

# An Analysis of Family Property Division Dataset Archived in Luoyang Indenture Documents Museum (1408–1949)

Li, Z. Z.

Luoyang Folk Museum, Luoyang 471000, China

**Abstract:** The dataset of Family property division contract dataset archived by Luoyang Indenture Documents Museum (1408–1949) has a collection of 98 digital documents of the family property division contracts from 1408 to 1949, spanning 541 years from Ming and Qing dynasties to the Republic of China, in which, 3 from Ming dynasty, 61 from Qing dynasty, and 34 from the Republic of China. The dataset is characterized by continuity in time span and completeness in content. The dataset includes: (1) photos of 98 family property division contracts named after the archive code; (2) statistics of each family property division contract, including the number, name, archived code, dynasty, material, size, complete condition and picture. The dataset, archived in .jpg and .xls data formats, consists of 99 data files with data size of 386 MB (compressed into one single file with 382 MB).

**Keywords:** family property division contract; history and culture; Ming and Qing dynasties; the Republic of China; 1408–1949

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**CSTR:** <https://cstr.escience.org.cn/CSTR:20146.14.2021.04.12>

## **Dataset Availability Statement:**

The dataset supporting this paper was published and is accessible through the *Digital Journal of Global Change Data Repository* at: <https://doi.org/10.3974/geodb.2021.07.06.V1> or <https://cstr.escience.org.cn/CSTR:20146.11.2021.07.06.V1>.

## 1 Introduction

The traditional practice of family property division has been passed down for a long time. Tong, Enzheng clearly pointed out in *Cultural Anthropology*: “Since the humans come to this world, the family is where the longest lasting and common relations among people derive from, and where men and women get married, the division of labor occurs, offspring get reproduced and relatives are formed. The family is also where all social organizations depend on. The family property division, vertically speaking, refers to the family property passed from father to son; horizontally speaking, refers to the family property distributed between brothers. The family property division is also a process of redefinition of the rights and obligations among family members and the redistribution of family property, and serves

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**Author Information:** Li, Z. Z., Luoyang Folk Museum, carter\_666@qq.com

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[2] Li, Z. Z. Family property division contract dataset archived by Luoyang Indenture Documents Museum (1408–1949) [J/DB/OL]. *Digital Journal of Global Change Data Repository*, 2021. <https://doi.org/10.3974/geodb.2021.07.06.V1>. <https://cstr.escience.org.cn/CSTR:20146.11.2021.07.06.V1>.

as the starting point of the family reproduction which can dynamically establish ties for the shrinking families and newborn families. Therefore, it plays an important role in connecting the preceding with the following.”<sup>[1]</sup> The indenture document, as its name implies, refers to the written evidence for family property division, including the contractual documents about the inheritance of family property from which the legal binding force may have. According to the interpretation in Ciyuan, an account of the history of a particular word, the indenture document is the contract on basis of which the family property is analyzed and distributed. The document is directly derived from the custom that ordinary Chinese people divide their families and property after their sons become adults. The making of indenture document is usually completed by a number of inherent steps, and it can be enforced by the local clan, who can ensure its execution comparable to that of official legal documents.

The Family property division contract dataset archived by Luoyang Indenture Documents Museum (1408–1949), has a collection of 98 digital documents of the family property division contracts from 1408 to 1949, spanning 541 years from Ming and Qing dynasties to the Republic of China. From the perspective of such indenture document which helps people to know the internal mechanism of family operation at that time, this paper has conducted the study in a thematic and systematic way. The family property division contracts in this dataset, have provided historical basis for us not only to comprehend the social, cultural and economic situation at that time, but to study the social relations from which the self-regulating governance system is built on the basis of the moral and ethical education within families. Therefore, it is of significance to study the relationship between moral and legal litigation under patriarchal clan system on resolving disputes within families at that time, and of significance to build the social management system based on contract spirit.

## 2 Metadata of the Dataset

The metadata of Family property division contract dataset archived by Luoyang Indenture Documents Museum (1408–1949)<sup>[2]</sup> is summarized in Table 1.

## 3 Content of the Dataset

The list of catalogue of Family property division contract dataset archived by Luoyang Indenture Documents Museum (1408–1949) can be seen in Table 2, with each provided with the information including the number, name, dynasty, paper type, size, collection location, preservation status and others.

## 4 Data Results and Discussion

### 4.1 Materials and Names of the Dataset

It is recorded from the list of each document in the dataset mentioned above that the materials of these documents are mostly velour paper, straw paper (e.g., the red straw paper used for No. 71 during the Republic of China by Liu, Dasheng *et al*) and rice paper. Other materials are seldom used with exception that the large-size red paper is applied for No. 48 and cotton cloth for No. 56, which were rarely seen among all documents, reflecting that property division was taken seriously and a strong sense of ceremony should be provided.

From the perspective of the naming of these documents, there are many appellations, such as “Fenguan”, “Jiushu”, “Xidan”, “Xiju”, “Geteng”, “written pledge”, “division document”, “Qifengzi” and so on<sup>[4]</sup>. Some have profound meanings, for example, “Guan” closely associated with “Guanwen” and “Guanyue” (a document used in ancient times when officials at the same level questioned each other), which can be found in The Enlightened Judgments, Ching-ming Chi: The Sung Dynasty Collection. “Document of Jiu” is also an

**Table 1** Metadata summary of Family property division contract dataset archived by Luoyang Indenture Documents Museum

Items	Description
Dataset full name	Family property division contract dataset archived by Luoyang Indenture Documents Museum
Dataset short name	FamilyPropertyDivisionContracts
Author	Li, Z. Z., Luoyang Folk Museum, carter_666@qq.com
Geographical region	Shanxi, Henan
Year	Ming and Qing dynasties to the Republic of China (1408–1949)
Data format	.jpg, .pdf
Data files	(1) 98 digitized images of indenture documents, named after filing codes (2) Statistical table of indenture documents, including serial number, name, filing code, age, texture, size, condition and thumbnail of documents
Data size	382 MB (compressed into one single file with 6.77 MB)
Data publisher	Global Change Research Data Publishing & Repository, <a href="http://www.geodoi.ac.cn">http://www.geodoi.ac.cn</a>
Address	No. 11A, Datun Road, Chaoyang District, Beijing 100101, China
Data sharing policy	<b>Data</b> from the Global Change Research Data Publishing & Repository includes metadata, datasets (in the <i>Digital Journal of Global Change Data Repository</i> ), and publications (in the <i>Journal of Global Change Data &amp; Discovery</i> ). <b>Data</b> sharing policy includes: (1) <b>Data</b> are openly available and can be free downloaded via the Internet; (2) End users are encouraged to use <b>Data</b> subject to citation; (3) Users, who are by definition also value-added service providers, are welcome to redistribute <b>Data</b> subject to written permission from the GCdataPR Editorial Office and the issuance of a <b>Data</b> redistribution license; and (4) If <b>Data</b> are used to compile new datasets, the ‘ten per cent principal’ should be followed such that <b>Data</b> records utilized should not surpass 10% of the new dataset contents, while sources should be clearly noted in suitable places in the new dataset <sup>[2]</sup>
Communication and searchable system	DOI, CSTR, Crossref, DCI, CSCD, CNKI, SciEngine, WDS/ISC, GEOSS

**Table 2** List of Family property contracts of Family property division contract dataset archived by Luoyang Indenture Documents Museum (1408–1949)

No.	Name	Reign of emperor in a dynasty (year)	No.	Name	Reign of emperor in a dynasty (year)
01	Family property division contract of Wang, Yu and Wang, Zai	The 6 <sup>th</sup> year during the reign of Emperor Yongle in Ming dynasty (1408)	11	Family property division contract of Yang, Weiren’ second son Yang, Zhi	The 4 <sup>th</sup> year during the reign of Emperor Yongzheng (1726)
02	Family property division contract of Nan, Jigang, <i>et al.</i>	The 47 <sup>th</sup> year during the reign of Emperor Wanli in Ming dynasty (1619)	12	Family property division contract of Zhao, Yingxian and Zhao, Yingxian	The 9 <sup>th</sup> year during the reign of Emperor Yongzheng (1731)
03	Family property division contract of Wang, Quan’s three sons	The 12 <sup>th</sup> year during the reign of Emperor Chongzhen (1639)	13	Family property division contract of Wang, Boyu and Wang, Boxiang	The 11 <sup>th</sup> year during the reign of Emperor Yongzheng (1733)
04	Family property division contract of Lin, Huaiyu’s son and Lin, Huaibao’s son	The 18 <sup>th</sup> year during the reign of Emperor Shunzhi (1661)	14	Grain and money division document of Wang’s five brothers and their mother	The 12 <sup>th</sup> year during the reign of Emperor Yongzheng (1734)
05	Family property division contract of Shi, Ende’s three sons	The 12 <sup>th</sup> year during the reign of Emperor Kangxi (1673)	15	Family property division contract of Bai, Yongting and his two nephews	The 5 <sup>th</sup> year during the reign of Emperor Qianlong (1740)
06	Family property division contract of Zhao, Zicheng	The 34 <sup>th</sup> year during the reign of Emperor Kangxi (1695)	16	Family property division contract of Zhao’s three brothers	The 7 <sup>th</sup> year during the reign of Emperor Qianlong (1742)
07	Family property division contract of Nan, Xinghuan’s three sons	The 34 <sup>th</sup> year during the reign of Emperor Kangxi (1695)	17	Family property division contract of Li’s brothers	The 12 <sup>th</sup> year during the reign of Emperor Qianlong (1747)
08	Guo and Qing’s family property division contract	The 48 <sup>th</sup> year during the reign of Emperor Kangxi (1709)	18	Family property division contract of Wang’s four brothers	The 54 <sup>th</sup> year during the reign of Emperor Qianlong (1789)
09	Family property division contract of Shi, Liangcai’s two sons	The 52 <sup>th</sup> year during the reign of Emperor Kangxi (1713)	19	Family property division contract of Wu’s brothers	The 57 <sup>th</sup> year during the reign of Emperor Qianlong (1792)
10	Family property division contract of Shi’s son	The 57 <sup>th</sup> year during the reign of Emperor Kangxi (1718)	20	Family property division contract of Wang, Cangbao, and Wang, Cangtong	The 1 <sup>st</sup> year during the reign of Emperor Jiaqing (1795)

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No.	Name	Reign of emperor in a dynasty (year)	No.	Name	Reign of emperor in a dynasty (year)
21	Water use contract of Du, Ziyao and Du, Ziquan	The 2 <sup>nd</sup> year during the reign of Emperor Jiaqing (1799)	40	Family property division contract of Zhang's two brothers	The 4 <sup>th</sup> year during the reign of Emperor Tongzhi (1865)
22	Property division testament of Li's mother	The 14 <sup>th</sup> year during the reign of Emperor Jiaqing (1809)	41	Family property division contract of Zhao, Xuesheng's two sons	The 8 <sup>th</sup> year during the reign of Emperor Tongzhi (1869)
23	Family property division contract of Li's two brothers	The 14 <sup>th</sup> year during the reign of Emperor Jiaqing (1809)	42	Family property division contract of Wang, Boran	The 10 <sup>th</sup> year during the reign of Emperor Tongzhi (1871)
24	Family property division contract of three brothers (Defa, Mingfa, Renfa)	The 23 <sup>th</sup> year during the reign of Emperor Jiaqing (1818)	43	Family property contract of Yu, Pixian and nephew Taicheng on division of workshop	The 11 <sup>th</sup> year during the Reign of Emperor Tongzhi (1872)
25	Contract of Zhang, Geng and Hao, Wenming house delimitation	The 23 <sup>th</sup> year during the reign of Emperor Jiaqing (1818)	44	Family property division contract of Dong's two brothers	The 12 <sup>th</sup> year during the reign of Emperor Tongzhi (1873)
26	Family property division contract of Li, Yongde and his uncle Li, Xiu	The 4 <sup>th</sup> year during the reign of Emperor Daoguang (1824)	45	Family property division contract on Liang, Zhi'an begging his mother for farmland and money	The 13 <sup>th</sup> year during the reign of Emperor Tongzhi (1874)
27	Family property division contract of Wu, Yongke	The 6 <sup>th</sup> year during the reign of Emperor Daoguang (1826)	46	Family property division contract on Liang, Zhixiu, wife and son begging his mother for farmland and money	The 13 <sup>th</sup> year during the reign of Emperor Tongzhi (1874)
28	Family property division contract of Song's two brothers	The 8 <sup>th</sup> year during the reign of Emperor Daoguang (1828)	47	Family property division contract of Li, Bingcan	The 5 <sup>th</sup> year during the reign of Emperor Guangxu (1879)
29	Family property division contract of nephew and uncle of Cao family	The 24 <sup>th</sup> year during the reign of Emperor Daoguang (1844)	48	Family property division contract of Chang's three brothers	The 19 <sup>th</sup> year during the reign of Emperor Guangxu (1893)
30	Family property division contract of four members of the Same Clan	The 25 <sup>th</sup> year during the reign of Emperor Daoguang (1845)	49	Family property division contract of Ma's two brothers	The 19 <sup>th</sup> year during the reign of Emperor Guangxu (1893)
31	Family property division contract of Liang, Yunzhi's three sons	The 26 <sup>th</sup> year during the reign of Emperor Daoguang (1846)	50	Family property division contract of Liang, Zhiwang's younger brother Zhi, Dian, Zhi, Jian and his nephew's Dianyue, etc.	The 20 <sup>th</sup> year during the reign of Emperor Guangxu (1894)
32	Family property division contract of Zhao's two brothers	The 28 <sup>th</sup> year during the reign of Emperor Daoguang (1848)	51	Family property division contract of Liu's two brothers	The 20 <sup>th</sup> year during the reign of Emperor Guangxu (1894)
33	Family property division contract of Gao's two brothers	The 28 <sup>th</sup> year during the reign of Emperor Daoguang (1848)	52	Family property division contract of Dang's three brothers	The 22 <sup>nd</sup> year during the reign of Emperor Guangxu (1896)
34	Family Property Division Contract of Wang's Two Nephews	The 1 <sup>st</sup> year during the reign of Emperor Xianfeng (1851)	53	Family property division contract of Ma's two brothers	The 22 <sup>nd</sup> year during the reign of Emperor Guangxu (1896)
35	Family property division contract of Zhao's nephews and sons	The 3 <sup>rd</sup> year during the reign of Emperor Xianfeng (1853)	54	Family property division contract of Zhao's three brothers	The 25 <sup>th</sup> year during the reign of Emperor Guangxu (1899)
36	Family property division contract of Liang, Yunzhi's five sons (kept by the 3 <sup>rd</sup> son)	The 8 <sup>th</sup> year during the reign of Emperor Xianfeng (1858)	55	Family property division contract of Heidan	The 26 <sup>th</sup> year during the reign of Emperor Guangxu (1900)
37	Family property division contract of Liang Yunzhi's Five Sons (kept by the 2 <sup>nd</sup> and 4 <sup>th</sup> sons)	The 8 <sup>th</sup> year during the reign of Emperor Xianfeng (1858)	56	Family property division contract of Huang, Yongdeng	The 29 <sup>th</sup> year during the reign of Emperor Guangxu (1903)
38	Family property division contract of Liang, Yunzhi's five sons (kept by the 5 <sup>th</sup> son)	The 8 <sup>th</sup> year during the reign of Emperor Xianfeng (1858)	57	Family property division contract of Chang's four sons	The 30 <sup>th</sup> year during the reign of Emperor Guangxu (1904)
39	Family property division contract of Yu, Pixian and nephew Taicheng	The 2 <sup>nd</sup> year during the reign of Emperor Tongzhi (1863)	58	Family property division contract of Lan's two brothers	The 31 <sup>st</sup> year during the reign of Emperor Guangxu (1905)

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No.	Name	Reign of emperor in a dynasty (year)	No.	Name	Reign of emperor in a dynasty (year)
59	Family property division contract of Du's two brothers	The 33 <sup>rd</sup> year during the reign of Emperor Guangxu (1907)	79	Family property division contract of Yutang and Taiping	The 13 <sup>th</sup> year of Republic of China (1924)
60	Family property division contract of Li's two brothers	The 34 <sup>th</sup> year during the reign of Emperor Guangxu (1908)	80	Family property division contract of Liang's two brothers	The 14 <sup>th</sup> year of Republic of China (1925)
61	Family property division contract of uncle Zhao and his nephew	The 1 <sup>st</sup> year during the reign of Emperor Xuantong (1909)	81	Family property division contract of Liang's four brothers	The 15 <sup>th</sup> year of Republic of China (1926)
62	Family property division contract of Liang's four brothers	The 2 <sup>nd</sup> year during the reign of Emperor Xuantong (1910)	82	Family property division contract of Cao, Choutai	The 16 <sup>th</sup> year of Republic of China (1927)
63	Family property division contract of Wang's two brothers	The 2 <sup>nd</sup> year during the reign of Emperor Xuantong (1910)	83	Family property division contract of Shang's three brothers	The 16 <sup>th</sup> year of Republic of China (1927)
64	Family property division contract of Wang's two brothers	The 3 <sup>rd</sup> year during the reign of Emperor Xuantong (1911)	84	Family property division contract of Lu, Jinyong's four sons	The 17 <sup>th</sup> year of Republic of China (1928)
65	Family property division contract of Liang's two brothers	The 2 <sup>nd</sup> year of Republic of China (1913)	85	Family property division contract of Li's three brothers	The 17 <sup>th</sup> year of Republic of China (1928)
66	Family property division contract of Yang's son	The 2 <sup>nd</sup> year of Republic of China (1914)	86	Family property division contract of Zhang's four brothers	The 17 <sup>th</sup> year of Republic of China (1928)
67	Property division contract of Wang's family	The 3 <sup>rd</sup> year of Republic of China (1914)	87	Family property division contract of Ning's three brothers	The 18 <sup>th</sup> year of Republic of China (1929)
68	Family property division contract of Hu's two brothers	The 3 <sup>rd</sup> year of Republic of China (1914)	88	Family property division contract of Du's two brothers	The 18 <sup>th</sup> year of Republic of China (1929)
69	Family property division contract of uncle Li and his nephew	The 6 <sup>th</sup> year of Republic of China (1917)	89	Family property division contract of Yin's two brothers	The 19 <sup>th</sup> year of Republic of China (1930)
70	Property division contract of Ling's three families	The 9 <sup>th</sup> year of Republic of China (1920)	90	Family property division contract of Song's three brothers	The 19 <sup>th</sup> year of Republic of China (1930)
71	Family property division contract of Liu, Dasheng <i>et al.</i>	The 10 <sup>th</sup> year of Republic of China (1921)	91	Family property division contract of Chen, Yuntai and Chen, Yunzhong	The 19 <sup>th</sup> year of Republic of China (1930)
72	Family property division contract of Zhang's four brothers	The 11 <sup>th</sup> year of Republic of China (1922)	92	Family property division contract of Hu's two brother	The 24 <sup>th</sup> year of Republic of China (1935)
73	Family property division contract of Li's three brothers	The 11 <sup>th</sup> year of Republic of China (1922)	93	Family property division contract of Xing's three brothers	The 25 <sup>th</sup> year of Republic of China (1936)
74	Family property division contract of uncle Zhang, Jingzhao and his nephew Zhang, Yurong	The 11 <sup>th</sup> year of Republic of China (1922)	94	Family property division contract of Liu, Yuankai and Liu, Yuanbiao	The 26 <sup>th</sup> year of Republic of China (1937)
75	Family property division contract of Guo's three brothers	The 12 <sup>th</sup> year of Republic of China (1923)	95	Family property division contract of Guo's two sons	The 27 <sup>th</sup> year of Republic of China (1938)
76	Family property division contract of Xu, Yongxiang's farmland and house	The 12 <sup>th</sup> year of Republic of China (1923)	96	Family property division contract of Yuan, Dagang and Yuan, Tianyou (father and son) on breaking off their relationship	The 33 <sup>rd</sup> year of Republic of China (1944)
77	Family property division contract of Xu, Sixiang's land and house	The 12 <sup>th</sup> year of Republic of China (1923)	97	Family property division contract of Yang's five brothers	The 36 <sup>th</sup> year of Republic of China (1947)
78	Family property division contract of Li's five brothers	The 13 <sup>th</sup> year of Republic of China (1924)	98	Family property division contract of Yu, Rong, Yu, Ru-hua and their nephews	The 38 <sup>th</sup> year of Republic of China (1949)

important one used in family property division, very similar to drawing lots; “Xi” from “Xidan” and “Xiju” means cutting, indicating that sharp tools such as knives and axes are used to cut bamboo and wood, comparable to dividing the family property. From the expression of “Geteng” or vine cutting, “Teng” or vine is generally attached to surrounding or leaning on a big tree, therefore, “Geteng” means to cut these vines open and to rid the entanglements from which some are of primary importance and some of secondary importance. Generally speaking, family property division refers to the fact that parents passed on their property to their sons, with parents likened as a tree and their sons as a vine in the property division contract. As for the writing of “Qifengzi”, it’s synonymous with document of family property division. Due to the fact that almost all documents are written for at least two brothers or more and the property division contract is unnecessary for one-son family, all children need to keep one copy for each. To prevent cheating or to ensure the authenticity of each document, all copies of each document should be stacked together with a unified writing on the junction of the edges of them. Contract of family property division is an effective proof for the family separation, illustrating that the verbal statement cannot be dependable but the written proof can do. As far as the names of these documents are concerned, most of them are called “分单” or property division contract, accounting for 64% while others like “Wenyue”, “Zhizhao”, “Geju”, “Xiju” and “Fendanshu” account for 11%, and “Fenshu” alone accounts for 11% as well. Others such as “Geteng”, contract book, written pledge and etc only take up a small share (seen in Table 3).

According to the 98 contracts of family property division archived in Luoyang Museum of Indenture Documents, it is found that the earliest one is written in the sixth year during the Reign of Emperor Yongle in Ming dynasty (1408) and the latest one in the thirty-eighth year of National Republic of China (1949), with these documents spanning 541 years from Ming and Qing dynasties to the Republic of China (seen in Table 4). In terms of quantity, most of them were from the Qing dynasty to the Republic of China, relatively continuous in terms of timeline. From the aspects of text content and form, it is difficult to detect the influence of the writing style in different dynasties on the form and wording except for the change of the time written at the end of each document.

4.2 Format of Family Property Division Contract

Generally, it is considered that the property division contract is widely used by folks in the Tang dynasty when their sons grow up and live independently. A specific format has been taking shape during the long-term use. From the 98 pieces archived in Luoyang Museum of Indenture Documents, the content and format of these documents have not changed much in spite of undergoing more than 500 years. It always has the following three parts: preface, property division and signature, from which the preface mainly describes the hardships of

Table 3 Classification of names of Family property division contract dataset archived by Luoyang Indenture Documents Museum

Names of family property division contract	Quantity
Family property division contract	63
Zhizhao, Geju, Wenyue, Juxi, Fendan	11
Fenshu	11
Bodan, Fenboshu, Fenboyue	5
Gift document	2
In-charge written document, separate written document	2
Demarcation contract	1
Geteng	1
Nianjiu	1
Fenguan	1

Table 4 Statistics of reign of emperor and quantity of collected documents archived in Luoyang Museum of Indenture Documents (98 pieces in total)

Reign of emperor	Quantity	Reign of emperor	Quantity
Emperor Yongle	1	Emperor Wanli	1
Emperor Chongzhen	1	Emperor Shunzhi	1
Emperor Kangxi	6	Emperor Yongzheng	4
Emperor Qianlong	5	Emperor Jiaqing	6
Emperor Daoguang	8	Emperor Xianfeng	5
Emperor Tongzhi	8	Emperor Guangxu	14
Emperor Xunatong	4	National Republic of China	34

the parents in earning the property, the reasons why the property should be allotted and how to allot the property. The second part mainly records some additional conditions and how to distribute the specific items of family property (real estate and movable property included). At the end of the document, the three parties, including allotter, allottee and middleman, should sign their names and provide it with a unified writing of “Qifengzi” on the junction of the document as an anti-counterfeiting proof. In some occasions, there will be annotations for special recorded items. These parts constitute the whole format of property division contract (Table 5).

**Table 5** Format of Family property division contract archived in Luoyang Museum of Indenture Documents

Format	Content
Preface	Parties involved review the family history and explain the reasons for property division Real estate: farmland, house site , real estate, workshop, toilet, tomb, trees, etc. Movable property: farm tools, livestock, furniture, daily necessities, etc. Division of land property location: land property boundary and quantity
Property division	Principle of distribution: equal distribution among all brothers, lot-drawing, designated inheritance, etc. The agreement on paying parents’ old-age pension annotation (supplementary explanation), date of writing Signature and pledge: parties involved, relatives, middlemen, ghostwriters and others, and signature of “十” Sewing characters (half book): sub-orders, contracts, sub-orders licenses, written documents in charge, etc.
Signature (effectiveness and execution)	Qifengzi: property division contract , contracts, sub-orders license of document, written pledge, etc.

Take Zhao’s three brothers during the reign of Emperor Qianlong (No. 16) as an example to illustrate the format of property division contract.

Zhao, Qiong, the bookkeeper, pointed out that the three sons of Zhao Shoubi, Zhao Shouzhong and Zhao, Shouhe, inconvenient to live together, would equally divide the family properties by drawing lots at the presence of the clansmen, including the houses, land, property, trees and so on. Since then, each should be in charge of their own property. If there are bullies or deceivers, the Zhao’ brothers or the parties involved, holding the property division contract, can file a suit against the rule breakers, who would be punished once found guilty due to their unfilial behavior. This division document would be as a proof and be kept as an evidence for future use.

Zhao, Shouhe has the ownership of the first share of family property and has signed “十”. According to what has been written in the division document, Zhao, Shouhe should be assigned to three rooms in the residential building where family rituals take place and the distinguished guests are welcomed, three rooms of the west wing, one small secondary western room in the residential building and one easily-accessed toilet to its east. In addition, Zhao Shouhe will be promised eight taels of silver for building a house, and the third room of the residential building which is allowed to live in for fifteen years, 1.1 mu (15 mu= 1 ha) of paddy field located to the south of Teng’s farmland and one section of upland field in Xifen valley. The 1.6 mu of paddy field bestowed to Dong family and the wedding expenses for Zhao, Shouhe are excluded in the property division program.

Zhao, Shoubi has the ownership of the second share of family property and has signed “十”. Zhao, Shoubi is assigned to the three-room homestead to the second door of the east building, one small room, one easily-accessed toilet to its south of the eastern residential building. In addition, Zhao, Shoubi will be promised four taels of silver for building a house, and one small room to the second door of the building which is allowed to live in for fifteen years, 1.1 mu of paddy field located to the south of Teng’s farmland and the third section of upland field in Xifen valley.

Zhao, Shouzhong has the ownership of the third share of family property and has signed “十”. Zhao, Shoubi is assigned to the empty courtyard behind the east building, 1.1 mu of wet field located to the south and the 4<sup>th</sup> section of upland field in Xifen valley. Guo’s family holds the right of use over the tile kiln. For Zhao, Qiong’s own living, 1.6 mu of wet farmland, clothes and coffins are excluded in the property division program.

May 17, the 7<sup>th</sup> year during the reign of Emperor Qianlong

Drafter	Zhao, Qiong	Signature of “十”
Cousin	Pei	Signature of “十”
	Long	Signature of “十”
Nephew	Huizu	Signature of “十”
Shouyin		Signature of “十”
Qifengzi	Family Property division contract	

This document, drafted in the seventh year during the reign of Emperor Qianlong, was written with a brush on a piece of straw paper which has a length of 31.50 cm and a width of 29.50 cm. It tells us that the father Zhao, Qiong divided the family property into three shares to his three sons. The last sentence “for Zhao, Qiong’s own living, 1.6 mu of wet farmland, clothes and coffins are excluded in the property division program” informs us that Zhao, Qiong spared himself some living allowances and funeral expenses.

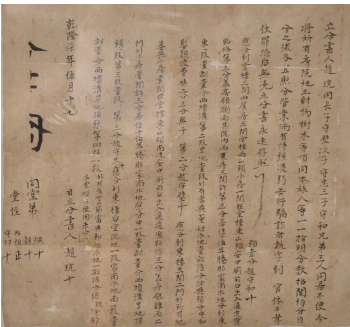
First of all, the preamble of the property division contract as an indispensable part always begins with an account of Zhao, Qiong as the drafter of the document or the contracting party. Secondly, the reasons for the property division have been clearly put forward, with the opening remarks of “due to or because and etc,” which can be seen “the three sons of Zhao, Shoubi, Zhao, Shouzhong and Zhao, Shouhe, inconvenient to live together”.

Then, it states out the principle and the way of property distribution that the family properties including the houses, land, property, trees, etc should be re-allotted equally divide by drawing lots at the presence of the clansmen. From these 98 documents on division of family properties, the words such as “match evenly”, “equally divided”, “equally divided into equal parts”, “equally divided into ×× parts”, etc., can be found everywhere, which directly indicate the principle of even division among the sons. In some documents does drawing lots come out as well. When dividing the family, the parents must first set aside a specific share for them to make a living, or set aside the marriage fees for minor children by assigning farmland to the eldest grandson and the eldest son. Finally, there are also some arrangements for public properties and punishments as a concluding remark.

4.3 Reasons for Family Division and Its Safeguard Policies

4.3.1 Reasons for Family Division

There are a variety of reasons for division of family property. First and foremost, with the increasing population and the difficulty to manage the handed-down properties, the ancestors should pass them on to later generations who can bear the burden of the family as soon as possible. For example, from No. 29 of Family property division contract of nephew and uncle of Cao family in the 24<sup>th</sup> year during the reign of Emperor Daoguang (1844), it mentions the possibilities of the rising conflicts and tension between family members due to the increasing population in one big family so that the division of family must be a peaceful and preventive move. In fact, most family members pay enough attention to the ancient teachings receive and can restrain themselves in face of some contradictions. However, with the increase of population which may lead to the rising domestic disharmony, they had no other choice but to divide the family property. From No. 51 of family property division contract of Liu’s two brothers in the 20<sup>th</sup> year during the reign of Emperor Guangxu (1898), it also makes reference to the difficulty to deal with the family’s conflicts and they can’t follow the example of Zhanggong’ family, in which nine generations of family members live under one roof.



**Figure 1** Family property division contract of Zhao’s three brothers in the Qing dynasty (No. 16, the 7<sup>th</sup> year during the reign of Emperor Qianlong, 1742 AD)



Secondly, the family conflicts are increasing in quantity and serious in intensity in that there are disputes between father and sons, brothers and brothers, and between sisters-in-law who don't agree with each other. Therefore, it contributes most to the separation of families, which can be found more than 20 cases in the list. From No. 31 of family property division contract of Liang, Yunzhi's three sons in the 26<sup>th</sup> year during the reign of Emperor Daoguang (1846) and No. 36 of Liang, Yunzhi's five sons (kept by the third son) in the 8<sup>th</sup> year during the reign of Emperor Xianfeng (1858) (as shown in the figure below), it states "the eldest son Geng, Ji and his wife are disobedient and uncooperative to cook and dine together; among the five sons in the not so well-off family, Geng, Ji is so stubborn and foolish that it is difficult to change but only to expel him out of the family instead in the 16<sup>th</sup> year during the reign of Emperor Daoguang, the second son acts recklessly or wildly so that he is about to be expelled for fear of future trouble." It tells us that the father's anger and disappointment with his two sons are beyond words.

Thirdly, the family members can't get along well due to the disputes arising from property ownership. Therefore, in order to avoid disputes and well manage the properties, redistribution of family belongings becomes rather necessary.

Fourthly, to improve the utilization of family resource and to expect their children to become independent and get married as soon as possible, the parents, too old to do the housework, want to divide up family property and live apart. Such practice is a transitional, preventive and forward-looking move for the parents, which can prevent the conflicts between children happening after they passed away. From the documents of No. 19, No. 55 and No. 57 in Table 2, it can be seen that to divide the family property should be in compliance with the father's or mother's will when they are too old to do housework and to revitalize the family business. What's more, the external factor for family property division mainly refers to the chaotic situation and famine, which take up a relatively large proportion in all factors. Finally, the separation of family property is also of significance to make social progress. Mr. Fei, Xiaotong believes that the younger generation's request for financial independence becomes the driving force for family disintegration, which eventually leads to the separation of family and family property passed down to the next generation<sup>[5]</sup>.

#### 4.3.2 Principle of Property Division

The vast majority of families not well to do can't meet the needs of children and grandchildren for wealth and greed is like a valley that can never be filled, which requires the practice of fairness in redistributing the property. In some disputes over property separation, some people don't merely win over a large share of wealth but for earning respect from family members. In addition, the principle of equalitarianism is always valued most no matter who they are in a family because the traditional Chinese people hold that inequality rather than want is the cause of trouble. To practice the principle of equalitarianism, first of all, not only requires an equitable and rational procedure but also the way of implementation. In the long course of Chinese history, a variety of equitable means were invented such as "touching the reins for horse redistribution and drawing lots for farmland redistribution"<sup>[6]</sup> written in Doctrine of Shenzi in pre-Qin period.

#### 4.3.3 Principle of Having a Middleman

In the past, to have a middleman or to be entrusted by relatives is usually one of important steps for family separation. The meeting for property division co-chaired either by the elders or by the peers is witnessed by the invited elder of noble character and high prestige in the family clan. In the traditional way, people always refer to the official or folk law on family property division and the resolution would be written in the format of contract. As a nongovernmental contract, the property division contract is legally effective in that the agreement can be used as a valid proof for dispute mediation if both parties violate the contract. In order to ensure the validity of the division contract, the practice of inviting a middleman to mediate notarization is popularly applied in contracting. Once the disputes

arising from the parties afterwards, the middleman who has attended the meeting is entitled to mediate. It can be seen that the middleman can function as a document notary, mediator and arbitrator. Codified Law and Magisterial Adjudication in the Qing dynasty authored by Liang, Zhiping clarifies “in the Qing dynasty, the role played by the middleman in the society is extremely, whose acts have been fully institutionalized in codified law, it is unimaginable to maintain the social and economic order with no middleman getting involved.”<sup>[7]</sup>.

## **5 Social and Cultural Connotation of Document of Family Property Division**

Having a large extended family has been taken as a long-standing honor in every family in China. However, the small-scale farming by individual owners was gradually replaced with the capitalist economy, which called for reforming the production order in feudal society, and the society was beset by enemies from within and without in Ming and Qing dynasties. As a result, the patriarchal clan system-based family relations witnessed breakdown little by little, and the small-size family followed. As a proof for family property division, the contract will be given full play if the property disputes arise after the family members live apart, which surely helps people to keep faith and to run the family in full compliance with relevant laws and regulations.

### **5.1 Resolution of Family Disputes**

Mr. Fei, Xiaotong has once thought that the local society of China is a society of acquaintances and kinship because all family members were born and died in the local area. In such society do relatives and neighbors are often very helpful, and act as each other's middlemen. In areas where the patriarchal clan system is strictly implemented, the order defenders including clan leaders can govern the locals by warning, lashing, fining, sending to local government for punishment and deregistering the rule breakers from family pedigree<sup>[8]</sup>. However, mediation and reconciliation conducted by the middlemen are most commonly used for the resolving family disputes.

As for the family division, the middleman acts as the buffer to balance the rights and obligations of the parties involved, by which the family disputes would be eased. Having witnessed every steps of concluding the contract, he can be disinterested in rights and wrongs of the matter with a whole picture of the rights and obligations of each party. What's more, the middleman, having the high prestige among locals and always respected for his integrity and kindness, has more right to say in the neighborhood. The middleman must take responsibility for every mistake in the conclusion of the contract from beginning to end while other people like witnesses and notaries do not. Therefore, it can be seen that as a buffer for resolving the disputes, the role of “middleman” is quite important especially whenever the disputes between the parties arise.

### **5.2 Equilibration of Moral Restraint and Rule of Law**

In the old days, the rites and statute combined are the way to maintain kinship and human relations. Different from the modern statute, the statute of the past is only advocated but less enforced while the role of morality and ethics can never be underestimated in educating the folks and shaping public opinions. The role of middleman should be more important than that of statute once the power of public opinion and kinship are integrated. In a large extended family is full of intricate property connections, ethical affection and even conflict. At the same time, it also reflects the state's recognition of the family as an entity and recognition of the property owned by the public or the private. The connection between extended family and the nuclear family is actually a type within a setting of all family members. On the surface, it is an issue of family structure and form, but an issue of power distribution among the state, extended family and the nuclear family<sup>[9]</sup>.

### 5.3 Contract Spirit and Patriarchal Clan System

As a legal act, the division of family property is not only done in the spirit of contract, but in keeping with the provisions of local folk contract and clan society. Seen from these 98 documents, the nuclear family, extended family and patriarchal clan are always in the dynamic of opposition and unity in that the private affairs of one family may be of the public affairs in the clan, a large variety of family affairs must be taken under the management of one institutional norm, people-to-people relationship may vary in terms of the closeness to each other while the moral principles should be impartial to everyone<sup>[10]</sup>. The division of family property approved by the clan society widely exists among the people, which can help to maintain the order in rural area and can improve the self-governance of clan society.

## 6 Conclusion

The document of family property division is a materialized representation of interest relations of social structure and feudal economy. Different from provisions of the current inheritance law in many aspects, the contract of family property division played an important role in promoting the self-regulating governance centered on moral and ethical education within families, which can help to resolve disputes within families, to balance moral restraint and rule of law, and to shape the long-term stability in the spirit of contract. Today, it is necessary for us to study the separatio bonorum under the specific historical environment. Only in this way can we have a deep understanding of the profound Chinese culture with these documents scattered in different historical stages.

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### Conflicts of Interest

The authors declare no conflicts of interest.

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