

time these lineages acquired dominance in village affairs, often at the expense of Buddhist temples and village worship associations, in part because of Ming dynasty (1368–1644) attacks on the former and the lineages' push towards single-lineage villages. By ca.1500, then, the lineage, even though lineage charitable trusts had failed to secure its predominance, was in the ascendant, thanks in part to the popularity of its ancestral halls. These institutions, making use of construction funds and other donations, started functioning as credit associations for their members and, sometimes at higher rates, for their non-members. In a few cases we shall see them function as moneylenders taking debtors' possessions as collateral. By the eighteenth century, the resources of the Buddhist temples and village worship associations in south China could not rival that of the lineage and its ancestral halls, and their principal rival, the popular cult, became the object of government and Confucian officials' campaigns to "Confucianize" China and so strengthen the power of lineage—their ancestral halls being much more important than their charitable trusts—in the countryside.

The information used for this talk comes predominantly from extensive private primary source collections in the wealthy area of Huizhou in the mountains of southern Anhui province, some 200 miles southwest of Shanghai. Material will also be considered from Suzhou (in the lower Yangzi delta) and Shanxi Province in north China, as we see how a grass-roots form of "capitalist institutions" grew out of home-born village-based institutions initially intended to have no connection with commercial practices.



Figure Ancestral Hall, Chengkan, Huizhou Prefecture

Commendation of Land in Medieval Japan and its Social Function

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The commendation (寄進, *kishin*) of immovable property like land to which people have some kind of rights or interest has been an activity seen over the centuries in the Japanese archipelago. The recipient of the commendation might be the deities, temples and shrines, high-ranking Buddhist priests, as well as secular figures. In particular, the commendation of land in the medieval period (approximately 11th–16th centuries) closely resembles the waqf of Islam and so provides a suitable subject for comparison. Rights associated with land that was made the object of commendation were based on a differentiation between cultivation rights, tax collection rights, and proprietary rights. Furthermore, various rights concerning the same piece of land also coexisted and overlapped between the urban nobility and an intermediate group and below that included the cultivators. Unlike the former, who received both patronage and legal restraints from the state, the latter independently effected various rights to the land, which they transacted and transferred without official involvement.

In a great many cases, the commendation of land in medieval aristocratic society was associated with the formation of *shōen* ("manors") and the transfer of their rights, with the breakdown of the system of state allocation of land and growing privatization of land owner-ownership. The sovereign and his relatives established vast private estates that incorporated agricultural and forest land in the provinces and commended them for the economic support of the temples and shrines that they founded in the capital. When a *shōen* was established through legal



Figure Pictorial Map (*ezu*) Showing the Newly-founded *shōen* and the Enclosed Area of Land. Dimensions: 92 cm. x 112.1 cm. Photograph taken from a replica in the National Museum of Japanese History. Original (drawn up in 1143) in the possession of the temple Jingoji, Kyoto.

In the twelfth century it was the common practice of rulers and other powerful figures to enclose a particular area of land and establish a *shōen*, whose tax income they would then donate to some large temple. This pictorial map is the oldest extant of those drawn up during the medieval period when a *shōen* was established. The prime purpose of setting up this *shōen* was to acquire timber. The seven black circles drawn in the mountain sections of the map indicate boundary points with contiguous, already existing *shōen*. When the proprietor of the *shōen* changed, this type of map would have been transferred along with the other documents concerning rights to the *shōen*. A large number of medieval *shōen ezu* still remain in temples and shrines in Kyoto and other places and they are being used for a wide range of research.

procedures with state approval, the new territory was demarcated and the rights of the state to collect taxes were partially preserved. Thus the *shōen* was not simply an estate in private ownership; rather, for those who lived there, it had the character of a new administrative unit. Further, from the second half of the thirteenth century, commendations by the sovereign to temples and shrines expanded to include the right to collect tariffs at ports and other places.

The commendation of land by members of the intermediate class and below, including cultivators, applied to limited pieces of arable land. The commender would make the commendation of rights of cultivation and tax collection to a temple or shrine that he was closely associated with, on the condition that it would be a charge on land (Reallast; Eng. land charge) for the performance of memorial services for his relations or for himself after his death. Here too a person might acquire the rights to the land from another person and commend these to a temple or shrine. This would also involve the seller of the land within the circle of the performance of a meritorious act. Arable land that was commended became part of the administrative network of the temple or shrine, but actual management more often than not remained in the hands of the commender or his descendants, and rights pertaining to it could be transacted. It was also not unusual that specific arable land existing within a particular *shōen* could be commended to a temple or shrine different to the one which owned the *shōen*. This was because the various rights pertaining to the same piece of land were differentiated.

The commendation of land to religious institutions and the deities in the medieval period shared points in common that transcended such things as difference in social class. While on the one hand it was made to show a person's commitment to a particular deity, to memorialize the dead and to perform good works in this life, at the same time it was a way to stabilize or perpetuate the ownership and management of land within a particular secular lineage.

Medieval Japanese society had the sense of a clear division of ownership between deities and human beings.

Whereas transfers, commendations and transactions made between people could break down, it was considered that land commended to the deities could not be returned. In actual fact, however, there were not a few cases where what was owned by the deities was converted to the ownership of persons other than the donor, like Buddhist priests. From the end of the 13th century, the resolution of conflicts concerning ownership came under the auspices of the organs of government with the result that ideas about ownership by the deities weakened and the social efficacy of land commendation declined.

Waqf and Social Patronage among Tamil Muslim Diaspora in the Straits Settlement of Penang

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During the period of East India Company administration of Penang (1786–1857), the British initially appointed a Kapitan to administer justice among his community according to the laws of their own nation. South Indian Muslims known as ‘Chulia’ were the principal diaspora community on the settlement. The East India Company identified itself as a patron of its Muslim subjects by granting an 18 acre site for the ‘Mohameddan Church’ in 1801, for the purpose of mosque and burial ground. This encouraged wealthy Muslims to endow religious and social amenities for the diaspora population. Over time, a variety of Muslim



Figure The Kapitan Kling Mosque, a Waqf Endowment in The George Town World Heritage Site

endowments accumulated in the town, reflecting the diversity of the cultural groups organised along the lines of kinship, occupation or patron saints. Although English law was introduced in 1808, the government initially took little notice of the incompatibility of family endowments with the English rule against perpetuity, that is, until legal cases pertaining to waqf started to clog up the courts. Endowments could be a means to accommodate traditions of celebrating feast days of Sufi saints, or providing for female descendants. The rulings of the powerful British judiciary, influenced by the English law of charities, often undermined such cultural-religious practices.

In the second period, Crown Colony status was granted in 1867 and the Municipal Ordinance was introduced in 1887, while reforms within British parliament, furthering the Benthamite utilitarian philosophy, gave more powers to the executive. As the urban slums around the Kapitan Kling Mosque and other Penang waqf still posed a supreme challenge, the local administration with its legal advisors took matters in hand to break through the ‘Gordian knot’ of legal disputes involving waqf properties in the town center. An act was passed to create the Mohammedan and Hindu Endowments Board, enabling the Municipal Commission to implement the urban reforms demanded by the sanitary revolution. Waqf property management was modernised. Thus the munificence of the testator, instead of supporting the leadership role of the testator’s family, was transferred to the colonial government, which began to demonstrate philanthropy towards the local community through projects and programmes financed by the waqf coffers. Concerned about Muslim sympathies towards the besieged Ottoman Caliphate, the colonial government focused on the expansion and enhancement of the Kapitan Kling Mosque as a means of reaffirming imperial patronage over its Muslim subjects.