

Legal Process Unearthed: A New Source of Legal History of Early Imperial China

MAXIM KOROLKOV

COLUMBIA UNIVERSITY and RUSSIAN ACADEMY OF SCIENCES

A group of Qin documents inscribed on bamboo slips was acquired by the Yuelu Academy on the antique market in Hong Kong in 2007. Four of these manuscripts are criminal case records dated from the final decades before the unification of China by the state of Qin in 221 B.C. These texts shed light not only on the administration of justice on the eve of imperial unification but also on various aspects of social, economic, and cultural history and historical geography. The present article reviews the recently published English translation of the Yuelu case records by Ulrich Lau and Thies Staack and discusses the value of these texts as historical source material.

Starting from the 1970s, archaeological discoveries of legal manuscripts dated to the third and second centuries B.C.E. have thrown light on the world of early Chinese legal culture—the world of constables and judiciary scribes, robbers and absconding slaves, conscripted soldiers and common peasants venturing into the mountains in the hope of claiming the generous rewards promised by the government for capturing bandits in their hideouts. This was also a world of writing where officials of all ranks were required to master formulaic language and a variety of “models” to correctly draft investigation reports, submit dubious cases for revision, and compose letters of recommendation for competent subordinates. New genres of official and private writing on judiciary matters proliferated, making it all the more difficult for a modern researcher to identify what he or she is looking at—a credible case record or a legal mini novel, a manual carefully prepared by judiciary authorities in the capital to instruct their subordinates in the intricacies of criminal procedure or a product of leisure-time compilation by a local scribe exchanging the latest courtroom news with his colleagues.

Manuscripts dealing with legal practices have often enjoyed greater scholarly attention than the more voluminous collections of statutory law recovered from the same ancient tombs. At least this seems to be the case with the academic translations of ancient Chinese legal manuscripts into Western languages. After the first major discovery of Qin legal documents on bamboo slips in tomb no. 11 at Shuihudi (Hubei) in 1975, the first text to be translated in English was the collection of twenty-five model records for conducting criminal proceedings rather than any of the three collections of statutes originating from the same burial.¹ The next important discovery of early imperial legal lore, from an early Western Han tomb at Zhangjiashan excavated in late 1983, yielded a collection of twenty-seven statutes

This is a review article of *Legal Practice in the Formative Stages of the Chinese Empire: An Annotated Translation of the Exemplary Qin Criminal Cases from the Yuelu Academy Collection*. Translated by ULRICH LAU and THIES STAACK. *Sinica Leidensia*, vol. 130. Leiden: BRILL, 2016. Pp. xiii + 364. €134, \$160.

1. Katrina Mc. Leod and Robin D. S. Yates, “Forms of Ch’in Law: An Annotated Translation of the *Feng-chen shih*,” *Harvard Journal of Asiatic Studies* 41 (1981): 111–63. The full translation of Shuihudi legal manuscripts was published four years later by A. F. P. Hulsewé; see Hulsewé, *Remnants of Ch’in Law: An Annotated Translation of the Ch’in Legal and Administrative Rules of the 3rd Century B.C. Discovered in Yün-meng Prefecture, Hu-peï Province, in 1975* (Leiden: Brill, 1985).

and one group of ordinances along with the “Book of Submitted Doubtful Cases” (Zouyan shu 奏讞書). Again, the number of translations suggests that the case collection enjoyed greater attention than the statutes.²

This book by two German researchers of early Chinese law and legal manuscripts, Ulrich Lau and Thies Staack, is yet another major contribution to the growing body of Western-language translations and studies of criminal case records from early imperial China. The collection of fifteen cases is part of a cache of Qin manuscripts that includes 2,176 bamboo and wooden slips and fragments thereof. It was acquired by the Yuelu Academy (Changsha, Hunan) on the antique market in Hong Kong in December 2007. Some three-fourths of these slips are legal manuscripts that consist of several collections of statutes on ca. 1,400 slips and four manuscripts of criminal case records. The latter were dubbed the “Four Types of Documents for Trying Criminal Cases and Other (Procedures)” (Wei yu deng zhuang si zhong 為獄等狀四種) by the Yuelu Academy editors. These four manuscripts include 257 bamboo and wooden slips, with the length of slips, the nature of the writing support (bamboo or wood), and scribal hands varying from manuscript to manuscript.

Legal Practice in the Formative Stages of the Chinese Empire resulted from a multi-year collaboration between the translators and the editorial team of the Yuelu Academy manuscripts under Professor Chen Songchang 陳松長, which allowed Lau and Staack to benefit from access to the original slips, high-quality digital photos, and transcriptions prepared for the Chinese edition, as well as to the legal statutes in the Yuelu collection, which remained unpublished until December 2015.³

The book consists of two parts. Part one, “Introduction,” discusses the background of the Yuelu Academy collection of Qin documents and addresses codicological, historical, and philological issues relevant to the study of criminal case manuscripts. Part two is an annotated translation of fifteen cases. Four appendices provide overviews of the stages of criminal procedure as reflected in the excavated Qin and Han legal manuscripts, the Qin official titles mentioned in *Wei yu deng zhuang* and the Qin cases in *Zouyan shu*, the legal nature of *Wei yu deng zhuang* documents, and the legal terminology in the manuscripts. Appendices are followed by a bibliography and an index.

The introductory part opens with a brief overview of the sources on early Chinese law and legal practice before the Yuelu Academy finds (chapter 1) and continues with an introduction to the Yuelu manuscript collection (chapter 2). It is here that questions of the authenticity and origins of the Qin documents acquired by the Yuelu Academy are addressed.

2. For the early translations of individual cases from the Zhangjiashan collection, see Yates, “Slavery in Early China: A Socio-Cultural Perspective,” *Journal of East Asian Archaeology* 31 (2001): 283–331; Michael Nylan, “Notes on a Case of Illicit Sex from Zhangjiashan: A Translation and Commentary,” *Early China* 30 (2005–2006): 25–45; Mark Csikszentmihalyi, *Readings in Han Thought* (Indianapolis: Hackett, 2006), 29–35. Complete translations are available in German, Russian, and, most recently, English. See, respectively, Ulrich Lau and Michael Lüdke, *Exemplarische Rechtsfälle vom Beginn der Han-Dynastie: Eine kommentierte Übersetzung des Zouyanshu aus Zhangjiashan/Provinz Hubei* (Tokyo: Research Institute for Languages and Cultures of Asia and Africa [ILCAA], Tokyo Univ. of Foreign Studies, 2012); Maxim Korolkov, *Zouyanshu: “Sbornik sudebnikh zaprosov” nachala epokhi Han* (Moscow: Nauka, 2013); and Anthony Barbieri-Low and Robin D. S. Yates, *Law, State, and Society in Early Imperial China: A Study with Critical Edition and Translation of the Legal Texts from Zhangjiashan Tomb no. 247* (Leiden: Brill, 2015). The latter also contains the first Western translation of the Zhangjiashan statutes, the “Statutes and Ordinances of the Second Year” (Ernian lüling 二年律令).

3. The four collections of criminal cases were published in the third volume of Yuelu Academy Qin documents; see *Yuelu shuyuan cang Qin jian* 岳麓書院藏秦簡, vol. 3, ed. Zhu Hanmin 朱漢民 and Chen Songchang (Shanghai: Shanghai cishu chubanshe, 2013). The first three groups of statutes were off the press in December 2015 when the book under review was already submitted for publication. See *Yuelu shuyuan cang Qin jian*, vol. 4, ed. Chen Songchang (Shanghai: Shanghai cishu chubanshe, 2015).

The boom of archaeological discoveries in China, especially in the last three decades of the twentieth century, generated the perception that a study of the “true” history of antiquity can now be pursued on the basis of trustworthy sources, as opposed to transmitted texts “corrupted” in the course of millennia-long copying, editing, and reprinting. Particularly valued were inscribed materials, be they bronze vessels, seals, or bamboo slips.⁴ Ownership of manuscripts came to be highly coveted by influential academic institutions and private individuals alike. The market responded with the development of a shadowy venue for processing manuscripts from looted archaeological sites to Hong Kong-based dealers to rich institutional and private purchasers. The precedent-making acquisition took place in spring 1994 when the Shanghai Museum purchased ca. 1,200 bamboo slips purportedly looted from a Warring States era (453–221 B.C.E.) tomb. More sales and “donations” followed. While some of the acquired manuscripts were shown to be blatant forgeries, and the authenticity of others was proven rather convincingly, the provenance of still others remains hotly debated, even though open discussion is discouraged in Chinese official academic circles.

The authenticity of the Yuelu Academy manuscripts is supported by two independent lines of evidence described in chapter 2 of the introduction (pp. 12–13) with references to other studies that explore the issue in more depth. Firstly, it was noticed that the verso of many slips are marked with knife-cut or ink-drawn diagonal lines and also bear mirror-inverted imprints of writing. Scholars realized that the lines were drawn across the back side of a scroll of bamboo slips, probably for the purpose of facilitating reconstruction of a manuscript in the event that binds dissolve and a scroll falls apart (which eventually happened after the manuscripts were placed in the tomb). It was also demonstrated that the imprints of writing on the back side of the slips resulted from the three-dimensional structure of the manuscript rolls. Both phenomena were unknown or unnoticed before their significance was described in 2011.⁵ In hindsight, the similar role of diagonal lines on the verso of slips was recognized for archaeologically excavated manuscripts of the Baoshan, Guodian, Shuihudi, and other corpora. Secondly, some semantic and syntactic peculiarities of the Qin case records for the first time identified on the basis of *Wei yu deng zhuang* manuscripts can retrospectively be identified in already known Qin legal texts.

Even though no archaeological record exists for the Yuelu Academy manuscripts, they were in all likelihood looted from a tomb of a Qin provincial official (pp. 13–14).⁶ While the possibility of these documents originating from more than one tomb cannot be ruled out, a recent study supports the case that the Yuelu manuscripts represent a single textual corpus from a tomb of a high-ranking prefectural official, probably a vice-magistrate (*xian cheng* 縣丞) of Jiangling 江陵 prefecture of the Nan 南 commandery in the mid-Yangzi river basin.⁷

4. For an English introduction to ancient Chinese epigraphic sources, see *New Sources of Early Chinese History: An Introduction to the Reading of Inscriptions and Manuscripts*, ed. Edward Shaughnessy (New Haven: Bird-track Press, 1997).

5. Sun Peiyang 孫沛陽, “Jiance bei huaxian chutan” 簡冊背割線初探, *Chutu wenxian yu guwenzi yanjiu* 4 (2011): 449–62. See also Shi Da 史達 (Thies Staack), “Yuelu Qin jian *Wei yu deng zhuang si zhong juance yi de bianlian*: Yiju jianbei huaxian he jianbei fanyin ziji fuyuan juanzhou yuanmao” 岳麓秦簡為獄等狀四種卷冊一的編聯：依據簡背割線和簡背反印字跡復原卷軸原貌, trans. Li Jingrong 李婧嶸, *Hunan daxue xuebao (shehui ke xuebao)* 27.3 (2013): 20–25.

6. As suggested in the first introduction to the Yuelu Academy collection, see Chen Songchang, “Yuelu shuyuan suo cang Qin jian zongshu” 岳麓書院所藏秦簡綜述, *Wenwu* 3 (2009): 75–88.

7. Shi Da (Thies Staack), “Yuelu Qin jian ‘Nian qi nian zhiri’ suo fu guanli lüli yu san juan ‘zhiri’ yongyouzhe de shenfen” 岳麓秦簡《廿七年質日》所付官吏履歷與三卷《質日》擁有者的身份, *Hunan daxue xuebao (shehui ke xuebao)* 30.4 (2016): 10–17.

Chapter 3 proceeds with the discussion of codicological features and basic content of the *Wei yu deng zhuang* manuscripts. The authors illustrate the difference between the four manuscripts by analyzing the physical features of slips and differences in handwriting. Manuscripts also differ in terms of their basic content. While the first and longest one consists of seven dubious cases submitted for decision to the higher authorities, the second manuscript includes two accounts of successfully solved cases with recommendations for the promotion of the investigators, two appeals for revision of sentences, and two fragmentary case records of unclear nature. The remaining two manuscripts each present one dubious case submitted for decision.

Chapter 4 compares the Yuelu Academy case records to the early Han “Book of Submitted Doubtful Cases” and examines similarities and differences in legal terminology, instances of jurisdiction, system of punishment, procedure, and types of cases. This is by far the longest section of Part 1. Together with the introductory study in Anthony Barbieri-Low and Robin D. S. Yates’ translation of the Han legal documents from Zhangjiashan, it provides the most up-to-date summary of the early empires’ legal system that is available in English.⁸ Lau and Staack pay particular attention to identifying continuities and differences between Qin and Han legal terminology. Soon after the proclamation of a unified empire in 221 B.C.E., the Qin government embarked on a revision of official vocabulary, discontinuing the use of terms referring to the multistate realities of the Warring States era, such as “king” (*wang* 王), “(regional) state” (*bang* 邦), and “border outposts” (*biansai* 邊塞).⁹ This reform is reflected in the legal vocabulary where some statutory offences were renamed to reflect new political institutions. Lau and Staack quote the crime of “absconding from the state (of Qin)” (*bang wang* 邦亡) in the pre-imperial Qin cases from the Yuelu Academy collection as an example of a term that disappeared after the imperial unification (p. 23). They correctly observe (p. 92 n. 512) that in the beginning of the Han era this criminal offence was redubbed “absconding and going to [the territories of] the regional lords” (*wang zhi zhuhou* 亡之諸侯).¹⁰ Other changes in legal vocabulary were probably caused by gradual evolution in word use rather than official decision. In spite of these differences, vocabulary analysis confirms the strong continuity between the Qin and Han legal systems, with 68% of legal terms used in the Zhangjiashan “Book of Submitted Doubtful Cases” also occurring in the *Wei yu deng zhuang* manuscripts.¹¹

Qin and Han collections include different categories of cases illustrating a number of possible processual situations such as submission of doubtful cases and cases requiring approval by superior authorities (e.g., when a sentence was pronounced against a privileged person), petitions for retrial, or recommendations of a competent investigator for promotion.¹² The final section of chapter 4 discusses the categories of cases in the Yuelu Academy collection.

Chapter 5 extends this discussion to other genres of legal manuscripts. “Models for Sealing and Investigating” (*Fengzhen shi* 封診式) from the Qin tomb no. 11 at Shuihudi consists

8. Barbieri-Low and Yates, *Law, State, and Society*, vol. 1, esp. 68–88, 111–209.

9. *Liye Qin jian du jiaoshi* 里耶秦簡牘校釋, vol. 1, ed. Chen Wei 陳偉 et al. (Wuhan: Wuhan daxue chubanshe, 2012), 155–60, tablet 8–461.

10. See *Ernian lüling yu Zouyanshu: Zhangjiashan ersiqihao Han mu chutu falü wenxian shidu* 二年律令與奏讞書：張家山二四七號漢墓出土法律文獻釋讀, ed. Peng Hao 彭浩, Chen Wei, and Kudō Motoo 工藤元男 (Shanghai: Shanghai guji, 2007), 339, slip 20; Barbieri-Low and Yates, *Law, State, and Society*, vol. 2, 1198–99.

11. For a *locus classicus* on the continuity between Qin and Han legislation, see *Hanshu* 漢書 (Beijing: Zhonghua shuju, 1964), 23.1096.

12. For a formal classification of cases in the early Han “Book of Submitted Doubtful Cases,” see Lau and Lüdke, *Exemplarische Rechtsfälle*, 39–55. Three of these categories are identified in the Yuelu Academy case collection.

of twenty-five “models” (*shi* 式) that are more concerned with procedural correctness than with particular legal issues (p. 70).¹³ Another genre addressed in this chapter is the legal precedent. Although no collection of such precedents has been discovered so far, they are often quoted in excavated manuscripts, in particular, in the Qin texts from Shuihudi (“practices of the court,” *ting xing shi* 廷行事) and in case 3 of the early Han “Book of Submitted Doubtful Cases” from Zhangjiashan. It remains unclear if these were recorded and circulated in the way the Yuelu Academy and Zhangjiashan case collections were. Precedents seem to have differed from the case records in that they only provided decisions, sometimes accompanied by the results of the finding of facts, while the collections of *Zouyan shu* and *Wei yu deng zhuang* type included complete case records.

The sixth chapter concludes the introductory part by discussing the genre of *Wei yu deng zhuang*, the formulaic structure of case records, and possible functions of these texts. Lau and Staack recognize the private nature of the collection but argue that it may have derived from an official version circulated to provide training to local officials. This is a relatively conventional understanding of the functionality of Qin and Han case collections.¹⁴ Provocative as it is, the alternative view that these manuscripts were an example of “court-case literature” and fulfilled an amusement function still lacks sufficient evidentiary support.¹⁵

The longer, second part of *Legal Practice in the Formative Stages of the Chinese Empire* is an annotated translation of fifteen criminal cases from the Yuelu Academy collection. Each translation consists of three parts: an introductory overview of the case with a focus on legal issues; a diplomatic edition reflecting the paleography and the state of preservation of individual slips and graphs (which is particularly useful considering that the book lacks a facsimile of the original text on slips); and a punctuated edition with an annotated translation, in which subheadings are added to differentiate procedural steps. The following table partly coincides with appendix III in the book and summarizes the content of criminal cases in the *Wei yu deng zhuang*.

With its 1,428 annotations, *Legal Practice in the Formative Stages of the Chinese Empire* provides an encyclopedic treatment of legal and administrative institutions and practices in late pre-unification and early imperial China. The authors, one of whom also co-authors the forthcoming dictionary of Qin and Han legal terminology, meticulously collected the examples of word use in excavated and transmitted sources to achieve reliable interpretations of legal vocabulary of *Wei yu deng zhuang* manuscripts.¹⁶ In some cases, the word use in the Yuelu Academy case records suggests these texts’ middling position between the literary language of the Eastern Zhou period (770–221 B.C.E.) and the mature legal language of the early empires, pointing at a poorly understood formative process of the development of new professions and “professional languages” during the Warring States and early imperial eras.¹⁷

The *Wei yu deng zhuang* manuscripts allow a more nuanced understanding of the development of the legal system in the early Chinese empires. In spite of the “clear evidence for continuity of procedural practice” (p. 45), cases in the Yuelu Academy collection also reveal important differences between Qin and Han practices. For example, there was a considerable

13. *Shuihudi Qin mu zhujian* 睡虎地秦墓竹簡, ed. Shuihudi Qin mu zhujian zhengli xiaozu 睡虎地秦墓竹簡整理小組 (Beijing: Wenwu chubanshe, 1990), 145–64; see Hulswé, *Remnants of Ch'in Law*, 183–207, E1–25.

14. See, for example, Li Xueqin 李學勤, “Zouyanshu jieshuo (shang)” 《奏讞書》解說(上), *Wenwu* 8 (1993): 26; Lau and Lüdkke, *Exemplarische Rechtsfälle*, 36–39.

15. Barbieri-Low and Yates, *Law, State, and Society*, vol. 1, 98–110.

16. Lau and Lüdkke, *Frühchinesische Rechtsterminologie: Ein Lexikon auf der Grundlage qin- und westhan-zeitlicher Manuskripte* (Gossenber: Ostasien Verlag, forthcoming).

17. See, for example, the analysis of the term *ci* 辭 (“statement during interrogation”), 156–57 n. 765.

Manuscript and case no.	Date (BCE)	Content	Legal issues
I.1	222	Officials illegally claim monetary rewards for arresting bandits that were in fact arrested by a group of conscripts from a neighboring prefecture.	Principles for determining punishment in property offences. Application of statutory norms by analogy in cases not directly considered in statutes.
I.2	222	Establishing correct amounts of monetary rewards for arresting bandits.	Coin equivalencies for rewards denominated in ounces of gold.
I.3	224	Arrest of tomb robbers followed by an amnesty.	Procedure for confirming that arrested criminals were subjected to an amnesty.
I.4	226 or 225	Merchants sue each other for a parcel of commercially usable land, with one of them trying to illegally sell the parcel to his in-laws.	Commercial land ownership, state's rights on market land. In determining punishments in property offences, value of property had to be defined on the basis of official valuation rather than market price.
I.5	225 or 221	Arrest of a Qin fugitive to the state of Chu.	Age of criminal responsibility.
I.6	226	Deciding on the sentence for an official guilty of multiple misdemeanors.	Application of the principle of accumulation of sentences.
I.7	229	Dispute over a market stall and a guesthouse between a former female slave of the deceased merchant and his former menial.	Property tax evasion. Outstanding monetary claims confirmed by contracts qualifying as property. Legal force of verbal agreements. Role of lineage and ward communities in establishing legal status through informal recognition.
II.8	246 (?)	Injuring and/or killing a person.	
II.9		Judicial secretary competently investigates a difficult murder case and is recommended for promotion.	Procedurally correct way to compel a suspect to confess guilt. Legal basis of a recommendation for promotion.
II.10	242	Same as 9.	Same as 9. Employment of convicts as law enforcement personnel.
II.11	246	Petition for retrial by a convicted person sentenced for illicit sexual intercourse by force with his disowned wife.	Duration of terms of convict labor. Punishment for unfounded petitions for case retrial.
II.12		Petition for retrial by a convicted person sentenced for fornicating by mutual consent with a woman interred in a government workshop.	Same as 11. Effects of amnesty.

II.13		Conscripts illegally leaving their place of work.	
III.14	225	An underage scribe writing a fraudulent private letter in an attempt to receive a monetary loan from the authorities of a neighboring prefecture.	Legal punishment for forging a private letter. Punishment for officials for committing mistakes in case report.
IV.15		Two groups of soldiers prosecuted for retreating out of cowardice during an encounter with rebel forces.	Written “certificates” binding soldiers within the groups of five for collective liability. Punishments for conscripts who retreated in battle.

difference in the amount of monetary awards for arresting criminals (case I.1, pp. 107–8 n. 563); prefectural authorities in the Qin were permitted to pass death sentences for certain categories of criminal offenses, while in the early Han the death penalty had to be ratified by higher authorities (cases II.9, pp. 224–25, case II.10, p. 242, see also pp. 43–44 n. 322); early Han statutes and case records reveal a more elaborate legal terminology to draw distinctions between the circumstances of crimes (pp. 30–31); and some difference in the principles for determining punishment (p. 27 with reference to cases II.10 and II.11). While the significance of these and other changes from the late Warring States to the Qin to the Han Empire remains to be explored, Lau and Staack’s study opens ground for unpacking the notion of an “early imperial legal system.”

It is a commonplace observation that our understanding of many aspects of excavated manuscripts, including their vocabulary, is subject to constant revision as new sources come to light and new interpretations develop. Since there is no universal consensus with regard to much of the ancient Chinese legal terminology, not all the interpretations advocated by Lau and Staack are necessarily acceptable to other scholars in the field. One example is the authors’ reading of the “divergent opinions” clause typical both for Qin and Han case records. This clause refers to a stage in the criminal process at which opinions were presented by the officials, with the majority opinion preceded by *li yi* 吏議 (“officials advised,” in the Qin manuscripts) or *li dang* 吏當 (“officials matched [a crime with the statutory regulations],” in the early Han manuscripts), and the minority opinion introduced by the formula *huo yue* 或曰 (“alternate [opinion] stated”).¹⁸ The texts do not specify the office or jurisdiction to which these officials belonged. Lau and Staack follow the *Wei yu deng zhuang* editors in suggesting that prefectural officials presented the opinions (p. 111 n. 571).¹⁹ Their reasoning, with regard to case I.1, is that both proposals differ from the final decision by the commandery (or provincial, *jun* 郡) officials who represented the next level of jurisdiction. This argument appears unconvincing insofar as we do not really know if a commandery governor’s decision had to coincide with one of the opinions proposed by his subordinates. More importantly, in the known Qin and Han examples, the “divergent opinions” clause follows the submission clause *gan yan zhi* 敢讞之 (“[we] venture to submit this [case for

18. For an example of the “divergent opinions” clause in the Zhangjiashan “Book of Submitted Doubtful Cases,” see *Ernian liling yu Zouyanshu*, 333, slip 7; Barbieri-Low and Yates, *Law, State, and Society*, vol. 2, 1176–77. My translation of the *li dang* formula follows Barbieri-Low and Yates, *Law, State, and Society*, vol. 2, 1177.

19. See also *Yuelu shuyuan cang Qin jian*, vol. 3, 110–11 n. 42.

decision]”), which indicates the end of case proceedings at the prefectural level. It therefore seems logical to attribute the divergent opinions to the jurisdiction above prefectural level, probably the commandery.²⁰

A topic I would like to briefly address in conclusion is the value of criminal cases from the Yuelu Academy collection as a source of new information on a broad range of important problems beyond the confines of legal history.

The *Wei yu deng zhuang* case records attest to a vibrant monetary economy in the state of Qin on the eve of imperial unification. Two cases (I.4 and I.7) have a marketplace as their setting and revolve around disputes concerning the ownership of commercial property. Monetary transactions loom large in the everyday life of common people, and they take place both within and outside the official marketplace. In case II.10, a murderer first buys a convict’s clothes from a government office, which he eventually leaves at the crime scene to make officials believe that the criminal was a convict, and then sells the spoils of a robbery “to people travelling on the road” (pp. 228–46). In another case, a culprit’s relatives offer the witness a bribe of 4,000 cash to change his evidence (case II.12, p. 267). In an illegal deal, a group of servicemen are paid 2,000 cash to transfer arrested gang members to the government officials who hope to receive a larger amount in reward (case I.1, 83–117). These records are consistent with some of the documents excavated from among the remains of a Qin administrative center at Liye 里耶 (Hunan), which attest to the private ownership of large sums in coins.²¹ At the same time, other evidence points to a lack of cash in many households.²² This raises intriguing questions about the circulation of coined money, its regional distribution, and variation in the degree of households’ access to monetary liquidity.

The progressing commercialization of economic life during the Warring States and early imperial periods coincided with the emergence of mechanisms of centralized economic regulation, noticeably in the state of Qin where rulers claimed control over key resources of land and labor. No clear evidence for the sale of agricultural land has so far been discovered in the Qin manuscripts; however, case I.4 of the *Wei yu deng zhuang* attests to the possibility of private transactions with market land (pp. 143–66). While it was the government that assigned the rights to the plots of commercially usable land in official marketplaces, sale of such rights appears to have been a common practice, and the fact of formal state “ownership” by no means precluded redistribution of productive assets among private traders.

Hired laborers (*yong* 庸) figure as protagonists in three cases from the Yuelu collection (see case I.3, p. 138, case II.9, p. 221, and case II.10, p. 238). While the lowly, and at least in one case (case I.3) semi-dependent, status of these laborers corroborates earlier observation about the lack of terminological differentiation between hired and dependent laborers during the Warring States era, proliferation of private employment of other people’s labor was on the rise in the imperial Qin, and the trend accelerated during the following Han period.

In the state and empire of Qin, claims to other’s labor were considered one of the major private assets, as attested by the wills and lists of confiscated property, where slaves are

20. Barbieri-Low and Yates, *Law, State, and Society*, vol. 2, 1177, 1183 n. 31. Other scholars suggested that the clause refers to the discussion at the central government office of the minister of trials (*ting wei* 廷尉); see Miyake Kiyoshi 宮宅潔, “Shin Kan jidai no saiban seido” 秦漢時代の裁判制度, *Shirin* 81 (1998): 190–91.

21. The largest privately owned monetary amount attested in the published Liye documents is 60,000 cash; see *Liye Qin jian du jiaoshi*, 356–57, tablet 8–1554.

22. For a discussion, see Maxim Korolkov, “Between Command and Market: Credit, Labor and Accounting in the Qin Empire (221–207 B.C.E.),” in *Between Command and Market: Economic Thought and Practice in Early China*, ed. Elisa Sabatini and Christian Schwermann (Leiden: Brill, forthcoming).

mentioned before other classes of property such as cattle, clothes, tools, and cash.²³ Case I.7 from the Yuelu Academy collection suggests that outstanding monetary claims supported by written contracts constituted another class of property, at least for the purpose of taxation (pp. 191–95). These contracts were concluded between a principal, in this case, a wealthy merchant, and his junior commercial partners or agents who were held liable for the amounts advanced on credit. That the debt entitlements were to be declared along with other household property implies a degree of legal recognition and protection, which should have been bolstering their efficiency as an instrument for the expansion of commercial operations. The traditional image of the Qin state and society as hostile, even oppressive toward private accumulation, merchants, and trade may require revision.²⁴

The same applies to the well-established idea that the Qin rulers sought to monopolize the definition of social status. For this purpose, the state deployed an array of legal and administrative instruments such as the systems of meritorious ranks and household registration. However, the Yuelu Academy case records suggest that kinship and territorial communities played a considerable role in establishing an individual's social and legal standing. A defendant in case I.7, a former female slave, claimed the status of a deceased merchant's widow even though he had never married her officially, to the effect that she remained unrecorded as a wife in the household registers kept by the authorities. The reason she nevertheless insisted to be recognized as a widow was that the ancestral lineage of her husband accepted her as such, and that she was contributing to poverty relief and other communal funds. This argument was accepted by the majority of official investigators, who advised treating the woman as a widow rather than a manumitted slave, leading to a considerable reduction in her punishment for property tax evasion (pp. 208–9). Isolated as it is, this is an important piece of evidence for a community's autonomy vis-à-vis the state in defining an individual's legal status, and for the legal significance of extended kinship groups militated against by the mid-fourth century B.C.E. Qin reformers.²⁵ State officials were prepared to compromise with local society over the extent of each party's rights in shaping people's identities.

Beyond any doubt, the *Wei yu deng zhuang* case records are a valuable source for exploring these and many other issues in the social, economic, political, and legal history of Qin. A novel perspective on the formative stages of the Chinese empire, which would do justice to the complexity of its economic organization, fuzziness of its frontiers, gaps in its territorial control, unevenness of its social penetration, and contradictions in its ideology, is only starting to take shape, and it rests heavily on the study of excavated texts.

23. See, for example, *Liye Qin jiandu jiaoshi*, 326–27, tablet 8–1443 and 8–1455, and 356–57, tablet 8–1554; *Shuihudi Qin mu zhujian*, 149, slips 8–12; see Hulswé, *Remnants of Ch'in Law*, 184–85, E3.

24. Roel Sterckx has recently argued that agricultural fundamentalism and anti-merchant ideology did not become part of political-economic discourse until the mid-Western Han period, and certainly were not prevalent under the Qin. See Sterckx, "Ideologies of the Peasant and Merchant in Warring States China," in *Ideology of Power and Power of Ideology in Early China*, ed. Yuri Pines, Paul Goldin, and Martin Kern (Leiden: Brill, 2015), 211–48.

25. For the Qin policy to divide large households, see *Shiji* 史記 (Beijing: Zhonghua shuju, 1959), 68.2230. Recently excavated Qin documents suggest these measures fell short of being universally implemented throughout the empire; see Hsing I-tien (Xing Yitian), "Qin-Han Census and Tax and Corvée Administration: Notes on Newly Discovered Materials," in *Birth of an Empire: The State of Qin Revisited*, ed. Yuri Pines, Lothar von Falkenhausen, Gideon Shelach, and Robin D. S. Yates (Berkeley and Los Angeles: Univ. of California Press, 2014), 164.