

# **Institutions Governing Long-Distance Trade in Asia During the 18<sup>th</sup> and 19<sup>th</sup> Centuries: Example from the Gongguan Archives of Batavia**

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Asymmetric information and the absence of legal authority to enforce contracts was and still is a recurrent problem for merchants engaging in international trade in both the historical and contemporary worlds. Such merchants, who cross both ethnic (cultural) and national (political) borders become institutionally challenged in order to successfully facilitate their transactions, which include the execution of contracts, the protection of property rights, conflict resolution and the enforcement of punitive action. For example, the Maghrib merchants of the 11<sup>th</sup> century studied by Avner Greif depended upon merchant group solidarity to secure a flow of goods among them. Whenever a member was caught cheating, his fellow merchants would punish him by refusing to do business with him any longer. Greif points out that instead of consolidated authorities like the state, private organizations based upon social networks played the key role in cross-border trade.<sup>1</sup>

As to the question of how Chinese merchants in premodern times coped with the problems involved in the long-distance trade, the research to date has also paid much attention to social networks.<sup>2</sup> By

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<sup>1</sup> Avner Greif, "Reputation and Coalitions in Medieval Trade: Evidence on the Maghribi Traders" *The Journal of Economic History*, vol. 49, no. 4 (December 1989): 857–882. Concerning the networks functioning institutionally to overcome those problems, see, for example, James E. Rauch, "Business and Social Networks in International Trade" *Journal of Economic Literature* Vol. XXXIX (December 2001).

<sup>2</sup> Gary Hamilton ed., *Asian Business Networks*. Berlin: De Gruyter, 1996; Gary Hamilton ed., *Cosmopolitan Capitalists: Hong Kong and the Chinese Diaspora at the End of the Twentieth Century*. Seattle: University of Washington Press, 1999.

linking together key trade centers, their business organizations characteristically depended on long-term relationships, which eventually formed into full-fledged commercial networks. In an international arena lacking any formal political governance equivalent to the state, the key question becomes exactly *how* those merchant groups have formed and managed their networks, meticulously mobilizing the notion of family, kinship, religion and/or locality. On the one hand, historians have argued that social relationships have served as norms shared by networks to avoid wrongdoing. On the other hand, pioneering scholars of Chinese legal history have pointed out that formal written contracts were essential for business transactions.<sup>3</sup> Exchanges of both real and movable property were recorded in written contracts, which would be crucial as evidence in any related litigation.

Against this background of such aspects of comparative institutional history and of the scholarship concerning the Chinese commercial world, this paper investigates the dynamics of the trade between China and Southeast Asia through an examination of the archives of the Chinese Council (Gongguan) 公館 of Batavia.

## 1. The Gongguan and Gonganbu

After opening trade activities in Southeast Asia during the late 16<sup>th</sup> century, the Dutch established Batavia (present day Jakarta) during the 17<sup>th</sup> century as a commercial and administrative center to expand those activities in the region, and in the process, their encounters with ethnic Chinese residing and trading there increased. At the time the Dutch took over the governance of Batavia, the Chinese population numbered about 400, then increased rapidly to 2,000 in 1629, and quintupled to 10,000 by 1725. Despite the massacre of nearly

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<sup>3</sup> Shiga Shūzo 滋賀秀三, *Chūgoku hōseishi: kiso shiryō no kenkyū* 『中国法制史：基礎資料の研究』. Tokyo: University of Tokyo press, 1993. Shiga Shūzo, “Shindai no minji saiban ni tsuite” *Chūgoku: Shakai to bunka* 「清代の民事裁判について」 『中国：社会と文化』 no. 13 (1998). Terada Hiroaki 寺田浩明 「明清の法秩序における「約」の性格」, “Min shin hō chitsujo ni okeru ‘Yaku’ no seikaku” *Ajia kara kangaeru* 『アジアから考える』 vol. 4 (1994); Terada Hiroaki, “Chūgoku shindai minji soshō to ‘Hō no kōchiku’ 「中国清代民事訴訟と「法の構築」』 *Hōshakaigaku* 法社会学 no. 58 (2003).

10,000 Chinese residents during the anti-Chinese pogrom of October 1740, the Chinese population continued to increase, reaching 52,394 in 1815.<sup>4</sup> Since from early on the Dutch implemented a policy of “governing Chinese through Chinese” (*yi hua zhi hua*) 以華治華,<sup>5</sup> the Chinese Council (Gongguan) of Batavia existed from the 17<sup>th</sup> century, when the Dutch East India Company assumed governance over what is today Indonesia. At the beginning of that administration in 1619, the Dutch governor summoned three local Chinese leaders and appointed one of them, Su Egang 蘇鳴崗, to the post of *kapitan*, the leader of the Chinese community. Although the official name of the Chinese leader’s headquarters was not Gongguan 公館 (consular office), but Gongdang 公堂 (public hall), since all of the official business of the Chinese community was done at the Kapitan’s residence, it was also called Gongguan by the residents and inscribed as such in official documents. The letter of appointment for Su Egang explained the Kapitan’s obligations as follows.

Since 400 Chinese are residing here, it is important to strengthen and maintain law and order under a leader whom I designate. For that purpose, I have already recommended one Egang. I hereby appoint Egang as the leader of the Chinese and invest him with the right to deal with all civil issues and discuss them with me when necessary.<sup>6</sup>

The main task of the Gongguan was to settle civil disputes within the Chinese community.<sup>7</sup> It also collected various taxes on registered

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<sup>4</sup> In the late 1730s, the number of incoming Chinese, especially those from Guangdong increased. As they settled in the outskirts of the city of Batavia, the Dutch administrators out of concerns about security then tried to move them to Ceylon. Hearing rumors that they were to be thrown into the ocean on their way there, the Chinese launched attacks on the European forts in October 1740. The Dutch counter-attack led to the massacre of a large number of Chinese, which would be called the *Hongxi* 紅溪 (Red river) massacre because the color the river turned with the blood of Chinese casualties.

<sup>5</sup> Yuan Bingling 袁冰凌 “Bacheng gongguan danan yu huaren shehui” 吧城公館檔案與華人社会 *Gongan bu di er ji* 『公案簿』第二輯 p. 2.

<sup>6</sup> *Kaiba lidai shiji* 『開吧歷代史記』, printed in *Nanyang xuebao* 『南洋學報』 vol. 9, no. 1 (June 1953).

<sup>7</sup> Bao Leshi 包樂史, Wu Fengbin 吳鳳斌 *18 shiji mo bataweiya tangren shehui: bacheng gongguan dangan yanjiu* 『18世紀末吧達維亞唐人社会：吧城公館檔案研究』. Xiamen: Xiamen daxue chubanshe, 2002, pp. 17–35.

marriages, divorces and immigration, and managed the community's temples and schools. As the duties of the Gongguan increased, so did the number of *kapitans*, the new positions, like *luitenant* (assistant), *soldaat* (guard) and *sekretaris* (secretary) were introduced. On Friday of every other week each month, two *kapitans* or *luitenants* alternately held court to settle civil cases, and during the three years between 1824 and 1827, nearly 400 cases were heard.<sup>8</sup> The records kept by the Gongguan (*gonganbu* 公案簿) were originally called *gongdang-anbu* 公堂案簿 because they contained mainly civil legal decisions (*an* 案). For the last decade, the University of Leiden and Xiamen University have been involved in the joint research concerning *gonganbu* and have already published 10 volumes containing the archives dating from the late 18<sup>th</sup> to the mid-19<sup>th</sup> century.<sup>9</sup>

Civil procedures differed between the cases handled by the Dutch East India Company and those heard by the Dutch colonial government. Under the Dutch East India Company, the Gongguan not only investigated the cases but passed judgment on them. In contrast, the Dutch colonial government entrusted Gongguan only with investigation, not judgment. Therefore, the colonial government's reserving the prerogative to make final legal decisions can be said to have weakened the judicial autonomy originally enjoyed by the Chinese community. Nevertheless, since the Dutch colonial government rarely intervened in civil disputes among Chinese claimants, the Gongguan continued to play the key role in civil court cases.<sup>10</sup>

The specific cases that the Gongguan handled included business-related disputes, marriages and divorces and security issues. Among them, business-related disputes occupied the largest share. For example, out of the 664 cases heard between 31 October 1787 and 8 February 1791, the number of those related to business matters came to

<sup>8</sup> Yuan Bingling, *op. cit.*, p. 11.

<sup>9</sup> The head of the project, Leonard Blussé discusses the background and the content of the collection in Leonard Blussé and Chen Menghong eds., *The Archives of Kong Koan of Batavia*. Leiden: Brill, 2003.

<sup>10</sup> Zhao Wenhong 趙文紅 “1619-1928 nian Bataweiya huaren shehui de minshi shenban chengxu chutan” 1619-1928 年吧達維亞華人社會的民事審判程序初探, *Huaqiao huaren lishi yanjiu* 華僑華人歷史研究 no. 3 (September 2007), p. 48.

503 (76 % of the total).<sup>11</sup> The task of settling these disputes was one of the main duties of the Gongguan in its efforts to stabilize the business environment. In the attempt to identify institutions related to trade between Batavia and China, this article examines such cases handled by the Gongguan as failure to deliver money or goods, letters of remittance and passenger fares.

## **2. Commercial disputes involving Batavian Chinese merchants**

### **(1) Failures to deliver goods or money**

The close trade relationships which developed between China and Batavia during the 18<sup>th</sup> and the 19<sup>th</sup> centuries began with an average of 14 ships travelling between the two points of destination between 1680 and 1718, increasing to more than 20 during 1720s and 30s. Then the trade decreased during the 1780s and 90s to about 9 Chinese vessels per year visiting Batavia.<sup>12</sup> Traded commodities during this time included tea, silk and silk manufactures, fruit, medicine and liquor.<sup>13</sup> Since Chinese merchants active in Batavia did not sail directly to China to purchase their goods, depending instead on middlemen, merchandise often went, intentionally or unintentionally, missing in the course of transport.

“Zheng Zhuan 鄭轉 vs. Wu Guangtian 吳光田,” which was filed with the Gongdang on 13 January 1790, was one case concerning such missing merchandise.<sup>14</sup> According to Zheng Zhuan, the plaintive, who had come to Batavia in 1786,<sup>15</sup> Wu Guangtian had received on his behalf 8 cylinders of white cloth, each of which contained 25 bolts, but Wu had not handed the cloth over, despite Zheng’s explicit demands. Wu rebutted that Zheng’s elder brother in China had entrusted one

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<sup>11</sup> Bao Leshi, Wu Fengbin, *op. cit.*, pp. 97–98.

<sup>12</sup> *Gonganbu* (hereafter *GB*) vol. 1, pp. 375, note 4.

<sup>13</sup> Liu Yonglian 劉永連 “Cong Baguo gongdang Gonganbu kan Qing qianqi Badaweiya yu Zhongguo de jingji wanglai 從吧國公堂公案簿看清前期吧達維亞與中國的經濟往來” *Hajiaoshi yanjiu* 華僑史研究 vol. 1 (2006).

<sup>14</sup> *GB* vol.1, p. 261.

<sup>15</sup> Most of the lawsuits were *jiao*, namely of verbal appeal, less formal than *kong*, written appeals. Zhao Wenghong, *op.cit.*, p. 49.

Xue Zaisheng 薛再生 with a total of ten cylinders of cloth to bring to Batavia, because he did not find Zheng Zhuan trustworthy enough to take the cargo with him when he departed for Batavia. When arriving in Batavia, Xue Zaisheng kept two of the cylinders, but as for the remaining eight, Wu insisted that he did not know where they had gone, because he had been ill since he himself had arrived in Batavia. Wu also stated that Zheng Zhuan's claim was suspicious, since he had suddenly raised the issue several years after his arrival in Batavia. Kapitan Cai Dungan 蔡郭官 found Wu Guantian guilty, stating, "When Xue Zaisheng and Wu Guangtian arrived in Batavia, they came to me to report that Wu Guangtian's father, Wu Mo 吴默 had taken the eight cylinders in question," rebuking Guangtian for insinuating that he did not know where they were. This case illuminates that 1) transactions based even upon networks of kinship and friendship ties could not avoid attempts at fraud, and 2) the Gongguan's functioned as an institution to reduce business risk stemming from fraud.

Even if a merchant succeeded in receiving goods from China, he might encounter another difficulty of his customers not paying for their purchases. Appealing to the Gongguan was one of the ways to solve the problem. The Gongguan would not only judge the validity of the complaint in such cases, but would also suggest methods by which payment would be made when ruling for the plaintive. On 27 June 1824, Huang Diao 黄綽, a Chinese ship owner from Jiangmen 江門 Guangdong province, filed suit against five of his customers for non-payment.<sup>16</sup> Chen Fang 陳放, the first defendant, confirmed his debt of 147.822 Song silver to Huang, but claimed that it was difficult to pay Huang because the prices of Huang's commodities changed over time. In reply to the Kapitan's question of why they had not fixed the prices at the time of the transaction, Chen stated that Huang proposed to set the prices after settling other transactions, in order to determine current prices. Finally, Chen suggested he would repay Huang with swallow's nests, which the Kapitan supported and urged Huang to accept. The case was solved accordingly.

Durable and expensive commodities like the edible swallow's nest (*yanwo* 燕窩) were popular among Chinese merchants and as means

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<sup>16</sup> *GB* vol. 2, pp. 31–33.

of paying back debt. The Gongguan encouraged this way of settlement of debt through the estimation of its market value. For example, when Tang Zhao 唐照, another of Huang Diao's customer/debtors, proposed to pay back the debts he owed, which came to 205.721 yuan owed to Huang himself, 102 yuan to Huang's company and 60.59 yuan to his assistant, the Gongguan estimated the market value of the debt through a public auction, which came to 20 yuan per *jin* 斤 (about 600 g.) of swallow's nests. Tang accepted that price and promised to pay back the remainder in cash.

The Gongguan also arranged payment extensions for debts owed by defendants. For example, when Wu Shun 吳順, another customer of Huang Diao, proposed that he return half of his debt of 673.547 yuan within three days following the trial, and pay the rest by the end of the following year, the Kapitan persuaded Huang Diao to accept the arrangement. Huang Diao also agreed to extend a debt of 48.506 yuan owed by Guo Rengui 郭壬癸 for three days at the Kapitan's suggestion.

However, defendants did not always follow arrangements arbitrated by the Gongguan. For example, when asked by the Gongguan if one Qiu Huai 邱懷 had guaranteed his kinsman Qiu Zhui 邱墜 payment owed to Huang Diao of 340 yuan for 20 bolts of Zhihua 只花 cloth, Qiu Huai denied any commitment to the contract. Upon investigation of Huang Diao's daily account book and his general account book, the Kapitan found that Qiu Huai had taken the cloth valued at 340 yuan on behalf of Qiu Zhui. The account book is where traditional Chinese merchants generally recorded all of their transactions and was thus highly regarded as first-hand evidence in court cases,<sup>17</sup> which

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<sup>17</sup> Linji Taiwan kyūkan chōsakai 臨時台灣旧慣調査会 ed., *Taiwan Shihō* 台湾私法 vol. 3 (n.a.: Linji Taiwan kyūkan chōsakai, 1910-1911), pp. 247-8. The survey on customs in Taiwan (Taiwan kyūkan chōsa) initiated in 1900 by Gotō Shinpei, the first governor of Taiwan, was conducted for more than twenty years, beginning five years after the Japanese occupation and ending in 1922. The published results of the survey include *Taiwan Shihō* (Civil Law of Taiwan), *Shinkoku gyōsei hō* 清国行政法 (Administrative Law of Qing) and *Taiwan banzoku kanshū kenkyū* 台湾蕃族慣習研究 (Study on Customs of Taiwan aborigines). Although the immediate purpose of the survey was to accumulate information helpful to Japanese colonial administrators about law and society in Taiwan, *Taiwan Shihō* sheds light on broader issues regarding Chinese legal

the Gongguan judges in Batavia carried out according to traditional Chinese trial procedures. For example, based upon the evidence contained in the account book in question, the Kapitan ordered Qiu Huai to repay Qiu Zhui's debt, but Qiu Huai rebutted that he had not been informed of Huang Diao's sale of the cloth to Qiu Zhui. The Kapitan then pointed out that wholesale merchants, like Huang Diao, recorded the names of guarantors very carefully and that the receipt that Huang recorded giving Qiu Huai was unmistakable evidence. The Kapitan thus rejected Qiu Huai's plea that he was illiterate and thus unable to understand the meaning of the receipt. Qiu Huai then conferred directly with Huang Diao about the matter; and the Kapitan allowed him to leave the Gongguan for that purpose, provided that someone guarantee that he would not abscond. After two of Qiu Huai's kinsmen, Qiu Yin 邱印 and Qiu Mian 邱綿 agreed to be his guarantors, he was temporarily released.

Guarantors, who obviously played key roles in the Gongguan's judicial decisions, originally promised to repay loans if debtors defaulted; however, there were also guarantors who, rather than bearing the obligation to repay defaulted debt, were obliged to only ensure that the debtor abide by the loan contract. In either case, the guarantor's obligation was always examined in each case, and such heavy dependence by the Gongguan on guarantors clearly indicate that the social relationships between debtor and their guarantors was a crucial key to the successful performance of business contracts.

## (2) Disputes over letters of remittance

Chinese who resided in Batavia tended to maintain close ties with their families at home and many of them sent back remittances, called *yinxin* (銀信). Some entrusted their relatives and friends travelling home with money and letters, but others used professional couriers,

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institutions, particularly those of south China. Concerning the philosophy and structure of *Taiwan Shihō*, see Nishi Hideaki 西英昭, *Taiwan Shihō no seiritsu katei: teki-suto no sōigakuteki bunseki wo chūshin ni* 『台湾私法』の成立過程—テキストの層位的分析を中心に』 (Fukuoka: Kyūshū daigaku shuppan kai, 2009).



called *shuikē* (水客) or *nanyangke* (南洋客) to deliver the *yinxin*.<sup>18</sup> Given the primitive state of transportation and communication technology, it was obviously not easy to secure the transfer of money or information across the sea back home. Nevertheless, the Chinese community of 18<sup>th</sup> and 19<sup>th</sup> century Batavia regarded the loss of remitted money as a punishable offense. In fact, the letter accompanying the money was crucial to the secure transfer of funds. In cases of lost or partial delivery of remittances, the recipient would present the court with the accompanying letter as his major source of evidence.

For example, according to “Wu Yingyang 吳膺揚 v. Tang Runzhang 湯潤章 and Tang Xinsheng 湯新聲” filed at the Gongguan on 27 May 1789, Wu had entrusted Tang Runzhang with a *yinxin* worth five yuan in 1788.<sup>19</sup> Tang Xinsheng served as guarantor by writing a receipt for the cash. At that time, it was promised that the money should be delivered to Wu’s son, Wu Huanzhang 吳宦長, and in the case of any failure in delivery, double the amount of the remittance would be compensated. Later, Tang Runzhang re-entrusted the money to his brother, Tang Longzhang 湯龍章, to take back home. Wu Yingyang then received a letter from his son in 1789 informing him that the money had not been received. Submitting his son’s letter and the receipt for cash written by Tang Xinsheng as evidence, Wu asked the Gongguan to investigate. After confirming that the receipt in fact established Tang Xinsheng as guarantor of the cash entrusted to Tang Runzhang, the

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<sup>18</sup> Later in the 19<sup>th</sup> century, professional agencies, called in Fujian *xinju* 信局 (private postal exchange), in Swatow *piguan* 抵館 (mail order agencies), and in Canton *hui-duiju* (remittance and exchange bureaus), came to deal with the transfer of money and the delivery of letters (Bank of Taiwan, *Overseas Chinese Remittances in the 1910s*, originally published in Japanese in 1914, translated and included in George L. Hicks, *Overseas Chinese Remittances from Southeast Asia 1910–1940*. Singapore: Select Books, 1993), p. 69. Even then, private couriers were still active, particularly when crossing borders in South China was not safe between the late 1930s and early 1950s. Especially during the Pacific War, couriers seem to have been popular among financial institutions. Guangdong Provincial Bank, for example, contracted 280 couriers to offer transfer services with lower rates. See, Nanpō gunsei sōkanbu chōsabu 南方軍政總監部調査部, *Marai kakyō no hongoku sōkin ni tsuite* 馬來華僑の本国送金について (n.d.: np., 1943), p. 58.

<sup>19</sup> *GB* vol. 2, pp. 196–97.

Gongguan called in the Tangs and inquired when they intended to return the original amount with compensation. In reply, Tang Xinsheng promised they would return the amount within four weeks. It is again noteworthy that, as in cases of failure to deliver goods or money, the guarantor was expected to play the key role in the performance of contracts and was forced to share the financial responsibility in case of non-performance.

Of course, there were cases in which couriers would not be able to deliver money for no fraudulent reason, especially because they engaged mainly in the commodity trade, rather than the remittance business. That is to say, such merchants would occasionally use the remittance money to finance their commodities transactions, then wound up failing to repay the money when their ventures proved unprofitable. This was the case in the complaint filed on 6 May 1825 by Li Yongqing 李永慶 accusing Li Se 李色 of stealing 80 yuan that he trusted to Li with a *yinxin* addressed to his family back home. Li Se admitted that he accepted Li Yongqing's money and letter, but he could not return it because he had lost it in a failed business venture in China. The Gongguan urged Li Se to repay the money at interest of 4 percent, but Li Se replied that he did not have cash on hand and requested that the contract be re-negotiated. The Gongguan then ordered Li Se to find a guarantor. Li Se then named Yang Zao 楊竈 as his guarantor, but Yang stated that he would only guarantee that Li Se would not abscond and refused to take responsibility for the repayment itself. Even under such imperfect conditions, the Gongguan suggested that Li Yongqing accept the new arrangement.

Similar to the above cases of failure to delivery goods and money, the Gongguan also suggested the extension of existing contracts in disputes over remittances. The case of “Qiu Hengfa 邱恆發 v. Qiu Azhang 邱阿長” filed on 14 October 1825 finds the Gongguan intervening in the specific conditions for repayment of remittance money.<sup>20</sup> In 1820, Qiu Hengfa entrusted 12 yuan to Qiu Azhang, but Qiu Azhang failed to deliver it. When Qiu Azhang returned to Batavia, Qiu Hengfa requested repayment several times, but received no response. When the Gongguan inquired whether Qiu Azhang was entrusted with 12 yuan,

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<sup>20</sup> GB vol. 2, pp. 242–243.

he answered the amount had been not 12 but 10 yuan and explained that his inability to repay the amount stemmed from the lost of his fortune in China several years previous. Qiu Azhang also argued that it was unfair for Qiu Hengfa to bring up the issue so many years after the incident, particularly since they were kinsmen. However, after further investigation, the Gongguan discovered that Qiu Azhang was receiving a regular income from the sale of pigs and so ordered Azhang to repay 3 yuan per month so to repay the entire amount owed by the end of December.

In cases where litigating parties perjured themselves, or refused to obey the judgment of the Gongguan court, the Gongguan was free to seek legal action by the Dutch colonial court, which could uphold the Gongguan's decisions and sentencing. In the case of "Cai Yucheng 蔡玉成, Li Tian 李田 and Wu Zuo 吴佐 v. Huang Qingqiang 黄慶強 and Huang Da 黄塔" filed on 20 May 1825, Cai had entrusted Huang Qingqiang with 6 yuan, Li Tian 4 yuan and Wu Zuo 5 yuan, all accompanied by *yinxin*.<sup>21</sup> According to Cai, once Huang arrived in China, he did not deliver the money to the designated recipients, and in his court testimony also pointed out the deliveries of the three remittances had been guaranteed by Huang Da. Huang Qingqiang explained at the trial that he had lost the money and the letters in a storm on the high seas, thus could not remit them. The Gongguan question Huang's testimony, pointing out that even if the ship was stuck by a storm, it had arrived safely at the port of Batavia. The Gongguan then ordered Huang to repay the undelivered money, but Huang refused because he did not have enough cash. The Gongguan then summoned Huang Qingqiang's guarantor, Huang Da, who argued that he had merely guaranteed that Huang Qingqiang would take the remittances back, nothing else, to which the Gongguan ordered Huang Qingqiang that if he did not have enough cash on hand, he would have to find another guarantor in order to repay the money in the future; otherwise, his actions could not be condoned. In the end, Huang Qingqiang refused to comply, so the Gongguan took both Huang Qingqiang and Huang Da into custody and appealed to the Dutch colonial court. Although there is no *gonganbu* describing the specific actions taken by that court,

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<sup>21</sup> *GB* vol. 2, pp. 202–203.

the sentence eventually imposed by the Gongguan indicates that the colonial court had found Huang Qingqiang guilty. On 31 May 1825, the Gongguan announced that by order of the Resident, namely the colonial judge, it would sentence Huang Qingqiang for the embezzlement of the remittances of Cai Yucheng, Li Tian and Wu Zuo to thirty lashes, after which he would be made to where a sign announcing his guilt whenever he appeared in public.<sup>22</sup>

Although unlike under the governance of the Dutch East India Company (1602-1799), the Gongguan did not have the right to judge and pass sentence under the colonial government regime (1814-1942), it, nevertheless, retained substantial legal autonomy in settling contract disputes (the overwhelming number of cases it heard) under the auspices of the colonial court. In sum, the Gongguan continued to play the key role in stabilizing the institutional order guaranteeing safe and secure trade by Chinese merchants well into the 19<sup>th</sup> century.

### (3) Disputes over passenger fares

Chinese ships would sail to Batavia in the winter by the northeast winds and return to China in early summer by the southwest winds. Carrying passengers was one of the most important services that these ships offered. For example, according to ship records examined by the Gongguan, a ship named the *Shunwan* 順萬 from Zhanglin 漳林, Guangdong, which entered Batavia port on 29 February 1824, was carrying 503 passengers, the *Futai* 福泰 from Jiangmen, Guangdong, which entered on 3 March 1824, had on board 840 passengers and the *Fuyuan* 福源 also from Jaingmen was carrying 842 passengers.<sup>23</sup> There were passengers who were able to pay their own fares in cash, but there were others who had to borrow money to make the voyage to Batavia, and disputes over the payment of the latter would inevitably end up in the Gongguan court.

The circumstances surrounding the latter may be shown by the case of “Chen Gu 陳鵠 v. Cai Yuzhen 蔡玉振,” filed on 26 March 1788. The record states that Chen Gu, the captain of the *Hongtoushou* 紅頭鷓, claimed that when he, Cai Yuzhen, and one Yan Liukun 顏文昆 met

<sup>22</sup> GB vol. 2, pp. 208–209.

<sup>23</sup> GB vol. 2, pp. 36–37.

in Zhanglin before the voyage, Cai owed Yan Liukun 816 yuan, which Yan asked Chen to collect when they arrived in Batavia. Upon arrival in Batavia, Chen requested Cai for payment, but Cai asked for an extension. Upon hearing that Cai intended to depart for Sumarang, Chen took Cai to Luitenant Chen Fuguan 陳富官 and asked him to investigate the case. Although Cai promised to repay the entire amount at that time, he again broke his word. Luitenant Chen affirmed Cpt. Chen's testimony, saying "The other day in the market place, Cai Yuzhen admitted to me that he owed 816 yuan to Cpt. Chen and again asked for an extension." In rebuttal, Cai Yuzhen stated that it was Yan Liukun who owed 325 yuan to Cpt. Chen Gu and that the captain's request for payment upon arrival in Batavia was for the passenger fares that were to be collected. Cai stated that he had submitted 13 "passengers cards" which were valued at a total of 502.5 yuan. Cai Yuzhen proposed that he return the money to Chen Gu, including the initial debt of 325 yuan and the remaining sum of 177.5 yuan. Chen Gu, however, declined Cai's proposal, and requested that Cai meet with Yan Liukun in China to explain the situation so that Chen would be able to avoid any financial responsibility in the case. The Gongguan supported Chen's request, and on 2 April 1788 declared that Cai Yuzhen had confirmed before Luitenant Chen that he owed Chen Gu passenger fares valued at 816 yuan. If he did not repay the amount, he would have to find a guarantor. In addition, Cai was to accompany Chen Gu back to China.

This rather enigmatic case may be explained as follows. The *Hongtouzhou*, which Chen Gu captained, was presumably owned by Yan Liukun, and Cai Yuzhen was a broker for a group of Chinese passengers who had lent them money to pay for the journey to Batavia, with funds which he had borrowed from Yan Liukun, the ship-owner. Chen Gu, the captain of the ship, was supposed to collect the money that Cai borrowed, once Cai had received payments from the passengers. However, Cai was unable to pay Cpt. Chen, because the passengers had not paid him. On 14 May 1788, Chen Gu and Cai Yuzhen sued 8 of those passengers, Gao Zhuo 高酌, Gao Chong 高充, Gao Zhu 高注, Lin Ye 林業, Chen Bang 陳榜, Li Ganyuan 李乾元, Chen Chengwen 陳承恩 and Guo Kuilin 郭揆臨, three of whom did not appear before the Gongguan. According to Cai's claim, Gao Chong owed 36 yuan and 250 coppers, Chen Bang 13 yuan and 500 coppers, Guo lin 6 and a half yuan, Li Ganyuan 24 yuan and Chen Chengwen 16 yuan 8

cents. The five passengers wrote out certificates of debt and gave them to Chen Gu. The three passengers who did not appear were summoned to appear on 21 May, but none of them appeared because of illness and other reasons. In sum, Yan Liukun had loaned to Cai Yuzhen the money for fares, accommodations and daily expenses for passengers who could not pay their way in advance. Once the ship arrived in Batavia, Chen Gu, Yan's employee, had requested Cai Yuzhen to return the money. Chen Gu and Cai Yuzhen did their best to collect the unpaid fares from their passengers through litigation before the Gongguan, but were unable to avoid losses, due to the refusal of some passengers to appear before the Gongguan.

## **Conclusion**

The Gongguan of Batavia was the semi-autonomous organization under which Chinese elites designated by the Dutch colonial government dealt with civil cases that arose in the local Chinese community. The Gongguan can be shown as one institution for facilitating Asian commerce and trade in premodern times though the analysis of the origins of disputes over the trade involving Chinese Batavian and their homeland, the process of the judgments handed down and how offenders were punished.

Since the business transactions enacted between Batavia and China involved high risk, some merchants, whether intentionally or not, were unable to meet their commitment for delivery of or payment for goods and services. Although the merchants involved usually depended on the social networks which they had built, still they could not avoid non-performance of contracts. For example, because some merchants engaged not only in foreign trade but also other business ventures, they often found themselves in a situation where financial trouble in one venture would deprive them of funds to pay for the commodities that they had purchased in trade.

Close communications were maintained between Batavia and South China and keen attention was paid to keeping written evidence, like letters, ledgers and receipts, which could clarify who was responsible for any misdoing involved in transactions. It is noteworthy that the Batavian Gongguan followed the Chinese judicial tradition, which

attached great importance to written evidence.

After questioning the litigants and investigating the evidence, the Gongguan would submit proposals to settle the disputes, including granting extensions of payment deadlines and setting installment schedules. It should also be noted that guarantors played key roles in commercial disputes involving long distance trade between Batavia and China. The Gongguan depended on guarantors, as much as the Chinese business community relied on social networks to take judicial responsibility for enforcing business contracts. After the establishment of the Dutch colonial government in Batavia, the authorities took from the Gongguan the right to punish criminals, but the Gongguan remained a very important institution in settling commercial disputes among Chinese residents.

The cases in this paper show that both Dutch colonial rule and Chinese social networks mutually contributed to establishing secure institutions for facilitating long distance trade. Under the Dutch colonial policy of govern the Chinese community through Chinese elites, it was social networks and their shared judicial norms that stabilized the Chinese community in Batavia, while, the sanctity of contracts depended heavily on written contracts as well as commercial networks. It is noteworthy that the Dutch colonial government strengthened the enforcement power of contracts by punishing serious breaches of contract discovered by the Gongguan. The transactions involved in trade between Batavia and China during the 18<sup>th</sup> and the 19<sup>th</sup> centuries show that the rule of law among anonymous people and governance through social networks were not mutually exclusive, but both constituted important institutions for facilitating long-distance trade in premodern Asia.