

of exposition and comparison, I have divided the major issues that led to disputes into two general categories, contractual and noncontractual, based on the relationship between the participants in the disputes. The categorization of disputes according to major issues is unavoidably a subjective process. While many violent disputes were straightforward and unambiguous, others were complex and convoluted. Disputes over land sales, evictions, and rent defaults could be particularly nettlesome and sometimes arose from erroneous or fraudulent claims. In categorizing each case, I based my decision on the proximate cause of the dispute. The groupings are necessarily broad, but careful analysis of individual disputes will reveal the diversity of issues within the larger categories.

Noncontractual disputes reveal the strains on the existing structure of property rights, as opposed to contractual disputes that illustrate efforts to create new economic institutions or to eliminate existing rights. Since noncontractual issues such as disputes over water rights and boundaries, were issues that arose within the existing property-rights structure, explaining these disputes within the broader historical context of the eighteenth century may appear to be stretching a point. These were not issues that inspired novel innovations in property rights. When addressing the causes of the boundary and water-rights disputes, county magistrates frequently responded with the rather bland phrase “as before each manage their own property.” While I am willing to concede that conflicts over water rights and boundaries were familiar sources of disputes, I would also maintain that even these seemingly mundane issues were frequently related to the large-scale structural changes in the economy described in Chapter 2. For example, as land was bought and sold with greater frequency, holdings became more fragmented. The division of land into smaller plots required the redrawing of boundaries and also complicated access to irrigation systems, thus creating the potential for more water-rights and boundary disputes. Finally, it is important to remember that this study only includes disputes that ended in homicide, which presumably represent only a fraction of the total number of disputes, whether violent or nonviolent.

### **Boundary Disputes (64 Cases)**

Measurement of a good or service is an essential feature of any system of property rights. In the case of land, this includes the delineation of the physical boundaries of a plot of land. The most frequent causes of boundary disputes included the reduction of the area occupied by boundary markers (e.g., trees, raised footpaths, embankments, or other

structures that defined boundaries between fields) in order to maximize the amount of land under cultivation; overplanting boundaries or harvesting crops from adjacent fields; disagreements over the boundaries of newly reclaimed land; and encroachment or violation of land reserved for graves. Flooding or changes in the course of waterways, the removal of dirt or clay from neighboring fields in order to repair embankments, and division of property among heirs also accounted for some disputes. Several examples will serve to illustrate the variety of boundary disputes.<sup>1</sup>

The desire of land-hungry peasants to garner the greatest return from their land was apparent in boundary disputes that arose when peasants attempted to maximize the amount of land under cultivation. For example, Feng Deng and Zhang Wanxiang had neighboring fields in Qingshan county, Qiongzhou. A bamboo wattle separated the two fields. On QL 24.7.26 (1742), Feng Deng cut down the wattle and planted some “coarse grains” (*zaliang*) between the two fields. Zhang suspected that Feng had encroached on his land and went to stop him. Feng and Zhang argued and Zhang shoved Feng. Feng struck back, injuring Zhang’s ribs and knocking him to the ground. Liao Junyi, a bystander, arrived too late to stop them. “Unexpectedly,” the injury was serious and Zhang died a short while later.<sup>2</sup> In this case, the magistrate blandly noted, as many other magistrates did in similar cases, that the boundaries should be observed as they had been in the past. This type of boundary dispute was quite common. Twenty similar cases involving the destruction or removal of trees or alterations in the embankments or raised footpaths, which served as boundary markers, occurred in various counties throughout Guangdong over the course of the Qianlong reign. While this garden variety boundary dispute was undoubtedly not uncommon in eighteenth-century Guangdong, that such simple disputes should escalate to homicidal violence this often was indicative of the times.

1 As in previous chapters, I have not translated homicide reports verbatim. In general, most reports were very terse, though some portions of the report such as the descriptions of the violence were written in excruciating detail. Consequently, in recounting the disputes, I have chosen to refrain from direct quotations unless it is necessary to convey the judgments or nuances of the reporter.

2 KKTB 1450, QL 25.7.7. The use of the term *unexpectedly* was commonly used when a victim died some time after the violent incident. This was a “marker” for the higher-level officials who reviewed the report and indicated that the seriousness of the injury was not readily apparent at the time of the assault. For an analysis of the representation of homicide in official reports, see Thomas Buoye, “Suddenly Murderous Intent Arose: Bureaucratization and Benevolence in Eighteenth-Century Qing Homicide Reports,” *Late Imperial China* (December 1995) 16.2: 95–130.

As noted earlier, during the eighteenth century the imperial government promoted land reclamation as one solution to alleviate the pressure of China's burgeoning population. Despite the fact that the Ministry of Revenue had promulgated detailed regulations for processing claims to wasteland, competing claims still gave rise to violent disputes. For example, in Deqingzhou county, Zhaoqing, Mi Yixiang and his brother inherited land that their uncle had purchased from the Liang family. Erroneously assuming that another piece of wasteland recently reclaimed by the Liangs belonged to the plot that he had inherited, Mi Yixiang sued the Liangs. The case was heard, and the presiding magistrate ruled that the land should be surveyed after the harvest. On QL 19.5.28 (1740), Mi Yixiang and his brother, Mi Wenxiang, attempted to stop Liang Dade, his wife, Ms. Deng,<sup>3</sup> and Liang's father from harvesting their crop. In the ensuing fracas, Ms. Deng went to the defense of her husband. She attacked Mi Wenxiang by seizing him by the testicles. Mi Yixiang came to his brother's aid and struck Ms. Deng twice with a wooden pole. Ms. Deng was seriously wounded and died seventeen days later.<sup>4</sup>

In this case, the Mis may have genuinely believed that the land in question was part of their inheritance. Their contempt for the official decision to postpone the survey until after the harvest and their willingness to confront the Liangs, however, may have been indicative of the weakness of their claim or their lack of confidence in the court. (Homicides preceded by official adjudication will be examined in detail in Chapter 7.) Whatever the actual circumstances may have been, the magistrate, Chang Zhenji, was clearly sympathetic to the Liangs and ruled that the land in question was indeed their property. As for the criminal matters, because Ms. Deng's death was the result of a subsequent infection, Mi Yixiang, who had assaulted her, was not sentenced to death. Instead, he was ordered to pay 20 *liang* of silver to Ms. Deng's family, flogged, and banished 1,000 *li* for "doing what should not be done" (*buying zhong*).<sup>5</sup> His brother, Mi Wenxiang, also was flogged for interfering with the Liang's harvest.

3 Married women were often referred to only by their maiden names.

4 XKTB 1068, QL 20.6.13.

5 See Derek Bodde and Clarence Morris, p. 159, *Law in Imperial China* (Cambridge, MA: Harvard University Press, 1967). According to Bodde and Morris, *buying zhong* is an abbreviated reference to a "common catch-all statute." Apparently, the "doing what should not be done" law was frequently used to punish any objectionable behavior not covered under a specific statute. I have encountered numerous cases in which this statute was invoked. For example, a landlord who leased his field to a new tenant simply to obtain a higher rent was punished under this statute for creating the situation that led to a lethal confrontation between the previous and current tenant.

Competing claims to newly opened land were responsible for eighteen disputes in this sample. Perhaps the clearly articulated regulations for the opening and reporting of *shatan* (see Chapter 2), the highly valued riverine and coastal bottom lands, reduced the likelihood of violence. Alternatively, the bulk of the available *shatan* may have already been brought under cultivation prior to the Qianlong reign. (According to Yang Guozhen, the reclamation of *shatan* was well under way in the Ming dynasty.<sup>6</sup>) In the eighteen disputes over reclaimed land, only four were fought over *shatan*. **The remaining disputes were over marginal land, hill land, and land abutting graves.** In one case that took place in 1744, Li Rusong and others attempted to reclaim land that had been the site of a village reservoir. Despite a lawsuit to block his efforts, Li proceeded until a violent confrontation with a fellow villager halted his plans.<sup>7</sup> The fact that Li Rusong would disregard the protest of his fellow villagers and reclaim land that had been a village reservoir was a clear indication that arable land was in short supply and that common land, like this village reservoir, were also in danger of being privatized.

→ **With land in short supply, both the dead and the living competed for its use. An additional eight disputes burst into violence over accusations that existing graves** had been violated or that newly constructed graves encroached on cultivated land. For example, in Haifeng county, Huizhou prefecture, Chen Ruizhang and Chen Qizhang had a plot of land on which they grew potatoes. The land abutted Lin Daihou's ancestral graves. On his way to visit the graves, Lin noticed that the potatoes were planted too close to the graves. Violence began after Lin tore up the potatoes.<sup>8</sup> The cultural and social importance of proper burial and maintenance of graves in Chinese society need not be recounted here. As this case and others reveal, the demand for land was sufficiently great that some peasants even were willing to risk violating graves. As we shall see in Chapter 6, when we examine a different set of disputes, some individuals went so far as to exhume the graves of their own ancestors.

Purloining produce from an adjacent field during a harvest, whether intentional or accidental, was another source of boundary disputes. For example, Huang Shouguan and Liu Shiquan lived in the same village in Xinhui county, Guangzhou. Huang Shouguan had been a hereditary servant (*shipu*) in Chen Maozhuo's household. Huang's land was located near a plot of land that Liu Shiquan tilled. They both planted sweet potatoes. On QL 8.8.8 (1743) in the afternoon, Liu Shiquan was returning

6 Yang, 1988, p. 362. 7 SS 1574, QL 10.11.13, Vol. 3.

8 XKTB 3198, QL 45.7.9.

home from the market. From the road, Liu thought he saw Huang Shouguan stealing sweet potatoes from his field. Huang Shouguan rebuked him for making wild allegations. Liu ridiculed Huang for having been the hereditary servant of the Chen family. Huang was “displeased” and threatened to ask the local constable (*dibao*) to measure the plots in question to the “inch.”

Liu lost his temper and pinned Huang’s hand behind his back with one hand and began to throttle him with his other hand. Huang became “agitated” (*jingji*) and punched Liu in the head. Huang’s father, Huang Jingyou, saw that Liu would not release his son. Fearing that his son would be injured, Huang Jingyou began to pound on Liu’s back, but Liu only squeezed Huang’s throat tighter. Huang Shouguan was in unbearable pain. Freeing his hand, Huang struck Liu in the chest and pushed him away. Quickly, Huang punched Liu in the stomach, knocking him to the ground. At that moment Liu Shiquan’s brother, Liu Liangshao, having heard the altercation, came to the scene, but was too late to stop the fighting. They carried Liu Shiquan to Huang Jingyou’s home, where he died the same night.<sup>9</sup>

Seven other comparable boundary disputes began when one peasant accused a neighbor of harvesting the crop from his field. In the case recounted in the previous paragraph, the magistrate ruled that the sweet potatoes in question did not belong to Liu, though the issue hardly seemed important after the homicide. It is also worth noting that the threat to involve the local constable incited Liu Shiquan to violence. Although magistrates usually adjudicated disputes fairly and competently when given the chance, enforcement was often problematic; and when yamen underlings became involved in coercing compliance, they often precipitated violence. This is an issue I will return to in Chapter 7. Another interesting feature of this dispute was the effect of Huang Shouguan’s social status as a former hereditary servant, which Liu used to taunt him. Although the Yongzheng emperor abolished the inferior legal status of bonded and hereditary servants a decade earlier, Huang was sentenced under the law governing killings of commoners by servile laborers (*nupu*).<sup>10</sup> Consequently, Huang was sentenced to the more severe punishment of beheading. Uncertainty over changes in

9 *Qingdai dizu boxiao xingtai* (Forms of rent exploitation in the Qing period), pp. 751–2, Number One Historical Archives of China and Institute of Historical Research of the Chinese Academy of Social Sciences, eds. (Beijing: Zhonghua shuju, 1982) (hereafter, QDB).

10 No explanation was provided as to why Huang still bore the stigma of his former status. One can only speculate that perhaps Yongzheng’s decision only applied to future generations.

legal status and suspicion or fear of yamen underlings exacerbated disputes over land.

Most boundary disputes were usually small scale and spontaneous, but occasionally they could be quite large and exceedingly violent. One of the most brutal killings took place in Changle county, Jiaying. Indicative of the extent to which land holdings could be fragmented, Wu Fachang possessed fourteen separate parcels of enclosed land that totaled 30 *shi*. Wu also had two sons, Wu Huancheng and Wu Bacheng. Because of Wu Bacheng's "perverse nature,"<sup>11</sup> Wu Fachang only allotted Wu Bacheng 4 *shi* to till and to establish a separate household. Wu Fachang and his eldest son, Wu Huancheng, tilled and managed the remaining land and an additional mountain plot. According to the report, Wu Bacheng's hatred for his elder brother began at this time.

On QL 40.7.27 (1775), Wu Bacheng took an iron harrow and went to the mountain plot to remove some stones. When he arrived, his brother Wu Huancheng was already there. Huancheng informed him that he had no claim on the mountain plot. Huancheng seized Bacheng's harrow and threw it on the ground. Bacheng tried to pick it up, but Huancheng pushed him to the ground. As Bacheng got up, Huancheng raised a stone-cutting ax to hit Bacheng. Bacheng deflected the blow with his harrow. He struck Huancheng in the back with the harrow and knocked him to the ground. According to the magistrate's report, at this point Wu Bacheng's accumulated anger for his brother overwhelmed him. In a fit of sudden rage, he grabbed the ax and repeatedly struck his brother on the skull, neck, and shoulders. Wu Ronghao, who had been working in a neighboring field, saw what happened but was too late to stop it. Often violence ended when a third party arrived on the scene or when a victim was obviously incapacitated, but this incident was different.

Wu Bacheng dropped the ax and fled. He arrived at Shuangtou market, where he saw Wu Huancheng's son Wu Guisheng watching an outdoor play. Bacheng's anger was still not "extinguished," so he decided to kill Wu Guisheng. Returning home, he got a vegetable knife that he used to attack Wu Guisheng. Guisheng fled and Bacheng pursued him, stabbing him in the hand. Bacheng eventually caught him and pulled him to the ground. As Guisheng called for help, Bacheng stabbed him in the head twice. Guisheng died on the spot.<sup>12</sup>

11 Although nearly every document used the stock phrases to refer to the killer as violent by nature and ignorant of the law (see Note 9, Chapter 2), this was the only homicide in which the killer was labeled "perverse." As this incident indicates, the term was probably justified.

12 XKTb 2746, QL 40.10.14.

Gruesome violence of the type perpetrated by Wu Bacheng was unusual, though not unique. In this particular case, the gravity of the crime was compounded because the killings were deemed intentional, the victims were two males of the same family, and one victim was the elder brother of the killer. For his lurid crimes, Wu Bacheng received the most severe form of capital punishment under Qing law, lingering death (*lingchi chusi*). Twenty-four slices were administered to the limbs before the condemned was beheaded.

Guangdong was well known for strong lineages that served economic as well as social and religious functions. As noted in Chapter 2, lineages played an important role in creating *shatan* in the Pearl River Delta. The fact that lineages and villages corporately owned land also created the potential for large-scale boundary disputes in Guangdong. In fact, the third-largest dispute examined in this sample, which involved twenty-four active participants, was a boundary dispute that occurred in Chaoyang county, Chaozhou, on QL 59.5.23 (1794). The dispute arose when Lin Shenglin noticed that Zheng Zhaoxiong **had taken dirt from the area surrounding his ancestral graves**. A shouting match between Lin and Zheng drew the attention of clansmen (*zuren*) on both sides. Eventually, a battle ensued between fourteen individuals surnamed Lin and ten individuals surnamed Zheng.

→ While pointing out that the Zhengs were at fault for violating the Lins' graves, the investigating magistrate punished the Lins severely for their violent deeds. Suspiciously, all six victims in this battle were Zhengs, but according to the magistrate's report the fighting was not premeditated.<sup>13</sup> No weapons were used other than ordinary, though potentially lethal, farm implements, such as scythes. Still, one suspects that the Lins may have set an ambush for the Zhengs, although the magistrate clearly stated that the incident was unplanned. Regardless of what the true circumstances of the violence might have been, it serves to illustrate how even a seemingly minor dispute could erupt into a frenzy of violence.

Another large-scale boundary dispute pitted the residents of Huanggang village in Dongguan county, Guangzhou, against the residents of Shangliao village in Guishan county, Huizhou. In this episode, the dispute was over the harvesting of reeds that grew on Daluping Mountain, which separated the two villages. The trouble began on QL 50.8.18 (1785) when Yi Xuetai and Huang Bida from Huanggang were cutting reeds and drying them in the sun. Ceng Yugui, Ceng Yuchang, and Zhang Yesan of Shangliao saw this and went to stop them. An alterca-

13 XKTB 4061, QL 60.3.14.