a buffalo should be obtained having well developed, upright horns and well matching hair whorls at its knees. They have no qualms about paying even tens of *liang* for such a specimen, which after its purchase is fattened with wild grass and grain. After the ceremony, they dispose of no part of the carcass, even the excrement left in the internal organs, calling this part “*guzang*” 牯臟, upon which they feast.

This item introduces the Gushejie 鼓社節 festival through which the Qiangshui Miao people honor their ancestors even today. The painstaking purchase and pampering of the sacrificial buffalo is followed by a feast in which all the edible parts of the animal are eaten including the intestines, which is referred to as *chiguzang* 喫牯臟. In Zhenyuan Prefecture there were cases in which the ceremony was held every three years, but also cases of every thirteen years among the “Black Miao,” according to a Qianlong Era gazetteer of Guizhou.<sup>17)</sup>

The adoption of the *chiguzang* ritual differs from the Han concept of lineage, which regards its group symbol in the historical personage an original founder, in that the *laogui* of the Miao indicate a patrilineal lineage that includes the spirits of ancestors from the mythological past. Through a succession of slaughters, sacrifices and complete festive ingestions of water buffalo, Miao celebrants are not only trying to communicate with the spirits of their ancestors, but also to obtain fertility and prosperity from the magical powers of those spirits. It is for this reason that the Gushejie festival is a ritual that symbolizes the cultural heritage of those Qingshui Miao who were not fully assimilated into Han culture.<sup>18)</sup>

The attempt by the Jiang Clan, a leading forest owning family, to

integrate the clan's four lineages through celebration of sacrificial rites involving water buffalos is very instructive for understanding the character of lineal bonds in the villages of Wendou and Pingao. Kishimoto Mio 岸本美緒 in her research using the *Huiban* documents was unable to identify in either Wendou or Pigao the existence of *shipu* 世僕 (subordinates) that are connected to the kind of strong kinship ties that markedly characterize forest management in Huizhou, and notes that *zuchan* 族產 (a clan estate) that represents the moment of lineage formation tended to be weak among the families of the two villages.<sup>19)</sup> This writer has gathered from such facts that weak kinship ties among the Miao stems from a basic cultural tenet of attempting to promote egalitarian relations in order to regulate the accumulation and expansion of personal wealth. One effect of the Miao Gushejie festival has been interpreted as "level human relationships by consuming (squandering) wealth."<sup>20)</sup> In addition, we also find the wife exchange custom of patri-lateral cross-cousin marriage (*gujiu biaohun* 姑舅表婚), which by preventing the accumulation of bride-wealth is also a social mechanism promoting egalitarianism.<sup>21)</sup>

## Various Aspects of Dispute Settlement: *Mingshen* 鳴神 and *Mingguan* 鳴官

### 1. *Qingbaizi*

In contrast to *hexinzi* being the documentary form among the people of Guizhou for establishing and maintaining social norms through the building of personal alliances, *qingbaizi* (also called *qingzi* 清字) is a set of documents exchanged for the purpose of settling disputes through mediation.<sup>22)</sup>

Here is a typical example.

#### Document 2

We brothers, Jiang Dongxian and Jiang Dongcai, do hereby conclude a *qingzi* agreement regarding a dispute that arose over the alleged clandestine harvest and sale by Jiang Qilue, *et al.* of Chinese fir trees growing in the vicinity of Chongjiangcong. We called witnesses to mediate the dispute, but were unable to come to a settlement. Consequently, we both have decided to offer sacrifice in an appeal to the gods. Tomorrow morning we will accompany our kinsmen to Chongjiang [scene of the dispute] to meet witnesses Jiang Zongyou and Wenguang and mediator Jiang Huaiyi to offer a sacrificial victim

and appeal to the gods, upon which we will swear neither to bear false witness nor attack one another. This action is being taken of our own volition and has not been coerced by witnesses. On the basis of the promises sworn after the killing of the sacrificial victim, we will wait forty-nine days for a clear sign of divine revelation, upon which the one [who has been chosen] will deliver 26 logs to whomever of us has not been chosen. Also, we will not fail to register the true names of the kinsmen of both parties. If either party fails to register, he will be named as the guilty party.<sup>23)</sup>

立請字人姜東賢·東才兄弟等。爲周有祖遺山場杉木地名沖講，蔥被啓略越界強賣盜斫，以致我等涵爭，央中理論，未獲清局。今我二比情愿宰牲鳴神，我等實請到中人姜宗友·文光以併勸中姜懷義，言定明晨初六日，各帶堂親一體齊至沖講木處，宰牲鳴神，毋許大聲毒罵，更毋許伸手揪扭等情，此乃我二比心手意愿，竝非中等強押。照宰牲之後言定，限於四十九日內，如神明鑒察，報應昭彰，一家者任將此木頭共二十六棵輸以未受報之家，復定各比堂親之名務要實名列案，如無，以輸爲定，決無異言，立此爲據。

代筆凭族人東卓

道光二十七年六月初五日

立沖講

Also in this example of dispute settlement regarding forest property boundaries, we can confirm, even in 1847, the employment of trial by ordeal in the form of a sacrificial offering and appeal to the gods for justice (*zaisheng mingshen* 宰牲鳴神). Although it is not rare to observe in the lower echelons of Han society examples of the slaughter of chickens, etc. and sipping the blood to seal alliances, there is no trace of any trial by ordeal function in such rituals similar to the Miao system of litigation. While the document does not tell us the specific “sign,” “response” or “retribution” expected, there is no doubt that the appearance of such a phenomenon indicates a divine finding against the party who experiences it. Let us assume, like in all trials by ordeal, the appearance of some kind of omen indicating dishonesty on the part of one party.

In the above *qingzi* document we see the parties, witnesses and mediator gathering at the “scene of the crime” to perform the ceremony; however, the proceedings could also be conducted in a temple consecrated to Nanyue 南嶽 (The King of Southern Sacred Peak).

## Document 3

Jiang Qishu, *et al.* attempted to conclude a *qing[bai]zi* and challenge Jiang Mingwei, *et al.* over the borders of the Wuweiyou mountain area. [Wuweiyou's] uppermost point is near the small peak from the bridge to Jiese and its lowermost point is the garden cultivated by Pan Zhihua. Jiang Xingwen was requested to act as mediator, but a resolution could not be reached. Consequently, the parties to the dispute decided to find a mediator and conclude a *qing[zi]*. A set consisting of one temple statue, one copy of the *Huang Sutra*, and six pairs of chickens and dogs [were prepared], and the two parties requested that lots be drawn before the memorial to King Nanyue. The winner of the draw will be put in charge of the land from Jiese and the bridge all the way to Pan Zhihua and trusting in numbers, no more reckless arguments will be instigated. This pledge is genuine. Any remorse will result in a loss of the suit.

立請字人姜起書·三長·起燦等，情因與姜明偉·之林·之謨·之正·起爵·起華等所爭界限；山場一場所，土名烏維幼，上憑橋至皆色一小嶺，上憑嶺爲界，下憑潘治華所栽爲界，請中姜興文·文煌·文呈·昌舉等理論不清，二比願憑中盟請。伽藍一尊，皇經一部，雞狗六付，二比至南嶽大王位前拈鬮。若起書得鬮，照依皆色橋頭以下至潘治華界管業，不得恃人眾大妄起爭端。所請是實。倘有委悔退縮，卽是輸家。  
嘉慶十五年十月二十九日 起書親筆

King Nanyue (Nanyue Dawang 南嶽大王) probably refers to the deity (Nanyue Daidi 南嶽大帝) thought to be venerated by Daoists at the temple of the Sacred Southern Peak, which is located in Hunan Province. *Huiban* contains a total of nine references to this temple,<sup>24)</sup> which also owned property (*miaochan* 廟產). Through the ritual behavior conducted at the scene of the crime or at some sacred place described in documents 2 and 3, the Miao were able to reach mediated settlements (called *qingju* 清局) of everyday disputes over such claims as trespassing, coercive selling and crop theft.

However, come the 19th century, when in such Qingshui villages blessed with excellent river transportation and easy transport of forest products as Wendou, Pingao and Yaoguang 瑤光, the appearance of residents made wealthy by the commercialization of Chinese fir wood was accompanied by an escalation of the sense of urgency and vehemence in disputes over the use and ownership of natural resources, rendering settle-

ment by former appeals to divine justice extremely difficult. Under such conditions, from the Daoguang Era on, to the conventional contractual documents concluded between villagers was added a new legal instrument in the form of original drafts (*binggao* 稟稿) of written complaints filed with local administrative authorities, the following of which is a typical example.

#### Document 4

Petition of Jiang Guangyu and Jiang Baowu of Wendou Village and Jiang Lie of Pingao Village. In the 7th year of Daoguang we, the above mentioned claimants, concluded an agreement with Jiang Jizhao, Jixiang and Desheng to purchase together the Chinese fir trees owned by their father, Jiang Zhiyuan, at Chongjiukuang for 4020 *liang* and then divide the trees into two parts, one to be owned by Jizhao, Jixiang and Desheng, one part to be owned by us, the claimants. We then sold the trees for 7440 *liang* at a profit of 1980 *liang* after deducting monthly interest and labor costs. After verifying these facts with witnesses, Jiang Yingguang and Zhi'an, we demanded on many occasions payment from Jiang Zhiyuan of our portion from the sale, but were told by Zhiyuan repeatedly that the sale had been delayed, and we believed him. Then during the 3rd month of Daoguang 8, we demanded payment again from Zhiyuan and were given the excuse that Jiang Jizhao had not yet returned from Beijing. However, in truth, Jizhao had left the region [to take a bureaucratic post] along with another partner Jixiang and never returned home. We have already pressed for payment a number of times, but have continually been kept waiting. We have asked the above witnesses to speak to Zhiyuan on our behalf, but were deceived by them. We are of the opinion that they have invested the money in usurious lending and have earned interest many times the principal. In contrast, we were satisfied with the dream of just earning a large profit [on the original sale].

It was in the 12th month of Daoguang 14 that Jiang Jixiang returned home and during the 3rd month of the following year that we once again demanded payment from him. However, it turns out that Jixiang had already appropriated our share for his own selfish aims. We could not accept this explanation, since he had not given us our share on purpose. When we again demanded payment from Zhiyuan, he unconscionably broke his promise and refused to pay us even one coin. We appealed to both Li Tianxing of the village

council and headman Jiang Ruyuan but they stubbornly refuse to recognize our claim. We were then forced to seek the judgment of the gods, when Jiang Zhiyuan, possibly with a guilty conscience and out of a bit of fear, on the basis of witness testimony, came and told us that he would pay 25 *liang* to defray the cost of contacting the gods. However, Zhiyuan died during the 4th month. It was then that Jiang Jizhao returned home to attend his father's funeral. Thinking that the son must have known about his father's deception, when the funeral was over, we asked the witnesses to go to Jizhao and persuade him, but as expected he refused to relent. We had invested our capital in order to earn a profit, so why should we merely calmly acquiesce to their depredations? Once more, with a statue of the temple's divine official and a copy of the *Huang Sutra* in hand, we went to appeal to the gods for justice. However, Jiang Jizhao counterattacked by claiming that we falsely concocted the story and appealed to the god, and that it was necessary to petition the county authorities. Chen, the country magistrate, then ordered the case to be investigated, but was relieved of office before any action could be taken. Instead, Jiang Jizhao shamelessly went to his maternal uncle Jiang Chaobi and let him proceed against us that we had taken up with a band of brigands whom we gathered together on the slopes and foots of mountains around Wendou armed with rifles and spears for the purpose stealing his cypresses. It was in this way that he tried to drive us to our graves. No matter how well he lies, he cannot fool the local residents. And even if does fool them, he cannot conceal the truth from the regional authorities. And if the authorities give in to Jizhao's wealth and government position, convict us of his false charges and let him keep the share he stole from us, I won't be able to die in peace. It is for the above reasons that we humbly request your Venerable Excellency to conduct a thorough investigation of this matter. 8th Month, Daogang 16

具訴狀民文堵寨姜光裕·姜保五，平鰲寨姜烈等爲冤遭捏害計圖吞騙事。緣道光七年蟻等與姜吉兆·吉祥·德盛合夥，向伊父志遠得買地名冲九匡杉木一所，兌價四千零二十兩，議定二大股分，吉兆·吉祥·德盛一大股，蟻等一大股。此木賣獲銀七千四百四十兩，除月利夫價共賺銀一千九百八十余兩，中證姜映光·志安活質，屢求志遠派分，而志遠旋以仍將賺項販木爲緩，信以爲實，擱至八年三月內，向志遠分用，總以吉兆下京未回搪塞。不料吉兆下京調任，吉祥隨仕久外未回。蟻等屢

討屢延，央中向講支吾了事。竊伊以此項重利生放利過幾本。蟻等望梅止渴，喫盡千金。

候至十四年臘月內，吉祥始回。十五年三月又邀吉祥同取分用。誰知吉祥股分早已入己，僅蟻等受伊牢籠，股分久措不給，心實不甘。又向姜志遠求分，無如伊喪盡天良，反齒分厘不認，事出黑天。當請鄉約李天星·寨頭姜如玉·姜啓家·啓燦等向講，亦堅直不認，不已求神鑒察而志遠昧心稍懼，憑中願出銀二十五兩以爲送神之費，慢作商量，四月志遠死，適吉兆丁憂回家。蟻等以爲受父之欺瞞，子或不肯昧己。葬事畢，請原中向吉兆理講。而吉兆又分厘不認。泣思蟻等將本求利，豈肯甘受鯨吞，復擡靈官·伽藍各一尊，皇經一部，與伊鳴神。誰丟何憾，奈伊心虛勢，大反以大言詐□□□鳴神。除非府縣堂上情迫控，經前任縣主程蒙批仰約中查稟，未幾卸任。詎知吉兆不思自悔，反以先法害人，捏以蟻等串合一百餘匪，聚集文堵坡腳各執鎗炮鏢杆搶伊木植，大題欲陷蟻等於死地，著伊母舅姜朝弼爲報口。殊不知事可捏而地方難瞞，人可欺而臺鏡不昧，若任伊恃富恃宦之吉兆，冤捏吞騙，雖死不瞑目矣。不已哀訴乞大老爺臺前作主查明嚴究，頂祝鴻恩不朽。

道光十六年八月 日具訴。

This “appeal to the authorities for justice” by three residents of Wendou and Pingao over a joint venture agreement with one Jiang Jizhao and his family, residents of Yaoguang Village bordering on Qingping 清平 Prefecture (present day Jianhe 劍河 Country) is a very informative document detailing the process through which villagers would reach the final decision to petition the government for redress of their grievances. One of the accused, Jiang Zhiyuan, is described in the biographical section of the gazetteer of Liping as “an essentially good businessman who led a life of frugality.”<sup>26</sup> His eldest son, Jizhao, is also described as a successful civil service examinee who was appointed magistrate of Shengfang 什那 County, Sichuan. The decision-making process to actually litigate begins with the traditional “appeal to the gods” to settle the dispute, which action, if we are to believe the plaintiffs, troubled Zhiyuan to the point of accepting to come to some sort of compromise. However, upon his premature death, the return home of Jizhao from Sichuan and more demands from his partners for the payment of their share of the venture, not only is any compromise rescinded, but Jizhao counters with his own accusation that the plaintiffs plundered the wood in question by force of arms. Given the times, it would not be difficult to imagine the position taken by Jizhao, a man of the world beyond Miao rural life, wealthy and a high level bureaucrat, and it can be readily imagined that members of his generation



did not, like his father's, either fear the spirits of the gods or humbly acquiesce to their judgments. In order to compete with such a personage of "wealth and power" in an attempt to maintain or expand his wealth, one needed comparable means of resistance. It was no doubt for that reason that the plaintiffs of Pingao decided ultimately that it was in their interest to seek the intervention of the administrative authorities and "appeal to their powers" for justice. On the other hand, it is necessary to note that petitioning the authorities was only the last resort, after attempts to appeal to the gods had failed.

## 2. The Outsider Question

It was during the peak achieved in the exportation of wood in the 19th century that Miao society was directly faced with a series of land-related disputes involving Han people who had migrated into its village communities. In the upper reaches of the Qingshui basin in such locations as the Zhenyuan sub-prefectures of Huangping 黄平 and Taigong 臺拱, recent Han immigrants were practicing usurious lending in regularly held markets called *jie* 街, which led to increasing incidents of foreclosure and seizure of land owned by Miao residents. According to an administrative report submitted in 1851, in areas like Huangping, Han immigrants from Jiangxi and Huguang were making usurious loans to Miao lenders and collecting interest on market days that opened at intervals of every three to five days on loan contracts worth as much as over 10,000 *liang*.<sup>26)</sup> The usury and land accumulation practiced by these lenders was the major cause of the Miao uprisings of the Xianfeng and Tongzhi Eras.

We have already seen the impact of Han immigrants as shopkeepers in the village of Wendou as described in the 1790 village covenant (*hexinzi*) sanctioning the slaughter of buffalo and pigs for health reasons (see Document 1). Besides Han merchants, there were also communities of Han cultivators who had moved into Wendou and Pingao and worked as forest planters (*zaishou* 栽手). The following two *qingbaizi* are dispute mediation documents which fairly well exemplify the relations between outsiders and indigenous non-Han residents during the peak years of Chinese fir wood export industry.

### Document 5

We, Xiao Tingcai and Fan Sanbao, hereby conclude the following *qingbaizi* concerning the sale of a plot of cypress trees from Jiang Shao-

lue and Jiang Zaiwei of Wendou Village in the 7th year of Daoguang, the subsequent harvest of those trees and transport of them down river. Now we are being sued by Jiang Binzhou over the matter, and the case is now being currently tried in Tianzhu County. We have discussed the court expenses needed by Tingcai and through a mediator it has been determined that Jiang Shaolue and Zaiwei will bear six *liang* of the burden. We decided to swear to the verity of this document before the Nanyue Temples of both villages voluntarily under no coercion from mediators or anyone else, and thereby conclude the *qingbaizi*.

立清白字人蕭廷彩·范三保，爲因道光七年內買到文堵寨姜紹略·姜載渭二家之山場木一塊砍伐下河生理，遭姜賓周具控，經天柱縣主案下。

〔蕭〕廷彩所用規費，二比開館面理，蒙中等於內排解。姜紹略·姜載渭二家出銀六錢充公。上下南嶽廟，二比自願息和。中等竝無強壓。立此清白爲據。憑中客長：黎平向文清·江西張德朋·福建李林通·吳定謀·開泰朱陶廷·湖南楊選孝·黎平楊通林紳仕：姜榮·姜春發·姜本渭·姜鈞渭·姜濟燦寨長：姜朝幹·姜通聖·姜宗智·姜廷貴·姜廷義·姜朝旺。道光十一年十一月初七日 清白人蕭廷彩立

The document, which is dated the 7th day, 11th month of Daoguang 11, describes three categories of mediator: *kezhang* 客長 (immigrant headman), *shenshi* 紳仕 (紳士; gentry) and *zaichang* 寨長 (village headman). The *kezhang* appearing there are not only from such local areas as Liping and Kaitai 開泰, but also from prefectures and counties throughout Jiangxi, Fujian and Hunan Provinces, showing the distances over which migrants traveled to take part in the boom happening in the Qingshui River forest products industry. It was most likely that in the Han community mutual aid societies (*bang* 幫) were formed by residents sharing the same hometown with *kezhang* as their leaders. Similar groups of hometowners had also established guild halls in the capitals of Liping and Jinping and worshiped their hometown gods for the purpose of deepening friendship ties. Moreover, these halls were also very ambitious in obtaining forest land, as demonstrated by the following document.

#### Document 6

I, Jiang Zexiang, resident of Pingao Village, hereby request compensation for the sale of land. As to the circumstances, there is a dry field at Mantian Xingtian that I inherited from my ancestors. When

my father was alive, he pawned the property to Lin Zhengxiu, then Zhengxiu pawned it to the Yuwang Temple, and in turn the Temple pawned it to Han Tianxiang and his brother Tianfu. After my father's death, I fell into financial difficulty and decided to sell the property outright to the Han brothers with Long Tianfeng and Jiang Ji as witnesses. We settled at a price of 25 *liang* and at that time concluded a contract in which the Hans agreed to pay the difference of 5 *liang* between the pawn and the land price converted into 10,000 *wen* in copper coins.

However, the deceitful Han brothers suddenly claimed that the land was over-priced and that they had already paid too much, trying to swindle me out of the difference in defiance of our contract. On the 3rd day of the 7th month, I asked Peng Qihua, Tang Laosan and Long ?cai to demand payment, and they were paid 6000 *wen*. The payment was made before witnesses. There is still 4000 *wen* owing, so I went to demand payment once last year and once this spring, but was not given a single *wen*. On the 21st day of the 2nd month of this year, when my brothers Laohe and Laogui went to demand payment, the Han brothers told them that I had already been paid in full. My brothers returned home angry and wounded the back of my head with a sword. There is still a scar, and Jiang Qican, who came to my rescue, is a witness to what happened. I swear that have not been paid in full. Tianxiang and his brother are Han rogues who have invaded our [ethnic minority] world to prey on the innocent. Claiming that they are familiar with local customs in making contracts, they turn around and refuse to pay the price; and furthermore, when they lend a *sheng* of rice, they demand a *dou* in payment, borrow two and they demand ten, plundering us with their exorbitant interest rates. Now they have destroyed my relationship with my flesh and blood and colluded with them to threaten my life by the sword. If it were not for my rescuer, my life would have been in danger. I humbly petition your Excellency to put the Han brothers under arrest and force them to pay what is still due. ? Day of the Second Month, Xianfeng 1

具稟平鰲寨民姜則相，爲捐價業懸懇恩追給事。緣蟻有祖遺地名滿天星田乙坵，蟻父在日典與林正秀，正秀典與禹王宮，禹王宮轉典與韓天相·天富弟兄爲業。嗣蟻父亡故，家下蕭條。於去歲六月內，央中龍天鳳·姜吉斷賣與天相弟兄，議價紋銀貳十五兩，當立賣契，除典價外應補紋銀五兩，折扣大錢十串（？）文。

奈伊弟兄心如蛇毒，忽云此田□貴，忽云典價過多，違契估騙。七月初三日蟻請中彭起華·唐老三·龍□才等往討，伊逼蟻先立收字後方交錢。蟻無奈書立收字，又一文不交。至八月初六日蟻又催中追討，伊方交錢六千文，中等活證。餘四千文，去歲與今春蟻屢往取，一文不獲。本年二月二十一日，蟻兄老合弟老貴往索。伊弟兄唆云此錢蟻俱已收足。蟻兄弟二人回家忿氣不過，將蟻頭顱砍傷一刀，有傷痕，併救證姜起燦等可證。切思此錢蟻本未收足，天相弟兄以漢奸入夷，欺蟻等朴實，在地方慣於手執文契，措價不償，又屢重利盤剝，借升還斗，借兩還十，今又害蟻弟兄骨肉，參商持刀相殺，若無救證，幾乎性命莫保不已。只得稟乞大老爺臺前，作主償准拘提追給施行，沾恩不朽。咸豐元年二月 日]

In this complaint submitted to Liping Prefecture by a resident of Pingao claiming that he sold a piece of land to two brothers of Han descent but had only received the pawned value of the property, the role played by Yuwang 禹王 Temple in the transfer of the land is noteworthy, because it was a place of worship for a major god among natives of Hunan and also function as a guild hall for them. It can be assumed from their family names that neither Lin Zengxiu, who pawned the land to the Temple, nor the Han brothers who then pawned it from the temple were native inhabitants of Pingao.<sup>27)</sup> Furthermore, it was in such ways that Wendou and Pingao became during the Daoguang Era a forest-related raw materials production center with a significantly large population of migrants.

The document also suggests that any close contact that occurred between these Han outsiders and indigenous often involved the lending of goods like liquor and rice secured with land, and the inability to pay the high rates of interest charged would sometimes result in the transfer of that land into the hands of newcomers. As mentioned earlier, this was a pattern often observed at such locations as Huangping and Taigong in the Qingshui basin and was one of the main causes of violent Miao uprisings that occurred during the Xianfeng and Tongzhi Eras. However, the document also suggests that Miao inhabitants did not always take the usurious practices and wrongdoing of newcomers lying down. Another interesting aspect of this document is the statement that the defendants “are Han rogues who have invaded our [ethnic minority] world to prey on the innocent,” which implies that they expected the government’s protection based on the doctrine that authorities should be responsible for the security of ethnic minorities against abuses by the Han majority. As a matter of fact, from time to time during the Jiaqing Era (1796–1820), disputes

arose between such upper Qingshui Miao and Dong villages as Wangzhai (present day seat of Jinping Country), as well as between Guazhi 卦治 and Maoping 茅坪 and villages on the lower reaches of the river over the right to host timber markets, a practice called *dangjiang* 當江.<sup>28)</sup> In these dispute, non-Han people were seeking the protection of the authorities based on the same principle, by pretending that they were “Black Miao” or “poor miao people.” Returning to the case in question, a settlement was sought by means of an “appeal to the powers that be” (Document 6), followed by an “appeal to the gods.”

#### Document 7

Han Tianfu and Han Tianxiang have resorted to *qing[bai]zi* to settle the claim by the disputants that they did not pay the sufficient amount for their outright purchase of [the plot at] Mantian Xingtian, thus calming their emotions and sacrificing chickens. Both parties will no longer object and complain. Both parties will secure witnesses and will perform the sacrifice early in the morning of the 2nd day of the 3rd month. They must not delay any long, must stop feuding and threatening murder. They hereby now shall attest to these promises by concluding a *qingzi*.

立請字人韓天富·天相，二爲因得斷滿天星田斷價收足，不足混爭，二比自願平心宰鷄了局。二比不得多手多腳，那頭尾侮退宿事，倒在他中苛竝無強押。二比憑中斷在三月初二日晨早宰，二比不得爲誤，他辦我宰不得爭奪。今欲有憑，立此請字爲據。據中姜啓燦·朱福貴·姜祥兆。咸豐元年二月二十四日立。

This *qingbaizi* document drafted during the month following the filing of a complaint to the civil authorities involves an agreement between the parties to perform a sacrificial ritual to reach a settlement. If filing complaints with the civil authorities had indeed become the standard practice at that time, there would have been no need to conclude a *qingbaizi* after the drafting of the *binggao* a month earlier. From the fact that both instruments were being drafted almost simultaneously, we can conclude that Miao resolution through trial by ordeal was continually maintained and even applied to Han outsiders while preparing for a settlement by the government.

### Concluding Remarks

In his detailed examination of the dispute settlement between private parties in Huizhou Prefecture, Anhui Province, Nakajima Yoshiaki 中島樂章 has shown that amidst the growing severity of disputes over raw materials, the conventional power of local village elders (*lilaoren* 里老人) to act as mediators was lost in favor of a spreading trend towards seeking the intervention of public authorities (*jiansong* 健訟) and cites this trend as the background to the development of a new framework for autonomous dispute settlement through such agents as the *xiangyue-baojia* 鄉約保甲 system, kinship groups and persons of renown.<sup>29)</sup> As far as we can tell from the *qingbaizi* and *binggao* documents in our possession today, the same *jiansong* trend was clearly developing in the villages of Wendou and Pindao from the Daoguang Era on. It was during this same era that Chinese fir trees planted in Qianlong period were being grown for trade and were commercialized on a mass scale, leading unavoidably to various inter-village disputes over their ownership and sale, leading to the appearance in Qingshui non-Han society of the practice of appealing to the civil authorities to settle their disputes. Nevertheless, this new trend does not necessarily mean that the Miao abandoned their traditional settlement method of trial by ordeal, since documentation from Guizhou indicates that the traditional method was continuously employed, and civil litigation played a complementary role. From the fact that from the 19th century written documents (*qinbaizi*) referring to trial by ordeal began to appear, it seems that the traditional settlement custom was still rather popular. Even the Han migrant communities of Miao villages engaged in forestry were requested to engage in such ethnic minority practices.

In his study of the social order in the Miao settlements of Xiangxi from the 18th century on, Donald Sutton has shown that up to the 20th century regional administrative authorities tacitly approved the employment of traditional alliance formation and other Miao customs in efforts to settle legal matters and that Tianwang 天王 Temples remained the sites of trial by ordeal and alliance formation, thus functioning as the de facto courthouses of Miao communities.<sup>30)</sup> For this reason, Sutton assumes that the local authorities realistically chose not to get involved, thus giving rise to meaningless disputes by imposing unpopular legal proceedings on the Miao. However, the autonomous character of the world of customary law is probably not sufficient to fully explain such an administrative response, for as suggested by our examples from the Qingshui basin indicating that

civil litigation was accompanied by traditional trial by ordeal, it was a new social situation in the midst of commercialization of production and an influx of foreign Han elements that encouraged a self-awareness concerning the traditional methods of dispute settlement. Then as the Qing Period was drawing to an end, it was this same self-awareness that the formation of *kuan* communities became popular in Miao and Dong regions.<sup>31)</sup> These *kuan* covenants, which were now carved in stone, took on a new significance for former *Xidong* peoples not only of the Qingshui basin but also of Jingzhou (Hunan) and Longsheng 龍勝 (Guangzhi) in the midst of a growing market economy and the influx of foreigners and were reevaluated and reproduced as a result.<sup>32)</sup>

### Notes

- 1) Yang Yougeng 楊有賡, Tang Li 唐立 and Takeuchi Fusaji 武内房司 (eds.), *Old Forestry Contracts of the Miao in Guizhou 1736–1950* 『貴州苗族林業契約文書匯編』, 3 vols., Tokyo Daigaku Shuppankai 東京大學出版會, 2005.
- 2) Let me take this opportunity to express my gratitude to both Profs. for providing me with such an opportunity to study the documents. As to the research done on the documents by Prof. Yang, see for example Yang Yougeng (Takeuchi Fusaji, trans.), “The scientific significance of Qing Period Miao contractual documents” 「清代苗族契約文書の學術的意義」, in *Huiban*, Vol. 3.

Recently, the private sector contractual documents extant in the Qingshui basin have also been published in China. See Zhang Yingqiang 張應強 and Wang Zongxun 王宗勳 (eds.) (In conjunction with Sun Yat-sen University Research Center of Historical Anthropology 中山大學歷史人類學研究中心 and Jinping County Office for the Collection and Cataloging of Forestry-related Contracts and Local Documents 錦屏縣林業契約及地方文獻收集整理辦公室), *Documents of the Qingshui River Basin* 『清水江文書』, Guangxi Shifan Daxue Chubanshe 廣西師範大學出版社, 2007 and Chen Jinqian 陳金全 and Du Wanhua 杜萬華 (eds.), *Collected Contractual Legal Documents of the Miao People of Wendao, Guizhou* 『貴州文斗寨苗族契約法律文書匯編～姜元澤家藏契約文書』, Renmin Chubanshe 人民出版社, 2008.

- 3) “Jingzhou Customs” 「靖州風俗」, in Li Xian 李賢, *Comprehensive Gazetteer of the Great Ming Dynasty* 『大明一統志』, Tianshun 5 (1461).
- 4) Concerning the relationship of non-Han peoples to the development of the forest products industry in the Qingshui River Basin, see Takeuchi Fusaji, “The Lumber Trade in the Qingshui River Basin and Local Ethnic Minority Merchants during the Qing Period” 「清代清水江流域の木材交易と在地少数民族商人」, *Gakushuin Shigaku* 『學習院史學』, No. 35 (1997).
- 5) Its population was 12,700 in 1987 (*ibid.*, p. 13).
- 6) Uenishi Yasuyuki 上西泰之, “Land reclamation among the ‘Xidong People’

- along the Jinghu Route during the Northern Song Period” 「北宋期の荆湖路『溪峒蠻』地開拓について」, *Toyoshi Kenkyu* 『東洋史研究』, Vol. 54, No. 4 (1996), pp. 28-70.
- 7) *Guangxu Era Gazetteer of Liping Prefecture* 『光緒黎平府志』, Vol. 5, Part II.
  - 8) Zhao Qufei 周去非 (Yan Wuquan 楊武泉, ann.), *Annotated Lingwai Daida* 『嶺外代答校注』, Zhonghua Shuju 中華書局, 1999, pp. 424-425.
  - 9) Terada Hiroaki 寺田浩明, “The nature of ‘promises’ in the legal orders of the Ming and Qing Dynasties” 「明清法秩序における「約」の性格」, in Mizoguchi Yuzo 溝口雄三, et al. (ed.), *Thinking from Asian Perspectives IV: State and Society* 『アジアから考える (四) 社會と國家』, Tokyo Daigaku Shuppankai, 1994.
  - 10) Fang Xian 方顯, *Brief Description of the Pacification of the Miao People* 『平苗紀略』, pp. 4-5.
  - 11) For example there is a Kuanchang Xiang in the eastern Sansui 三穗 Country. In the Dong language the term is written 款場, pronounced *kont xangc* and means the place where covenants are formed (People’s Government of Qiangdongnan Miao and Dong Autonomous Prefecture 黔东南苗族侗族自治州人民政府 (ed.), *Toponymic Gazetteer of Qiangdongnan Autonomous Prefecture* 『黔东南苗族侗族自治州地名志』, People’s Government of Qiangdongnan Miao and Dong Autonomous Prefecture, 1991, p. 95).
  - 12) An example of pre-revolutionary interest in *kuan* organization is Liu Jie 劉介’s *The Barbarians of Guangdong and Guangxi* 『嶺表蠻蠻』 (1935) which introduces social organization among the various peoples of Guangxi. Recently, Christian Daniels has located *kuan* as the nuclear institution in autonomous organization among the non-Han peoples of southwestern China, including the “Xidong” people (*idem*, “Autonomous regimes among non-Han peoples of the Shan cultural sphere: The case of regional reform through the dispatch of Han bureaucrats to Sipsong Panna” 「西南中國・シャン文化圏における非漢族の自律的政權～シブソンパンナー王國の改土歸流を實例に」, *Toyo Daigaku Asia/Africa Bunka Kenkyujo Kenkyu Nenpo* 『東洋大學アジア・アフリカ文化研究所研究年報』, No. 34 (1999), pp. 56-70).
  - 13) Huan Caigui 黃才貴 and Wu Yongqing 吳永清, “Customary law among the Dong People” 「侗族的習慣法」, *Guizhou Wenshi Congkan* 『貴州文史叢刊』, 1982, Vol. 3, p. 56).
  - 14) The *yoguo* trial by ordeal survived among the Qingshui Miao until the early 1940s. According to sociologist Wu Zelin 吳澤霖, the ritual was conducted with a shaman as mediator between the disputants (Wu Zelin, *Life Among the Black Miao of Lushan* 『鑪山黑苗的生活』, Daxia Daxue Chubanbe 大夏大學出版部, 1942, pp. 67-68, later published in *The Collected Ethnological Works of Wu Zelin* 『吳澤霖民族研究文集』, Minzu Chubanbu, 1991, pp. 142-143).
  - 15) Vol. 7 of *Qianlong Era Gazetteer of Guizhou* 『乾隆貴州通志』, published in 1741, introduces funereal rites conducted by the Miaoman (or Black Miao) stating, “The body of the deceased is interred in the ground within a casket with no bottom plate.” Such a coffin clearly distinguishes Miao practices from Han burial customs.
  - 16) Richard von Glahn, *The Country of Streams and Grottoes: Expansion, Settlement,*



*and the Civilizing of the Sichuan Frontier in Song Times*, Cambridge (Massachusetts) and London, Council on East Asian Studies, Harvard University, 1987, p. 30.

- 17) “Miaoman,” *Qianlong Era Gazetteer of Guizhou*, Vol. 7.
- 18) In Miao society of Leishan 雷山 County (formerly Danjiang 丹江 Sub-Prefecture) in the upper reaches of the Qingshui, the Gushejie buffalo sacrifice remains an important event even today (Suzuki Masataka 鈴木正崇, “The changing face of ancestor rituals: The case of Gushejie among the Miao People of China’s Guizhou Province” 「祖先祭祀の變遷～中國貴州省苗族の鼓社節の場合」, in Miyake Hitoshi 宮家準 (ed.), *Horizons of Folk Religion* 『民俗宗教の地平』, Shunjusha 春秋社, 1999).
- 19) Kishimoto Mio 岸本美緒, “Forestry-related contractual documents of Guizhou and Huizhou” 「貴州の山林契約文書と徽州の山林契約文書」, in *Huiban*, Vol. 3, p. 188.
- 20) Following the people’s revolution, the Gushejie festival has been from time to time outlawed on the grounds that the purchase of the buffalo is an “unproductive” outlay of cash (Suzuki Masataka, “The changing face of ancestor rituals,” *op. cit.*)
- 21) Concerning patri-lateral cross-cousin marriage and inheritance practices, see Takeuchi Fusaji, “Inheritance customs among the Qing Period Miao People: The endowment of arable land to newly married daughters among the Miao of southeastern Guizhou” 「清代苗族の相續慣行～貴州東南部苗族社會における姑娘田習俗について」, in *The Family and Traditional Society in China: Papers Commemorating the 70th Birthday of Prof. Yanagita Setsuko* 『柳田節子先生古稀記念中國の傳統社會と家族』, Kyuko Shoin 汲古書院, 1993. Among the Dong People of the nine hamlets of Jinping and the Miao People of Yaoguang, Chinese fir trees are planted upon the birth of a daughter and at the time of her marriage the full grown trees are sold for her dowry; or young women who have reached the age of 15 or 16 are accustomed to borrow a cite from someone to plant a grove of dowry trees (Wang Zongxun 王宗勳 and Zhang Yingqiang 張應強, “Brief introduction to forestry contracts in the private sector of Jinping Country, Gizhou” 「貴州省錦屏縣民間山林契約簡介」, *Huanan Yanjiu Ziliao Zhongxin Tongxun* 『華南研究資料中心通訊』, No. 24 (2001).
- 22) In the case of disputes arising over arable land, kinsfolk or village headmen and elders step in to recommend that the disputants discuss where to draw property lines and then seal their agreement with a *qingbai* union (*qingbai hetong* 清白合同) (Zhou Shaoquan 周紹泉, (Kishimoto Mio, trans.), “Classification of documents from Huizhou” 「徽州文書の分類」, *Shicho* 『史潮』, No. 32 (1993). Recently Liang Cong 梁聰, through an investigation of documents of Jiang Yuanze’s family in Wendou and those contained in *Huiban*, has determined that the first *qingbao hetong* was concluded in Wendou in 1793 (Liang Cong, *Contractual Norms and Social Order in Villages in the Lower Reaches of the Qingshui River Focusing on the Contractual Documents of Wendou Village* 『清代清水江下游村寨社會的契約規範與秩序～以文斗苗寨契約文書爲中心的研究』, Renmin Chubanshu, 2008, p. 131). However, this particular instru-

ment can not be identified as similar to the type of the later described documents relating to trial by ordeal.

- 23) *Huiban* document F-0033.
- 24) *Huiban* documents A-49, B-201, 227, C-24, 38, 39, 76, D-30, 38.
- 25) “Biography,” *Guangxu Era Gazetteer of Liping Prefecture*, Vol. 7, Part II.
- 26) “Memorial of Zhang Liangji 張亮基 13th Day of the 2nd Month, Xianfeng 1,” (*Secret Palace Memorials of the Xianfeng Period Vol. 1* 『宮中檔咸豐朝奏摺·第一輯』, National Palace Museum, Taipei 臺灣故宮博物院藏). On the Miao uprisings during this time, see Takeuchi Fusaji, “On the Miao uprisings of the Taiping-Tianguo Era focusing on the Miao regions of southeastern Guizhou” 「太平天國期の苗族反亂について～貴州東南部苗族地區を中心に」, *Shicho*, New No. 12 (1981).
- 27) During my visit to Pingao Village in 1994 I was able to confirm a total of four family names among the population; namely, Jiang 姜, Yang 楊, Fu 付 and Long 龍.
- 28) See Takeuchi Fusaji, “One aspect of Han assimilation,” *op. cit.*
- 29) Nakajima Yoshiaki 中島樂章, *Conflict and Order in Ming Rural Society* 『明代鄉村の紛争と秩序』, Kyuko Shoin, 2002, Ch. 6.
- 30) Donald Sutton, “Violence and Ethnicity on a Qing Colonial Frontier: Customary and Statutory Law in the Eighteenth-Century Miao Pale,” *Modern Asian Studies*, Vol. 37, No. 1 (2003), pp. 41–80.
- 31) Wu Jiang 吳江’s *Selected Inscriptions of the Dong People* 『侗族部份區碑文選輯』 (Liping Xian Zhibian Gongshi 黎平縣志辦公室, 1989) presents 13 inscriptions touching upon *kuan* covenants.
- 32) The most typical example is an item contained in Vol. 2 of *Guangxu Era Local History of Jingzhou* 『光緒靖州鄉土志』, to wit, “The *kuan* rules of conduct [of the Miao People] are all strictly adhered to, [consequently] the caves are absent of thievery. They are a simple and innocent people of antiquity. As long as there are *lushengchang* 蘆笙場, there is both prosperity and simplicity.” The author also highly praises the autonomous institutions of the Miao and is critical of attempts to interfere in the customs of ethnic minorities through attempts to assimilate them into Han culture, the introduction of the commandery-county system and the dispatch of bureaucratic reformers to govern them (Takeuchi Fusaji, “On Miao *kuan* organization: Customs related to alliance formation in Miao society in Qing Period Xiangxi” 「苗族の款について～清代湘西苗族社會における結盟習俗」, *The World of Old Peasants: Notes on the People’s History of China* 『老百姓の世界～中國民眾史ノート』, No. 5 (1987) and “Ethnic minorities and Chinese civilization” 「中華文明と「少數民族」」, in *Iwanami Lectures on World History* 『岩波講座世界歴史』, Vol. 28, Iwanami Shoten 岩波書店, 2002). Also, concerning similar organizations based on alliances by pledge formed in Longsheng, Guangxi, see Tsukada Shigeyuki 塚田誠之, *Social History of the Zuang People Mainly During the Mind Period* 『壯族社會史研究～明清時代を中心として』, Kokuritsu Minzokugaku Hakubutsukan Kenkyu Sosho 國立民族學博物館研究叢書, 2000, pp. 124–134.