

Tradition and Adoption: Elements and Composition of Land-related Contractual Documents in Provincial Xinjiang (1884–1955)

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1. Introduction

1.1. Provincial Xinjiang and the Documents

The legal documents from provincial era Xinjiang (1884–1955), particularly contractual documents on real-estate sales (deeds of sale) executed by common people, have a peculiar character that distinguishes them from earlier and later periods. In this period, in addition to traditional Islamic law court (*qāḍī*) documents, there began to appear Chinese forms issued by the Chinese local government (first the Qing dynasty and later the Republic of China), that sought to establish direct rule over the social life of the people.¹ Sometimes documents of both types, traditional handwritten *qāḍī* documents with the *qāḍī*'s seal, and printed Chinese official forms, were glued together with official tally seals. Use of such formats continued until the 1950s when Xinjiang Province was reorganized into the Xinjiang Uyghur Autonomous Region, and the Islamic court abolished.

This coexistence of Islamic and Chinese documents arose from the series of legal reforms that followed the installation of provincial rule.² It may possibly be viewed as an example of the “culture clash” in Xinjiang that Jarring saw occurring between traditional Islam and China;³ but it can just as well be seen as a specific

¹ On the process of “inlandization (内地化)” of Xinjiang after the establishment of the provincial system, and in particular on the reform of education and local administrations, see KATAOKA Kazutada 片岡一忠 1991 *Shinchō Shinkyō tōchi kenkyū* 『清朝新疆統治研究』, Tokyo: Yūzankaku, pp. 202–13.

² Chen Guogang points out that after the establishment of Xinjiang province, in accordance with the central government's financial and tax policies, the local Xinjiang government would issue a supplementary document (*qiwei* 契尾) and require people to attach it to the original tax document. CHEN Guoguang 陈国光 1992 “Guanyu qingdai xinjiang yisilanjiao minfa wenti: qiyue wenshu tantao” 「关于清代新疆伊斯兰教民法问题——契约文书探讨」, *Xiyu yanjiu*, 1992, no.2, p. 99.

³ Jarring discusses “a clash of two religious systems with their cultural ramifications” in his work on the Chinese theatre in the Chinese (new) city of Kashghar. JARRING, Gunnar 1991a *Culture Clash in Central Asia: Islamic Views on Chinese Theatre: Eastern Turkic Texts edited with Translation, Notes and Vocabulary*, Stockholm: Almqvist & Wiksell International, p. 4.

circumstances of encounter and contact between Islamic and Chinese legal traditions.⁴ It is definitely of value to Xinjiang historical studies to examine how these two different traditional legal orders could have coexisted, and how people lived under this dual legal framework. However, there has been almost no research on document administration in provincial Xinjiang, particularly as concerns the formats of the documents, and we have only a vague idea about what types of documents existed and how they were actually used.⁵

1.2. Goals of This Study

Based on this general understanding of the problem, this paper will focus on deeds of sale to help clarify how people in Xinjiang lived and did business between traditional Islamic and the Chinese legal systems. In particular, I first describe the physical elements of these deeds of sale, which in form comprised composites of various mixed documents. Then I classify these elements into two categories, i.e. Turkic and Chinese, and examine the formats of each. And finally I analyze the composition of these elements.

This paper is based on the examination of a total of 153 deeds—both documents in Turkic and compound documents consisting of traditional Islamic and Chinese forms—related to real property sales with a known date of completion. These 153 deeds are drawn from the 629 items of the “Kashghar Documents Collection” which I collected in Kashghar in 2003.⁶

⁴ For general studies of documents in both Islamic and Chinese traditions, see KUBO Kazuyuki 久保一之 1996 “Isrāmuki Chūō Ajia komonjo gaku no seika to 16 seiki Buhārā no hōtei monjo shoshiki shū” 「イスラーム期中央アジア古文書学の成果と 16 世紀ブハーラーの法廷文書式集」, *Tōyō gaku* 78, no. 2, pp. 29–53.; HORI Sunao 堀直 2001 “Kaikyō no shakai keizai monjo ni tsuite: Chagatai-go monjo no shōkai wo chūshin toshite” 「回疆の社会経済文書について——チャガタイ語文書の紹介を中心として」, *Seinan Ajia kenkyū* 54, pp. 84–107.; KISHIMOTO Mi'ō 岸本美緒 1993 “Min-Shin keiyaku monjo” 「明清契約文書」, in SHIGA Shūzō 滋賀秀三 ed. *Chūgoku hōseishi: Kihonshiryō no kenkyū* 『中国法制史——基本資料の研究』, Tokyo: Tokyo daigaku shuppankai, pp. 759–805.

⁵ As Hori Sunao suggested, since the 1990s Chinese scholars are gradually publishing Xinjiang contractual documents. See Hori 2001: 87; CHEN 1992; WANG Shouli 王守礼, and LI Jinxin 李进新 eds. 1994 *Xinjiang weiwu'erzu qiyue wenshu ziliao xuanbian* 『新疆维吾尔族契约文书资料选编』, Wulumuqi: Xinjiang shehui kexueyuan zongjiaosuo. But most of this recent work simply introduces documents briefly, paying only limited attention to the possible use of these materials in socio-economic analysis or regarding documental administration or formats.

⁶ This document collection will eventually be transferred to an appropriate institution in the Xinjiang Uyghur Autonomous Region of China, following physical restoration.

2. Deeds of Sale: Physical Features and Composite Elements

2.1. Deeds of Sale

The contractual documents related to land sales that I will analyze here are a part of the 629 documents gathered in Kashghar. The categories and proportions of the documents in the overall collection are presented in Table A. Three hundred and ninety-eight out of the 629 items are related to the Kashghar Region, and the remaining 231 items derive from the Khotan Region. The 201 contractual documents related to land constitute the largest portion, or 32%, of the overall collection. Next numerous are those documents related to lawsuits, property inheritance and debts, respectively. Though it is arguable whether these relative numbers can be generalized, at least on the basis of our “Kashghar Documents Collection,” we may assume that drawing up a deed of sale to conclude a real estate deal was the commonest and most important contractual action.⁷ And the dates on 153 out of the 201 items obviously confirm that these land deals took place during the provincial period in Xinjiang (1884–1955).

2.2. Elements of the Deeds

At a glance, the deeds of sale appear to come in diverse styles. Many of the documents consist of up to four sheets of multiple items, in many cases with tax stamps (*yinhua* 印花) affixed. Table B presents the composition of the various elements of these multi-part documents.

These elements may be broadly classified into three categories: Turkic documents (handwritten), Chinese official forms (printed) and tax certificates (printed). The Turkic documents are sub-classified into four formats. Chinese official forms, on the other hand, comprise four different types of contractual document: *qige* 契格, *qiwei* 契尾, *qizhi* 契紙, and *yueqi* 約契. There were two kinds of tax certificates (*yan qi xin zhi* 驗契新紙 and *shui qi xin zhi* 稅契新紙), as well as documents stamped with a tax seal (chop). These Chinese official forms also differ from each other according to the time and place where each was executed.

⁷ Miura Toru discusses the proportions of legal cases in the registration books of the Islamic law courts in 18th–19th centuries Damascus. Interestingly, the Syrian proportions somewhat resemble those of the Kashghar documents, in that real-estate sales make up the largest number of cases. See MIURA Tōru 三浦徹 2004 “Tōjisyā no sekai to hōtei no sekai: Isurāmu hō ni okeru keiyaku” 「当事者の世界と法廷の世界——イスラーム法における契約」, in MIURA Tōru 三浦徹, KISHIMOTO Mi'ō 岸本美緒, and SEKIMOTO Teruo 関本照夫 eds. *Hikaku shi no Ajia: Shoyū, keiyaku, shijō, kōsei (Isurāmu chi'iki kenkyū sōsho 4)* 『比較史のアジア——所有・契約・市場・公正（イスラーム地域研究叢書4）』, Tokyo: Tokyo daigaku shuppankai, p. 116.

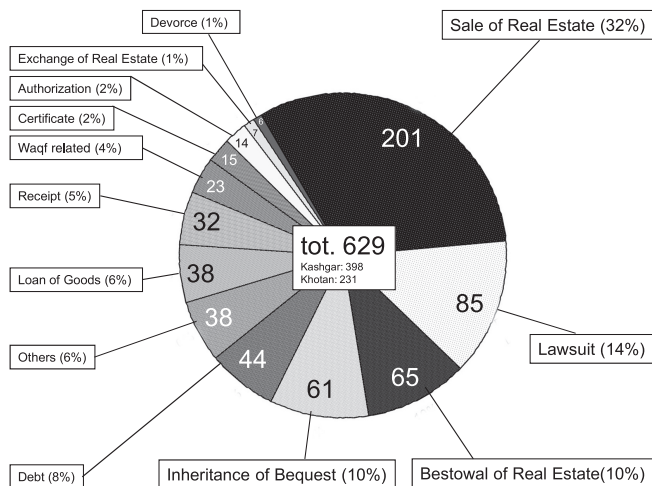


Table A: Categories and Proportions of the “Kashghar Documents”

Turkic documents (handwritten)	
A. Traditional <i>qādīr</i> documents with <i>qādīr</i> 's seal [A]	103
B. Documents <u>without</u> <i>qādīr</i> 's seal [B] ⁸	40
(1) Documents in traditional format	(3)
(2) Documents in simplified parol format	(32)
(3) Turkic translations of Chinese formatted documents	(5)
Chinese official documents (printed) [C]	
A. Qing period (woodprints)	11
(1) <i>qizhi</i> (契紙)	(9)
(2) <i>qiwei</i> (契尾)	(2)
B. Republic period (woodprints)	51
(1) <i>qizhi</i> (契紙)	(27)
(2) <i>qige</i> (契格)	(24)
C. Republic period (set in type: 1940s-)	53
(1) <i>qizhi</i> (契紙)	(22)
(2) <i>qige</i> (契格)	(2)
(3) <i>yueqi</i> (約契)	(24)
(4) <i>qizhi</i> + <i>qige</i> (契紙+契格)	(5)
Tax certificates (printed) [D]	
(1) Tax certificates (驗契新紙) (稅契新紙)	8
(2) Document with tax stamps (印花)	68

Table B. Xinjiang provincial period deeds of sale, categorized by compositional elements (total 153 deeds)

⁸ This number includes only documents written on one separate piece of paper; Turkic language insertions into the documents in Chinese official format are included under Category C.

3. Turkic Documents

3.1. *Traditional qāḍī Documents with qāḍī's Seal [A]*

3.1.1. *Traditional Styles*

The traditional documents for the most part inherit the format of the documents of the previous period (Huijiang 回疆 period) and are based on the first-person parol (*iqrār*) style common throughout Central Asia.⁹ The documents of this type do not show time- or region-dependant variations. That this document format was typical of that time is sufficiently confirmed by the quantity of such documents; additional corroboration comes from a contemporary format style guide, *Khuṭūṭ al-mutanawī*, that introduces two examples of the same document format.¹⁰

3.1.2. *Characteristic Features of the Traditional Document Format*

Comparing the structural composition of the Kashghar land documents in this format to Central Asian *qāḍī* documents, as pointed out by Isogai,¹¹ reveals that despite the simplification of the form, both sets of documents clearly belong to the same lineage: they are in the same “first-person parol style,” and information is arranged in a similar order.¹²

The Kashghar documents show a simplification in how the year is noted and how information about the persons involved in the deal is conveyed. This may be an indication of east-west regional differences. The same simplification is found even

⁹ Regarding the styles of documents in the Huijiang period, see Hori 2001: 94–95. Isogai points out that such a parol (*iqrār*) style was employed in several types of documents, such as waqf documents and deeds of sale in Khiva. ISOGAI Ken'ichi 磯貝健一 2002 “Chūō Ajia komonjogaku ni okeru shoshiki kenkyū no kanōsei: Gōhō baibai monjo ni okeru kēsu sutadī” [中央アジア古文書学における書式研究の可能性——合法売買文書によるケース・スタディー], in SHINMEN Yasushi 新免康 ed. *Chūō Ajia ni okeru kyōzoku ishiki to Isuramu ni kansuru rekishi teki kenkyū* [中央アジアにおける共属意識とイスラムに関する歴史的研究], Tokyo: Chuo University, p. 59.

¹⁰ ANONYMOUS 1937 *Khuṭūṭ al-mutanawī ya'nī altā shahrning rasmi khaṭ wa wathīqalari: uchunchi basma*, Kashgar: Svenska Missionstryckeriet, pp. 27–28. About this work, see JARRING, Gunnar 1991b *Prints from Kashghar: The Printing-office of the Swedish Mission in Eastern Turkestan: History and Production with an Attempt at a Bibliography*, Stockholm: Swedish Research Institute in Istanbul, p. 108.

¹¹ Isogai 2002: 56–60.

¹² As Miura suggests, Islamic contractual documents in Arabic or Persian generally do not employ first personal parol style as in Central Asia and Xinjiang, but rather third person. See Miura 2004: 135–36.

in comparison to the documents of the Huijiang period. For example, the Huijiang era documents in the same collection, as well as the few Yarkand documents in the collection of Lund University, include many commonly used formal phrases, especially in their introductory sections, which are seldom used in the documents of the later provincial period.¹³ In fact, the documents from the Huijiang period reveal more elements typical of the Khivan documents mentioned above. This allows us to consider the provincial period documents as basically a simplification of Huijiang documents that themselves shared many common features with the Khivan documents. Table C compares Kashghar and Khivan documents.

Kashghar Documents	Khiva Documents(Horikawa 2006) ¹⁴
(date) تاريخه	تاريخ هجرى (date) ده اقرار معتبر شرعى قىلدى
(name of seller, and his/her place of residence) اقرار شرعى قىلدىم بو جمله كيم	ى (name of seller, his/her place of residence) نىك مسجد قومىدىن
(description of the object) داكى (object location) نى	(name of masjid to which his residence belongs)
(other conditions of the object) برله	(age and physical features of seller)
(name of buyer, and his/her place of residence) غه	(the name of seller's father and grandfather)
(price) كه	بو جمله غه ساتتىم اوزىل كىل بىع نائقد لازم شرعى بيله
(type of sale) برله ساتتىب	غه (name of buyer)
خاتىبه كا بولاب	همگى و تىمامى (object) نىكه كايته دور (object's location) ده
(price) قىلارنى التىم	حدودى
حد	(exact location of the object by indication of neighbors in the four directions: E-N-W-S)
(exact location of the object by indication of neighbors in the four directions: E-N-W-S)	بارچه حقوق و مرافقى بيله
حضر مجلسى لار شاهد	مبلغ (the price of object and type of currency) غه
	تفايىس بدلىن بولدى و ضمان درك شرعىسى منگا تورور غىن غرور شرط
	فاسند بولمادى
	مع قبوله اياه و كان نلك بمحضر من الناس
	حضر مجلسى (name of notaries)
	كاتب (name of amanuensis)

Table C. Styles of Deed of Sale: Kashghar and Khiva

The formats given in *Khuṭūṭ al-mutanavī* give dates both in the Islamic (Hijra) and western calendar systems (year, month, day of the Chinese Republican calen-

¹³ The beginning part (immediately preceding the description of the date) of a deed Prov. 459 (Lund University Library) follows this style: “(the following is) a memory of truth, description of narrator. Followings should not be in secret, and not be unclear [*ḍikri dur ṣādiq va bayān dur nāṭiq, mekhfi va nāmaḍkūr qalmaghay kim*].” As far as I know, a couple of the Huijiang documents from Qumul also include similar or modified introductions. See SUGAWARA Jun, and KAWAHARA Yayoi eds. 2006 *Mazar Documents from Xinjiang and Ferghana (facsimile)*, vol. 1. Tokyo: Research Institute for Languages and Cultures of Asia and Africa, Tokyo University of Foreign Studies, p. 149, document EA-03; TÖMÜR, Osman 1994 “Möhürnamä wä uningdin parchilar,” *Qumul shāhirining tarikh materiyalliri 3-qisim*, Qumul: Qumul shāhārlik siyasiy kengāsh tarikh materiyalliri khizmāt komiteti, pp. 88–102., facsimiles inserted between p. 92 and p. 93, p. 98 and p. 99.

¹⁴ This section is based on the materials distributed in the first year of the annual “Seminar on Central Asian Paleography (中央アジア古文書セミナー)” organized by Professor Horikawa Tōru in 2003. This material was published in Horikawa 2006: pp. 209–214.

dar). However, in the land deeds we are considering here, cases where the Chinese date is actually included are very scarce: only 8 documents, or 8 percent of the traditional documents. They are dated between 1944 and 1946.

Another noteworthy element is the registration number (*mosajjal*) in Arabic script numerals characters (١٢٣...). So far, ten documents have been found with this number, all of them produced in Kashghar. These documents date from 1910–48 and belong only to the single-sheet document format. The existence of this number suggests that there might have been related copies or transcripts held by the *qāḍī* who registered the deal and arranged his copies according to this number.

3.2. Documents without a *qāḍī*'s Seal [B]

3.2.1. The Absence of a *qāḍī*

There is another type of Turkic document, unlike the traditional documents mentioned above in that they were executed without a *qāḍī*'s authorization. These documents are characterized by the absence of the *qāḍī*'s seal; instead, they were authorized with an official seal, a private seal or simply fingerprints.

There are two possible reasons why these contracts bear no *qāḍī* signatures: (1) they were created mainly to be used as a set in combination with Chinese documents; that is to say, such Turkic documents might have been composed secondarily, after the Chinese official document with which they were paired. This suggests that no *qāḍī* was ever involved in the transaction of such contracts, even if the format otherwise adhered fundamentally to the traditional style and terminology. Or, (2) these documents were not verified by a *qāḍī* because the institution of *qāḍī* was abolished with the dismantlement of the Islamic law court system after the “liberation.”

Nine of the documents in this category bear registration numbers in western numerals (i.e. the westernized “Arabic” numerals 123...), and though there are no examples using these registration numbers together with the Arabic *mosajjal* registration numbers, the Western numerals possibly imply that the real estate contracts in these documents were considered concluded after being certified and properly recorded by local governments.

Also noteworthy is the fact that the currently available documents are classified only as “*bay‘-i muṭlaq* (absolute sale)” or “*bay‘-i bāi* (ordinary sale),” and there are no examples of the “*bay‘-i jā‘iz* (debt repayment sale)” once quite popular in the Khiva documents.¹⁵ This is because, under Chinese laws, repayment of debt did not need to take the form of a bogus real estate transaction, and therefore there

¹⁵ On variants in the term *bay‘*, see Kubo 1996: 44; Isogai 2002: 60–63.

was no need for land-related contractual documents that would formerly have been necessary to legalize the debt-repayment deal under Islamic law. (Islamic law, of course, formally forbids the lending of money at interest; however, there were ways around this prohibition, including bogus real estate deals.)

3.2.2. *Three Types of Documents without qāḍī Authorization*

The documents executed without *qāḍī* authorization comprise 40 items in the “Kashghar Documents,” and may be classified into the following three types:

Although the first type (B-1 in table B) is exemplified by only three items and shows no fundamental difference in format or style from the traditional documents, nevertheless, there are small but clear differences in terminological usage as well as the absence of the *qāḍī* seal. Instead of the formal notion of the “parol under the Holy Law (*iqrār shar‘ī*),” these documents simply mention a “parol (*iqrār*)”¹⁶ or a “clear parol (*iqrār-i šarīh*).”¹⁷ These usages might indicate a special disposition to demonstrate that the document is not based on Islamic law.

The second type (B-2) numbers 32 items. This type of document demonstrates several small differences from traditional *qāḍī* documents. For example, they do not begin with the description of the date (*tārīkhqa...*) but rather with the introduction of the seller in first person (*men ki...*). Despite these minor discrepancies, however, it is clear that this type of document belongs to the same lineage as the traditional parol documents mentioned above. Almost all of these documents constitute a component part attached to Chinese official forms, and as we will mention below, display the same style of inscription used to fill in the Chinese official forms. Therefore, this type is possibly created in order to complement (or fill in) Chinese official forms.

The documents of the third type (B-3) number five items. In them we can recognize the language of Chinese documents, translated into Turkic. For example, in Kashghar Documents ELA 27, the initial phrase “*qolumda khirajim yoq uchun*” (because in my hand I do not have anything to pay), looks awkward at first glance. It seems to be a loose translation of the phrase *yin ji xu* (因急需 because of an urgent demand), used in Chinese language contractual documents. Moreover, in the B-3 documents, the descriptions of the four sides on the perimeter of a property are arranged in the order used in the Chinese language, namely East-West-South-North (*dong di* 東抵 – *xi di* 西抵 – *nan di* 南抵 – *bei di* 北抵), and not the East-North-West-South of the Khivan or earlier Kashghar documents. In addition, the description of the property inspection by a witness (*zhong ren* 中人) and price setting arrange-

¹⁶ Kashghar Documents, A65 and D122.

¹⁷ Kashghar Documents, A35.

ments (*shi zhi* 時值) also correspond to the notations found in Chinese language documents. Thus, it can be assumed that in their composition and structure (the information conveyed and its order) these documents closely follow the format of the Chinese language documents.

4. Chinese Official Forms

4.1. Classification of Chinese Official Forms [C]

“Chinese official forms” are fill-in-the-blank contractual documents issued by the Chinese government. The formats of official forms used in Xinjiang documents are fundamentally the same as those of contemporary documents used elsewhere in China,¹⁸ although in Xinjiang Turkic translations were sometimes employed within these formats.

The various types of documents described above also changed over time, and their forms can be roughly classified into three types on the basis of the time of issue: Qing period; pre-1940s Republican period; and post-1940s Republican period.

4.2. Documentary Forms of Qing Period (through 1911)

The first group (C-A in the Table B) numbers ten items, including fragments; eight of these are of the contractual document form (*qizhi* 契紙, literally “contractual paper”).¹⁹ The remaining two are *qiwei* (契尾), or attached documents. Nine of them were issued in the Kashghar region. The forms are printed in blue-inked xylograph, and entries (seller’s name, seller’s place of residence, object’s location, buyer’s name and sale price) are written with black Chinese ink. An abstract of the contract in Turkic is written on the lower right part of the form.

¹⁸ On formats of deeds executed in mainland China, see KANTŌ TOTOKUFU RINJI TŌCHI CHŌSABU 関東都督府臨時統治調査部 1918 *Kantō shū tochi kyūkan teiyō* 『関東州土地旧慣提要』, Dailen: Kantō totokufu rinji tōchi chōsabu.

¹⁹ Unlike the forms produced from the Republican period, there is no visible title reading “contractual paper (*qizhi* 契紙)” on the header section of the form produced during the Qing period. However, it is apparent that this kind of form is a “contractual paper” due to the similarity in content.

4.3. *Forms of the Republican Period (pre-1940s)*

The second group (C-B) numbers 51 items, all issued in the Khotan region. This group can be divided into two kinds of forms: *qizhi* 契紙, 27 items; and *qige* 契格, 24 items. These forms are printed with black colored xylograph, and for each form, different editions were produced over time (eight editions of *qizhi* and at least nine of *qige*).

The specific functions of the *qizhi* and *qige* here are worthy of attention. First, we can regard the *qizhi* as a document prepared mainly to show local Chinese officials. The *qizhi* forms issued in the early 1910s are basically bilingual: a Chinese printed form and handwritten Turkic contractual texts (in the B-2 style mentioned above), on the same piece of paper. But in the *qizhi* forms issued after the second half of the 1910s, after the new contractual form of the *qige* had become available, all texts start to be written only in Chinese, except for a few printed lines of official statements on contractual matters. On the other hand, in the *qige*, most of the contents could be entered in the Turkic language. In at least five editions of this format, Turkic contractual text (in the style B-2) appears on the form, and in two editions original traditional *qāqī* documents are even glued to and placed in the form. Both *qizhi* and *qige* forms were possibly used side-by-side in one contractual document, since we can observe such examples in thirteen instances.²⁰ These facts suggest that the *qizhi* were prepared for the government side and were to be examined by Chinese officials, whereas the *qige* was for the Turkic signatories of the contract, to be confirmed, in Turkic language, by them.

4.4. *Forms of the Republican Period (after the 1940s)*

The third group (C-C) numbers physically 51 items, twelve of them issued in the Kashghar region and the remaining 41 from the Khotan region. The documents in this group are printed in two colors (black and pink) with exquisite typography on fine quality paper, and are thus easily distinguished from the other two groups. This group consists physically of four types: *qizhi* (22 items); *qige* (2 items); compounds of *qizhi* and *qige* (5 items); and *yueqi* (約契, 24 items). The last type, *yueqi*, is very similar in content to the *qige*.

The contents of these forms are basically identical with those of the previous *qizhi* and *qige*, and some of their features lend weight to the theory that the two forms were meant to be complementary, with the *qizhi* meant for Chinese officials and the *qige* for signatories literate in Turkic. For example, most of the *qizhi* in this

²⁰ Kashghar Documents, ELA19, 20, 23, 05, 18, 14, 16, 17, 21, 07, 09, 26, 10 (in chronological order of their date of execution).

era were used with *yueqi* (or *qige*) together, which suggests mutual complementarity. And the *yueqi* accommodate duplex printing with Turkic and Chinese typefaces conveying exactly the same content, whereas the *yueqi* takes single-side printing in Chinese only. In the header of the Turkic side, the word *hujjet/hujjet* (contract) is printed as a translation of *yueqi*; this may indicate that this side was expected to be used as the main contract by local Turkic people.

As with the pre-1940s *qige*, the *qige* in this group also include Turkic contractual texts (in the B-2 style). The Turkic element (the contractual text) of these *qige* official forms carries on the traditional *qāḍī* documentary style. However, in the *yueqi* form, with its bilingual, double-sided format, the style has radically changed. This new, fill-in-the-blanks form has been exactly translated from the Chinese documentary form, abandoning the *qāḍī* tradition.

5. Composition

5.1. Classification of Composite Types of the Deeds

It should be noted that all of these documents include at least one sheet of a Turkic document in their overall composition. Consequently, we may also classify them on the basis of the relative numbers of Turkic documents as opposed to those in other formats. I classify these 153 deeds of sale into three large groups: (1) traditional *qāḍī* contractual documents, (2) compound documents combining both *qāḍī* and Chinese official forms, and (3) Chinese format documents.

5.2. Composition A: Traditional *qāḍī* Contractual Documents

The first group of *qāḍī* documents in traditional format, or, in other words, documents bearing the *qāḍī*'s seal, number 61 items, or 39.9 percent of the overall volume of land contractual documents. This group is thus the most numerous category. These documents demonstrate features characteristic of previous periods and common throughout Central Asia; as for the time and place of usage, these documents were drawn up and widely used during the provincial period both in the Kashghar and Khotan Regions.

5.3. Composition B: Compound Documents Combining *qāḍī* Documents and Chinese Form

The second group consists of composite documents with a *qāḍī* document and a

Chinese official form attached together. There are 42 items in this group, which comprises 27.5 percent of the overall volume. The group can further be sub-divided into two categories according to the physical method of attachment: the first consists of documents with a *qāḍī* document and a Chinese document attached in parallel side by side, and the second includes compound documents with a *qāḍī* document superimposed on the larger sized paper of the Chinese document; the latter format is found among the documents compiled in the Khotan Region. Although (as will be stated below) the Chinese part of such compound documents varies greatly depending on the time and place of production, these documents all share the same composition principle, being a conjoined product of traditional Central Asian and Chinese documents. Furthermore, this composition suggests that concluding a property sale contract in southwestern Xinjiang consisted of two different procedures, one involving the traditional certification by *qāḍī*, and the other dealing with the Chinese government authorities.

5.4. Composition C: Chinese Format Contractual Documents

Though documents in the third category resemble in physical form the above group, generally consisting of a set of attached Turkic and Chinese language documents, they do not bear the verifying *qāḍī*'s seal; they also clearly differ from traditional documents in their format. The use of this form for legal documents implies that these contracts were certified only by Chinese governmental authorities, without *qāḍī* verification.

This category numbers 38 items, or 24.8 percent of the overall volume. It should be pointed out that most of the documents of this kind belong to the Khotan region and only two of them were created in the Kashghar region. Thus, the Kashghar and Khotan regions might have differed in the degree of involvement of the *qāḍī* court in contractual deals during these years.

Besides the documents mentioned above, there are also documents in traditional style but missing the *qāḍī*'s seal. These documents number only 12 items, or about 7.8 percent of the total. Though documents of this type follow a traditional style in each form, they should be counted in the third group in as much as they were executed without the traditional authorization by a *qāḍī*, and thus stray from tradition. Interestingly, most of these documents were executed in the Khotan region, with only one document from Kashghar missing the *qāḍī*'s seal. This fact might indicate a particularity of the Khotan region in procedures regarding contracts.

6. Conclusion

It can be assumed that in Xinjiang during the Provincial period, the main basic frameworks of traditional society, including the Islamic law court system, were generally preserved. The continued use of traditional legal documents explicitly supports this conclusion.

A larger sample would be required to assure the reliability of the relative percentages I have given above. Nevertheless, the fact that about 70 percent of this set of real estate documents were still certified by a *qāḍī*, and the fact that many of the transactions were concluded and were presumably considered valid without undergoing other legal procedures, demonstrates the continuation of the *qāḍīs'* authority and functionality of the traditional system before "liberation" in 1949.

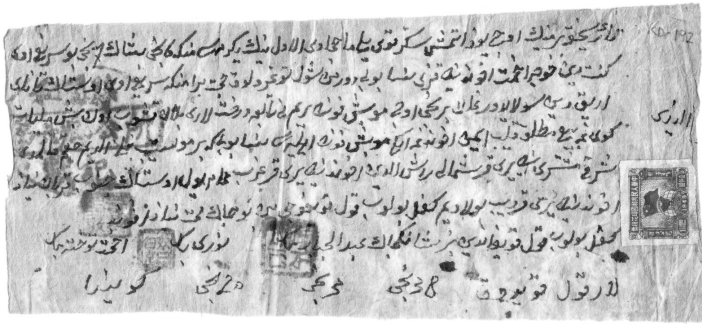
On the other hand, it is evident from the documents that, slowly but steadily, the Chinese state penetrated and established itself in the legal proceedings of southwest Xinjiang. It is clear that the first documents compiled in the Chinese language document format were no more than a modification of existing traditional documents to make them conform to the style of Chinese documents; furthermore, this trend was later inherited and reflected in the format of small-sized printed forms. The absolute proportion that such hybrids comprise in the overall total, of course, is not large; however, the creation of Turkic documents compliant with Chinese legal documentary-style during the Provincial period undoubtedly helped provide the necessary preconditions for abolishing the *qāḍī* court system, carrying out a fuller de-Islamization of documents and implementing land reform in the 1950s. This problem still awaits a proper study.

Here, I have limited myself to a partial analysis of the available documents, and not considered the problem of the relationship between individual "components" within the "compound" documents, and what that could tell us about the actual process whereby legal deals were concluded (i.e. whether visits to multiple authorities were required, whether *qāḍī* and Chinese officials officiated jointly, and so on). Nor have I begun the task of analyzing specific Turkic notations in the new Xinjiang documents or placement within the Chinese documents. In addition, other institutional and policy-related problems await further study; for example, the question of how governmental authorities administered legal documents. These problems will be subjects for future research.

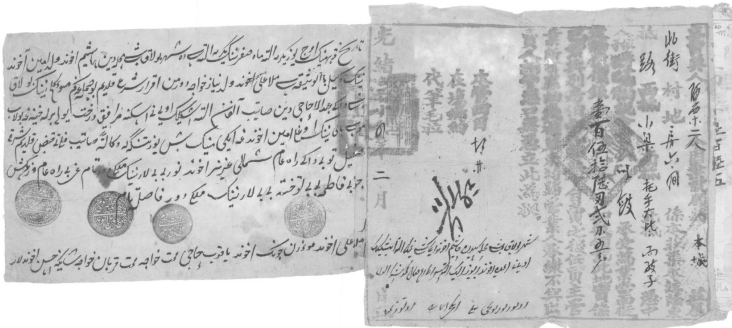
Appendix 1. Specimens of the Deeds of Sale in Kashghar Documents Collection



a. Traditional *qāḍī* document (no.75/D19)



b. Document without *qāḍī*'s seal type B-2 (no.146/D110)



c. Compound document of traditional *qāḍī* document and Chinese official form issued in Qing period (no.28/ELA8)



d. Compound document of traditional document without *qādī*'s seal and Chinese official form issued in Qing period, and tax certificate (no.5/ELA28)



e. Compound document of traditional *qādī* document and Chinese official form *qizhi* 契紙 and *qige* 契格 (no.80/ELA1)



f. Compound document of traditional *qādī* document and Chinese official form *qizhi* 契紙 and *yueqi* 約契 (no.80/ELA1) -recto

Appendix 2. List of Deeds of Sale in Kashghar Documents Collection

no.	register number	date(AD)	region	type of sale	composition (v. table B)	number(old or new)	composition category	
1	C	31	18841123	Kāshghar	bay-i bāt	A	a. traditional qāḍī document	
2	D	46	18850121	Kāshghar	bay-i bāt	A	a. traditional qāḍī document	
3	C	196	18850203	Kāshghar	bay-i bāt	AD	a. traditional qāḍī document	
4	A	61	18850318	Kāshghar	bay-i bāt	AB	b. compound document: qāḍī and chinese	
5	ELA	28	18860404	Kāshghar		BCD	c. compound document: chinese format	
6	LA	83	18861210	Khotan		AACD	b. compound document: qāḍī and chinese	
7	C	101	18880403	Kāshghar	bay-i bāt	A	a. traditional qāḍī document	
8	C	142	18880812	Khotan	bay-i molḥaq	B	parol without seal	
9	ELA	27	18890421	Kāshghar		BCCD	c. compound document: chinese format	
10	D	6	18890809	Kāshghar	bay-i bāt	A	a. traditional qāḍī document	
11	D	88	18900413	Kāshghar	bay-i bāt	A	a. traditional qāḍī document	
12	C	54	18941204	Kāshghar		A	a. traditional qāḍī document	
13	D	122	18951008	Khotan		BD	c. compound document: chinese format	
14	D	31	18951205	Kāshghar	bay-i jā'iz	A	a. traditional qāḍī document	
15	B	30	18960614	Kāshghar		A	a. traditional qāḍī document	
16	D	49	18960804	Kāshghar	bay-i bāt	A	a. traditional qāḍī document	
17	LA	72	18970108	Khotan	bay-i molḥaq	BCCD	c. compound document: chinese format	
18	D	37	18990921	Kāshghar	bay-i bāt	A	a. traditional qāḍī document	
19	D	20	19000330	Kāshghar	bay-i bāt	A	a. traditional qāḍī document	
20	D	169	19000511	Kāshghar	bay-i jā'iz	A	a. traditional qāḍī document	
21	B	59	19010000	Khotan	bay-i molḥaq	A	a. traditional qāḍī document	
22	LA	1	19020117	Kāshghar	bay-i bāt	ACD	b. compound document: qāḍī and chinese	
23	B	7	19040623	Kāshghar	bay'	A	a. traditional qāḍī document	
24	LA	7	19041119	Kāshghar	bay-i bāt	AC	b. compound document: qāḍī and chinese	
25	LA	46	19060211	Kāshghar	bay-i bāt	AC	b. compound document: qāḍī and chinese	
26	D	73	19070629	Khotan		AD	a. traditional qāḍī document	
27	LA	13	19070917	Kāshghar	bay-i bāt	AC	b. compound document: qāḍī and chinese	
28	ELA	8	19080330	Kāshghar		AC	b. compound document: qāḍī and chinese	
29	A	58	19080600	Khotan	bay-i molḥaq	C	c. compound document: chinese format	
30	D	109	19090910	Khotan	bay'	A	a. traditional qāḍī document	
31	A	46	19100000	Khotan		C	c. compound document: chinese format	
32	C	226	19100129	Kāshghar	bay-i bāt	A	old	b. compound document: qāḍī and chinese
33	LA	9	19100900	Khotan	bay-i molḥaq	C		c. compound document: chinese format
34	C	227	19100904	Kāshghar	bay-i bāt	AC	old	b. compound document: qāḍī and chinese
35	A	47	19110000	Khotan	bay-i molḥaq	C		c. compound document: chinese format
36	A	63	19110000	Khotan	bay-i molḥaq	C		c. compound document: chinese format
37	LA	27	19130000	Khotan	bay-i molḥaq	CD		c. compound document: chinese format
38	LA	59	19140100	Khotan	bay-i molḥaq	CD		c. compound document: chinese format
39	LA	51	19140800	Khotan	bay-i molḥaq	CD		c. compound document: chinese format
40	LA	74	19140900	Khotan	bay-i molḥaq	CD		c. compound document: chinese format
41	LA	16	19150000	Khotan		C		c. compound document: chinese format
42	LA	70	19150100	Khotan		C		c. compound document: chinese format
43	ELA	13	19150700	Khotan	bay-i molḥaq	CD		c. compound document: chinese format
44	LA	50	19160227	Kāshghar		ACD		b. compound document: qāḍī and chinese
45	C	63	19160417	Kāshghar		A		a. traditional qāḍī document
46	B	61	19170304	Khotan	bay-i molḥaq	AD		a. traditional qāḍī document
47	ELA	23	19170421	Kāshghar	bay-i molḥaq	CC		b. compound document: qāḍī and chinese
48	B	31	19171007	Kāshghar		AD	old	a. traditional qāḍī document
49	LA	17	19180615?	Khotan	bay-i molḥaq	BC		c. compound document: chinese format
50	D	148	19180720	Khotan	bay-i molḥaq	A		a. traditional qāḍī document
51	ELA	19	19190400	Khotan		CC		c. compound document: chinese format

52	A	100	19190512	Kāshghar		AD	old	a. traditional qāḡī document
53	D	29	19200510	Kāshghar	bay-i jā'iz	A		a. traditional qāḡī document
54	ELA	20	19200900	Khotan		CCD		c. compound document: chinese format
55	LA	48	19201100	Khotan		CDD		c. compound document: chinese format
56	B	26	19220515	Kāshghar	bay-i bāt	A	old	a. traditional qāḡī document
57	D	183	19220819	Kāshghar	bay-i bāt	A		a. traditional qāḡī document
58	ELA	5	19220900	Khotan	bay-i moḡlaq	BCCD		c. compound document: chinese format
59	ELA	22	19230825	Kāshghar	bay-i bāt	ACC		b. compound document: qāḡī and chinese
60	B	87	19231223	Kāshghar	bay-i bāt	AD	old	b. compound document: qāḡī and chinese
61	ELA	18	19250118	Khotan	bay-i moḡlaq	ACC		b. compound document: qāḡī and chinese
62	ELA	17	19250200	Khotan	bay-i moḡlaq	BCC		c. compound document: chinese format
63	B	49	19250318	Khotan	bay-i moḡlaq	A		a. traditional qāḡī document
64	ELA	6	19251200	Khotan	bay-i moḡlaq	BCCD		c. compound document: chinese format
65	ELA	14	19280600	Khotan	bay-i moḡlaq	BBCC		c. compound document: chinese format
66	ELA	21	19291000	Khotan	bay-i moḡlaq	BBCCD		c. compound document: chinese format
67	C	176	19291006	Kāshghar	bay-i bāt	ADD		a. traditional qāḡī document
68	ELA	15	19300600	Khotan	bay-i moḡlaq	BBCCD		c. compound document: chinese format
69	ELA	16	19300900	Khotan	bay-i moḡlaq	BBCCD		c. compound document: chinese format
70	ELA	12	19320100	Khotan	bay-i moḡlaq	BBCC		c. compound document: chinese format
71	LA	11	19320400	Khotan		AC		b. compound document: qāḡī and chinese
72	A	11	19320600	Khotan	bay-i moḡlaq	C		c. compound document: chinese format
73	C	157	19330520	Kāshghar	bay-i bāt	AD		a. traditional qāḡī document
74	B	51	19330714	Khotan	bay-i moḡlaq	AD		a. traditional qāḡī document
75	D	19	19350326	Kāshghar	bay-i jā'iz	A	old	a. traditional qāḡī document
76	C	182	19351102	Kāshghar	bay-i bāt	A		b. compound document: qāḡī and chinese
77	LA	65	19351208	Khotan	bay-i moḡlaq	ACCD		b. compound document: qāḡī and chinese
78	D	147	19351210	Kāshghar	bay-i bāt	AD		a. traditional qāḡī document
79	C	170	19360203	Khotan	bay-i moḡlaq	AD		a. traditional qāḡī document
80	ELA	1	19360721	Kāshghar	bay-i bāt	ACC		b. compound document: qāḡī and chinese
81	ELA	9	19370000	Khotan	bay-i moḡlaq	BCC		c. compound document: chinese format
82	D	154	19370205	Khotan	bay-i moḡlaq	BD	new	c. compound document: chinese format
83	LA	26	19370500	Khotan	bay-i moḡlaq	BCCD		c. compound document: chinese format
84	ELA	7	19370725	Khotan	bay-i moḡlaq	ACCD		b. compound document: qāḡī and chinese
85	B	41	19370817	Khotan	bay-i moḡlaq	AD		a. traditional qāḡī document
86	A	62	19380000	Khotan	bay-i moḡlaq	C		c. compound document: chinese format
87	ELA	10	19380112	Kāshghar	bay-i bāt	ACC		b. compound document: qāḡī and chinese
88	C	188	19380628	Kāshghar		A		a. traditional qāḡī document
89	LA	61	19390801	Kāshghar	bay-i bāt	ACCD		b. compound document: qāḡī and chinese
90	C	166	19400225	Khotan	bay-i moḡlaq	AD		a. traditional qāḡī document
91	D	129	19400925	Khotan		B		c. compound document: chinese format
92	LA	57	19401010	Khotan		ACCD	new	b. compound document: qāḡī and chinese
93	LA	81	19401010	Khotan		BCCD	new	c. compound document: chinese format
94	LA	5	19410208	Khotan	bay-i moḡlaq	ACCD		b. compound document: qāḡī and chinese
95	C	186	19410519	Kāshghar		A		a. traditional qāḡī document
96	C	161	19410601	Khotan	bay-i moḡlaq	AD		a. traditional qāḡī document
97	LA	82	19411116	Khotan	bay-i moḡlaq	ACCD		b. compound document: qāḡī and chinese
98	LA	37	19411200	Khotan		BCC		c. compound document: chinese format
99	LA	77	19411200	Kāshghar	bay-i bāt	ACC		b. compound document: qāḡī and chinese
100	D	158	19420201	Khotan		AD		a. traditional qāḡī document
101	LA	28	19420606	Khotan	bay-i moḡlaq	BCC		c. compound document: chinese format
102	A	8	19420820	Khotan	bay-i moḡlaq	BCD	new	c. compound document: chinese format
103	LA	73	19421001	Khotan	bay-i moḡlaq	ACCD		b. compound document: qāḡī and chinese
104	D	9	19430106	Kāshghar		A		a. traditional qāḡī document
105	A	14	19430113	Kāshghar	bay-i bāt	ACC	old	b. compound document: qāḡī and chinese
106	C	168	19430115	Khotan		AD		a. traditional qāḡī document

107	LA	15	19430122	Khotan	bay'-i mol'laq	BCCD		c. compound document: chinese format
108	A	39	19430530	Khotan	bay'-i mol'laq	BCCD		c. compound document: chinese format
109	D	77	19440108	Khotan		A		a. traditional qāđi document
110	LA	84	19440306	Khotan	bay'-i mol'laq	ACCD		b. compound document: qāđi and chinese
111	LA	80	19440329	Khotan	bay'-i mol'laq	ACC		b. compound document: qāđi and chinese
112	D	47	19440517	Khotan	bay'-i mol'laq	A		a. traditional qāđi document
113	B	94	19440825	Khotan	bay'-i mol'laq	ACCD		b. compound document: qāđi and chinese
114	C	167	19440906	Khotan	bay'-i mol'laq	ACD		b. compound document: qāđi and chinese
115	C	212	19450202	Kāshghar		A		b. compound document: qāđi and chinese
116	C	128	19450202	Khotan	bay'-i mol'laq	BD	new	c. compound document: chinese format
117	C	141	19450421	Khotan	bay'-i mol'laq	AD		a. traditional qāđi document
118	C	158	19450509	Khotan	bay'-i mol'laq	AD		a. traditional qāđi document
119	LA	35	19450625	Kāshghar		AACCD		b. compound document: qāđi and chinese
120	C	183	19450703	Kāshghar	bay'-i bāt	A		a. traditional qāđi document
121	D	44	19450806	Kāshghar	bay'-i bāt	A		a. traditional qāđi document
122	C	230	19451123	Kāshghar	bay'-i bāt	AD	old	a. traditional qāđi document
123	A	17	19460215	Khotan	bay'-i mol'laq	BCCD		c. compound document: chinese format
124	C	130	19460314	Khotan	bay'-i mol'laq	BD		a. traditional qāđi document
125	A	23	19460817	Khotan		BCCD		c. compound document: chinese format
126	A	36	19460922	Khotan		BC		c. compound document: chinese format
127	A	13	19461121	Khotan	bay'-i mol'laq	ACCD	new	b. compound document: qāđi and chinese
128	LA	24	19461129	Kāshghar	bay'-i bāt	ACCD		b. compound document: qāđi and chinese
129	A	18	19461221	Khotan	bay'-i mol'laq	ACC	new	b. compound document: qāđi and chinese
130	A	27	19470129	Khotan?	bay'-i mol'laq	ACCD	new	b. compound document: qāđi and chinese
131	D	134	19470528	Khotan		A		a. traditional qāđi document
132	A	15	19470601	Khotan?		ACD		b. compound document: qāđi and chinese
133	LA	21	19470920	Kāshghar	bay'-i mol'laq	ACCD		b. compound document: qāđi and chinese
134	D	76	19480100	Khotan	bay'-i mol'laq	A		a. traditional qāđi document
135	B	93	19480209	Kāshghar	bay'-i mol'laq	A		b. compound document: qāđi and chinese
136	C	97	19480425	Kāshghar		A		a. traditional qāđi document
137	A	33	19480428	Khotan		AC	new	b. compound document: qāđi and chinese
138	A	103	19480507	Kāshghar	bay'-i bāt	A	old	a. traditional qāđi document
139	A	16	19480912	Khotan	bay'-i mol'laq	BCCD		c. compound document: chinese format
140	C	49	19481202	Kāshghar	bay'-i bāt	A		a. traditional qāđi document
141	C	51	19481202	Kāshghar	bay'-i bāt	A		a. traditional qāđi document
142	LA	14	19481217	Khotan	bay'-i mol'laq	ACCD		b. compound document: qāđi and chinese
143	C	55	19490120	Kāshghar	bay'-i bāt	A		a. traditional qāđi document
144	C	50	19490221	Kāshghar	bay'-i bāt	A		a. traditional qāđi document
145	A	65	19490225	Khotan	bay'-i mol'laq	B		c. compound document: chinese format
146	D	110	19490320	Khotan	bay'-i mol'laq	BD		c. compound document: chinese format
147	C	18	19490815	Kāshghar	bay'-i jā'iz	A		a. traditional qāđi document
148	C	30	19510326	Kāshghar	bay'-i bāt	A		a. traditional qāđi document
149	D	53	19510604	Kāshghar	bay'	A		a. traditional qāđi document
150	D	143	19530521	Khotan	bay'-i mol'laq	A		a. traditional qāđi document
151	A	26	19530602	Khotan	bay'	BCC	new	c. compound document: chinese format
152	B	60	19531954	Khotan	bay'-i mol'laq	AD		a. traditional qāđi document
153	A	35	19540830	Kāshghar	bay'-i mol'laq	B		c. compound document: chinese format

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