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## Forests as Commons in Early Modern China

### *An Analysis of Legal Cases*

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Today, the relationship between human beings and forests has become increasingly important. Researchers have stressed the role forests play in fulfilling basic needs of local populations for timber and nontimber forest products, and in embodying environmental, recreational, and many other social values.

In this chapter, I will focus on the functions of forests that provide for the basic needs of local residents, and the role of government authorities concerning the provision of forests for their use. We can identify a range of ways for managing forests: in some countries and regions, forests are owned by the government; in other places, the ownership or management falls to local administrations, individuals, or communities. Considering these issues in a historical context, many environmental historians have used theories about the “commons” to approach questions related to forest management. The term “commons” refers to institutions for the collective management and use of natural resources, in addition to the natural resource themselves.<sup>1</sup> Following the publication of Garrett Hardin’s famous article “The Tragedy of the Commons” in 1968—which concluded that the use of resource areas as commons would inevitably generate major problems through excessive use, ultimately leading to the destruction of the resource—much counterevidence has been provided from regions around the world. This counterevidence offers examples of sustainable cooperative resource use. Moreover, it has been observed that the “tragedy of commons” of which Hardin forewarned was actually the “tragedy of open access”—that the problem is not “commons” but lack of rules about how the commons can be used. Scholars have identified the kinds of conditions that lead to sustainability, such as membership, scale, property, management, the kind of resources, and the legitimacy of governance.<sup>2</sup>

Regarding the commons in China, scholars have questioned the strength of community ties in rural China. However, most of the research concerning this topic is based on studies of customary law in rural North China during the late 1930s and early 1940s, conducted by Japanese researchers, or based on the collection of customary laws that were investigated by Chinese administrative powers in the early twentieth century.<sup>3</sup> The most frequently cited example is the custom of *kai yezi* (open leaves), a custom that allowed anyone to enter the fields and collect sorghum leaves during a fixed period just before the sorghum matures. Since the right to pick up leaves was not restricted to village members, many researchers consider this to indicate a lack of strong communal ties in North China villages.<sup>4</sup> In recent years, some studies about the management of natural resources in China have been undertaken, inevitably taking into consideration the concept of commons.<sup>5</sup>

However, these articles are mostly based on research that took place in the first half of the twentieth century, or they only regard lineage land as commons. Consequently, there has been little study of how people in the Qing era used and managed the land itself, or how and by whom the legitimacy of that utilization was granted.

#### ABOUT THE MATERIALS

In this chapter, I extract examples from the archives called Xingke Tiben (routine memorials or reports to the Ministry of Justice, hereafter “XKTB”). In Qing China, cases where defendants faced the death penalty were reported from lower-level government offices to higher government offices. XKTB is the final one: reports from high-level officers to the emperor to decide the judgment.

XKTB reports include many statements regarding the suspect(s) and the person(s) concerned, as they comprise the important evidence used in making judgments and sentencing decisions in criminal courts. A variety of data can be extracted from the testimonies and can be used in studying social history.<sup>6</sup>

In this chapter, I extract and analyze examples of the use and management of forest resources from descriptions of mountains, forests, wild lands, and trees included in these archives. I will examine how ordinary people used natural resources in the mountains, particularly through the observation of descriptions of “public mountains” (*gong shan*) and “government mountains” (*guan shan*), and will discuss the role of local commons in rural China. Furthermore, I will demonstrate how the administrative power approved people’s acquisition of resources that would meet their basic needs.

XKTB is held in the First Historical Archives of China in Beijing and in the Institute of History and Philology, Academia Sinica, in Taipei, and several reprints have been published. In this article, I mainly use the archive held by Academia Sinica (hereafter “ASX”) and the reprinted series *Qing Jiaqing Chao Xingke Tiben*

*Shenhui Shiliao Jikan* ("Sources on Society Excerpted from Routine Memorials of Scrutiny for the Board of Punishments during the Jiaqing Reign (1796–1820)," hereafter "JQX").<sup>7</sup>

#### THE VARIETY OF ECONOMIC ACTIVITIES IN MOUNTAINS IN XKTB

Common people carried out a variety of activities in forests and extracted various profits from the mountains. The profits can be classified into four types. The first type of profit came from extracting various products from the mountains, usually involving investment in order to extract resources.<sup>8</sup>

The second type of profit was gained by extracting or removing materials from the mountain, but without investment in production.<sup>9</sup>

The third type of profit did not involve extracting materials from the mountain, but rather the continual investment in, or care of, the land. The most frequent examples of this usage are ancestral burials and the maintenance of forests or trees for the purpose of "protecting good geomancy" (*fengshui*). Although not discussed in depth in this chapter, ancestral graveyards were of great importance and were protected in particular ways.<sup>10</sup>

The last type of profit use also did not extract resources from the mountain, nor did it involve investment. Poor people, unlike the better off, could not invest time and money to maintain their ancestral graveyards, and so they used the mountains for simple burials. In historical documents, this was called *pinmin anzang* (the burial of the poor).

Of course, these four types often overlapped, as multiple benefits were derived from the same mountain land.

#### FRAMEWORK OF PROPERTY RIGHTS OVER MOUNTAINS IN QING CHINA

Any consideration of commons must include an inquiry into who was regarded as having a legitimate right to use and manage mountains. I begin with a brief survey of the notions of property rights with regard to land in late imperial China. It is well known that the notion of *Wang-tu wang-min* (which appeared in *The Book of Songs* [*Shi Jing*] and means "all land and all people are owned by the sovereign") persisted throughout the imperial period. In essence, regardless of whether it is clearly stated, principally and originally, the owner of all land was the "government" (*guan*). However, if people established themselves with suitable enterprises and started managing the land (such as by clearing land, residing on it, or opening mines), then they could be granted rights to the land, and it would be reclassified as land under the ownership of "people" (*min*). The right to gain profit from land was divided into units, which were called *ye*. These units could be sold, mortgaged,

or passed down to descendants. The person who owned the unit of profit-making (*ye*) was, for convenience, referred to as the “owner of land” (*zhu*), and the land itself was regarded as “one’s property.”<sup>11</sup>

Conversely, when no specific individual had guaranteed property rights over a particular tract of land, it was still assumed to belong to the government and so was called “government land” (*guan di*) or “government property” (*guan ye*). Hence, “government mountain” (*guan shan*) referred to mountain areas that did not belong to specific individuals.

Lands that were managed jointly by multiple individuals, including families, made up a subcategory known, in the case of mountains, as “public mountain” (*gong shan*) or “public property” (*gong ye*). These mountains or properties were also “people’s property” (*min ye*), rather than part of “government property.”

Not all government mountains were managed in the same way. From examples given in historical records, we can distinguish three patterns of management of government mountains. It is possible to classify the land designated in Qing dynasty historical records as “government mountains” into three types, according to who used and managed it.<sup>12</sup> The first type of “government mountains” were those used and managed by the government or individuals to whom the government gave this authority. Examples include the mountains around Shengjing (Mukden), which provided wood and ginseng for imperial use, the mountains preserved for the Emperor’s autumn hunt, and the land used for the imperial tombs.<sup>13</sup> It was necessary to distinguish these activities, particularly from private business, since these advantages were only afforded to the emperor or the imperial family.

Regarding the second type of “government mountains,” the government and the common people were forbidden from using resources from these regions. These were mountainous regions that had been the sites of rebellions, or were believed to be likely to be used for such acts, and therefore no one had the right to utilize such areas. This type of mountainous area was also sometimes called “banned mountains” (*fengjin shan*). We can find some examples in late imperial China, such as the Tongtang Mountains along the border between Fujian and Jiangxi, in addition to certain mines that had been shut down. These were called “government mountains” as a reminder that the use of their resources had been halted at a certain point in time.

The third type of “government mountains” were those that the government did not manage or utilize and where no individuals were given exclusive legitimacy to generate profits. Mountains of this type were mostly located near villages, and as noted later, villagers used these lands daily. Concerning this third type of “government mountain,” Noboru Niida noted that there was no individual ownership over these regions and anyone had the right to access them.<sup>14</sup> Akira Morita quoted the description in the Gazetteer of Funing (in Fujian province) and claimed that such “government mountains” were open access. He repeatedly emphasized that

these mountains were exposed to a wave of privatization, although this was limited because the condition of such lands was poor.<sup>15</sup> Menzies also cited this material and observed that the state's "policy of inclusion" might have been practiced in such mountains.<sup>16</sup>

The term "government" (*guan*) was not only used with "mountain" but also with various natural resources.<sup>17</sup> We can, therefore, observe some indications that these "government mountains" were open access. Consequently, I analyze these mountains' "openness" in detail in comparison with the case of "public mountains," and describe how the forests provided for the basic needs of local people in Qing China, and whether there were any rules for their management.

#### MANAGEMENT AND USE OF "PUBLIC MOUNTAINS"

As noted earlier, the phrase "public mountain" (*gong shan*) refers to those mountains that were owned in common. Although it was not stated in historical materials that regions were "public," a description such as "this family's (or lineage's) mountain" meant that the mountain was held in common by one family or lineage. I will first analyze the range of coownership. Possession by families of the same surname was the most general and these mountains were also known as "lineage property" (*zu chan*). There are some examples of coownership by multiple families.

Conversely, in cases where a mountain was owned by a lineage or other group, not all members of the group necessarily had free access to the mountain. We can find examples where a person who had changed his family name and entered the lineage would not receive much profit from the public mountain (JQX, 533). In another case, a husband who entered the family as bridegroom to a widow had no share in the public mountain (Zheng and Xiong 1999, 274). Furthermore, some people may have been restricted from having cultivation rights upon the mountain because of bad behavior (JQX, 906).

There were many examples of mountains owned in "partnership" (*hegu*) rather than by a family; multiple individuals might own a mountain based on joint financing arrangements. Such a case could also be designated as one of a "public mountain." For enterprises with high commercial value, such as timber or charcoal, coowners might establish a rule for dividing the profits. In some cases profits were divided by dividing the land itself (ASX, no. 73818, no. 75002), while in other cases the agreement was based on sharing in the profits (JQX, 60, 534). In Wuning County, Jiangxi province, the Wang family's mountain was rented to Erxian Zhuo, and the rent was for public use (JQX, 1348). In the case of Mao County, Sichuan province, the public mountain was rented to a family of another surname to grow trees timber (JQX, 693) or cultivate maize (JQX, 810).

However, even if the rights were divided among individuals, there were often contrary opinions as to whether owners could sell their shares to others. In a case

in Changhua County, Zhejiang province, Jiayou Wu intended to sell a share of the right over “Muzhuping public mountain” and was searching for a buyer. While Jiayou Wu was negotiating a sale, Wu Facheng (of the same lineage) refuted the assertion that the mountain was public, and consequently, no one was able to sell their share (JQX, 60). In another case, in Jiangshan County, Zhejiang province, Shugen Wu sold a public mountain arbitrarily to Jizong Jiang, with Tingcang Wu as a mediator. In court, the seller, the mediator, and the buyer were punished (JQX, 261). Public ownership can be seen to have aroused quarrels easily. In the year Jiaqing 9 (1804), Guangfu Xu of Shangrao County, Jiangxi province, did not wish to buy the Tong Shitang family’s private mountain, because it was next to a public mountain and so could easily become involved in quarrels (JQX, 41).

There are many examples of people crossing the boundaries onto a neighboring mountain and then being challenged. It seems that the land boundaries were clear and outsiders were not allowed to enter. Occasionally, a very small quarrel concerning borders triggered armed battles between lineage groups (ASX, no. 197020). Although there were rules about profit sharing with regard to certain products of the mountain, all those who shared the rights to the mountain could freely gather firewood or other products that required no investment. For example, Zonglu Zhang of You County, Hunan province, cut the grass on the public mountain daily (JQX, 496). In the case of Changsha County, Hunan province, the Li lineage and others had a public mountain called “Yanjia Tang,” which provided firewood that could be gathered by anyone of the Li lineage. Li Maoqi also had his own trees on the mountain. As Maoqi Li was afraid of his trees being felled by others, he suddenly erected a stele to prohibit firewood gathering. After a violent quarrel, Maoqi Li died from his wounds. In the ruling on this case, the judgment was to “keep these mountains for public use” (ASX, no. 148). In the case of Yongjiang County, Zhejiang province, the Xie lineage and the Wang lineage owned a mountain in common, and it provided for both lineages (ASX, no. 15396, ASX, no. 45653).

There were some examples where a clear statement was made about the mountain in a decision, but this was infrequent, because the matter of utmost importance was to decide on the punishment of the criminal. The decisions dealing with public mountains varied. For example, “All of the firewood in the mountain ought to be prohibited from being cut, so as to stop quarrels” (JQX, 268), and “The public land that Xie Hui and Xie Kai hold must be separated in half and managed separately. A clear boundary must be set up to avoid conflict” (ASX, no. 15396). However, in judgments, magistrates nearly always made rulings based on the stated aim “to stop future disputes.” Although this attitude may seem superficial, it was a direct expression of the Qing government’s position. In summary, we can say that a “public mountain” was open to insiders or stakeholders, but closed to outsiders. The Qing government almost always preserved the local use of the mountain, except when it led to quarrels.

MANAGEMENT AND USE OF  
“GOVERNMENT MOUNTAINS”

“Government mountains” were open-access to anyone, and to engage in an enterprise of one’s own on such mountains was generally prohibited, because this obstructed the rights of others. In the year Qianlong 10 (1745), Fake Xie of Haifeng County, Guangdong province, went to the mountain to fell miscellaneous small trees for making charcoal. After he had cut three branches, Junxiang Lai approached hurriedly and sharply admonished him for stealing the pine and cypress trees that he had cultivated. Fake Xie denied this allegation, retorting that the branches he had cut were from miscellaneous small trees on the mountain. The judgment stated: “On the trees on the government mountain, Junxiang Lai is only in charge of the land where he had planted the pine and cypress trees, other miscellaneous trees must be reserved for gathering firewood for the poor. Fake Xie need not return the three branches that he had cut, because they were not from the trees that Junxiang Lai planted” (ASX, no. 13518).

Let us consider another case. In March in Qianlong 12 (1747), Yalong Chen of Lianping District, Guangdong province, designated a piece of grassland in Litong’ou as his property, stating that he intended to cut the grass in the autumn. On August 15, Yalong Chen cut the grass and piled it on the ground. Three days later, Shizong Ou also went to the mountain to cut the grass; however, Yalong Chen claimed that he had already claimed the grass on the mountain as his, so others should not cut it. The judge declared that Litong’ou was a government mountain, so the firewood and grass on the mountain should be reserved for gathering by the poor, and no one had the right to declare those resources as his own in advance (ASX, no. 43620).

In a case in Le’an County, Jiangxi province, in Qianlong 14 (1749), the records show that a government mountain named Niueling was reserved as an area where anyone with any surname could gather firewood. Furthermore, after a quarrel between lineages about cutting trees, the judge ordered each lineage to present a confirmation about the use of the mountain where persons of that family name could undertake firewood collecting, in order to stop quarrels (ASX, no. 50512).

In another case, there was a government mountain named Wushi behind the Ceng family’s house. Fulong Ceng found that lime could be extracted from the mountain, so he gathered friends, invested, paid a wage to one, Chaohuai Zhong, and others, and prepared to dig lime out of the mountain. However, a judgment was issued to stop such digging, and it was declared that in order to prevent quarrels, no one could enter that area and dig into the mountain. This judgment was based on the illegality of encroaching on the government area, even for those living nearby (JQX, 133).

From these examples, we can extract some rules and principles regarding government mountains. As a rule, such mountains were open-access to anyone; everyone could use the profits gained from them through gathering firewood and

grass. To engage in an enterprise of one's own on such mountains was prohibited, because this obstructed the rights of others. However, in cases where it would not prevent the access rights of others, it could be permitted, subject to certain limits.

### FORESTS FOR LIVELIHOOD

It is worth questioning what kinds of people have priority to use common land. Regarding the nature of the hierarchy used in the commons, there are various examples in many regions. For example, Hiroyuki Torigoe claimed that in *Iriai-chi* (village common land) in Japan, the weak were allowed to use more resources than others,<sup>18</sup> whereas Yanagisawa Haruka argued that rich, large-scale farmers who owned abundant farmland also enjoyed great profits from the commons.<sup>19</sup> It is necessary to investigate which type of use better represents the situation in China, or whether the Chinese case was unique.

Many KKT records describe "gathering firewood in the forest" as a means of livelihood that was related to poverty. We can find many examples that say the needy could satisfy their basic needs from forests. Of course, for the common people, collecting firewood from the mountain around the village as fuel for daily life was performed routinely. However, if people made a living only by gathering and selling firewood, they were seen as poor. We consider some examples later.

Shouer Zhou of Xinyu County, Jiangxi province, made a living by selling firewood. One morning, Zhou attempted to wake his wife, Mrs. Sun. However, she was lazy and talked back to him. Shouer Zhou was so angered by this that he struck his wife. After a struggle in the kitchen, Mrs. Sun died from her wounds. In his testimony in this case, Shouer Zhou said: "my family is poor, so I earn money by gathering firewood," stressing his family's poverty (ASX, no. 71519).

The next example shows that gathering firewood was an activity taken into consideration when making a judgment in court. In Yongfeng County, Jiangxi province, the Wu lineage's mountain and Wang lineage's mountain were close to each other. One day, Sisheng Wu gathered firewood on the Wu lineage's mountain. Xili Wang happened to pass by and, suspecting that Sisheng Wu was collecting firewood on the Wang lineage's mountain, hit Sisheng Wu. After a struggle, Sisheng Wu beat Xili Wang to death. In the court, the magistrate (presiding as the judge) took into consideration the situation that Sisheng Wu was the only adult son of his mother, and whether he was one of the "poor little people who gather firewood" (ASX, no. 50115).

The case later involved a man and his wife from another county who organized a gathering. Chen Shenshan was born in Chengmai County, Guangdong province, and moved to the next county, Ding'an, in Qianlong 1 (1736). One morning, Chen and his wife, Mrs. Li, went to the mountain to gather firewood and returned home in the afternoon (ASX, no. 27934).



Furthermore, the needy relied on their relatives and might ask permission to make a living by gathering firewood on a relative's mountain. Zhenqi Liang lived with his wife, Mrs. Feng, in the house of Shangzhi Pan, who was Liang's second eldest sister's husband. In September of Qianlong 19 (1754), Zhenqi Liang and Mrs. Feng went to the house of Tianjue Xie, Liang's eldest sister's husband, and implored him: "Our family is very needy; please let us move here and make a living by gathering firewood." Tianjue Xie considered his kinship with them and allowed them to live with him. However, unexpectedly, there was no firewood to cut down on the mountain. On October 13 of that year, Liang and Mrs. Feng traveled back to Shangzhi Pan's house (ASX, no. 41692).

These examples show how impoverished people made a living on the mountains. Some even said that they were poor and lived with firewood as a matter of course, and it was not unusual for impoverished people to ask a person close to them to allow them to take firewood from a mountain. It may be risky to assume that mountains and forests always functioned as a safety net for the needy. However, the words "gathering firewood for livelihood" were recorded not only in these legal cases, but also in the historical materials from many other periods. Therefore, the collection of firewood in the mountains by the poor seems to be more common than expected.

Concerning examples from the XKTb, we can conclude that the Qing government is primarily interested in preventing disputes. This was increasingly a problem in the later Qing, as population pressure forced more of the poor into trying to gain things from the mountains. Therefore, the prevention of conflicts helped preserve the place where the poor gathered firewood.

However, it seems that the Qing government had little obvious intent to keep the mountains covered by forests. In fact, forests on government mountains were also vulnerable as their cultivation was not legally prohibited. Since the population increased almost continuously throughout the Qing period, it was important to enlarge cultivated areas and to increase food production.

#### A PROPOSAL TO PLANT TREES ON "GOVERNMENT MOUNTAINS" IN THE EIGHTEENTH CENTURY

In Qing China, unlike cases in Germany and Japan, the dynasty was less often engaged in long-term silviculture management.<sup>20</sup> Although Qing authorities did not usually engage in silviculture, one mid-eighteenth official did draft a proposal to engage in such activities. His proposal mainly aimed to keep the "government mountains (*guan shan*)" as commons for the local "little people" to gain things from there.

In eighteenth-century China, the population increased approximately threefold, and reclamation of land was progressing incrementally. In 1757, taking the state's condition as background, Pengnan Wu, an Imperial censor in Jiangnan province,

presented a memorandum to the Qianlong emperor. The title of the memorandum was "Instruct Bureaucrats in the Empire to Conduct a Policy on Mountain Forests, and Enrich Civilian Use." The memorandum stated the following:<sup>21</sup>

The peaceful time has lasted long, and the population in our empire has increased; however, goods that are produced are not keeping up with the need of the materials to be used. So, we must undertake politics to improve people's living conditions.

I heard waters are blocked up, ponds dried up, lands and mountains went bald; therefore obtaining everyday goods is gradually getting more difficult and prices have increased remarkably. The price of firewood has doubled, the price of building materials increased threefold, and the price of the mast of a ship increased fivefold.

The reason is as follows: Requirements of [timber materials] increased day by day and more people are felling many trees. However, they are logging only in the "government mountain"; they only seek [timber] and do not pursue arboriculture. Nourishing the trees takes time, but cutting trees takes only one moment. This is the first reason.

Ignorant people not only take branches but also remove trunks and roots. In such a way, people can only obtain a temporary profit, but the tree will never come to life again in the following year. This is the second reason.

And besides, there is a lazy trend. If it is difficult to take away creeping weeds, one can easily remove them by setting fire to mountains. Therefore, in all the towns and countryside, people often burn the forest down. The people are going to reduce a temporary burden and let the neighboring forest be reduced to ashes.

In these sentences, Pengnan Wu highlighted that population increase had caused deforestation, which depleted water sources and caused soil runoff. He also notes that the forest resources, as necessities of life, had become rarer and their prices inflated. Furthermore, Wu argued that the deforestation had increased only on "government mountains," and no trees had been planted there.

Wu repeatedly compared the situation with the "government mountain" to that of "private property":

I was born in Fujian, where half of the land is high mountains. I always knew how to plant trees there, and I recognized that planting ten thousand young trees only costs thirty or forty teals of silver, and they grow in less than three years so that one can get the capital. The situation is the same in Jiangxi and Lingnan. In Jiangxi, Zhejiang, Henan, and Shandong provinces, it is slightly more difficult to plant trees, but you can still plant ten thousand young trees for less than one hundred teals of silver. However, this only takes place on "private property." No one plants trees on the "government mountain."

This statement should be considered in relation to the following description, which was given in the same period and concerned Wu's native land, Fujian:

Most of the land in Fujian is "government mountains," with no prohibition on cutting timber. Any branches or twigs that grow are burned or taken away, and people even dig up the roots to use as cooking fuel so that nothing can grow again and the

mountains become barren. However, where the mountain belongs to someone, industrious owners plant pine, *Cunninghamia*, bamboo, tung oil tree, and tea oil tree, earning themselves considerable profits.<sup>22</sup>

This also articulated that with the situation of “open access,” with no prohibition on public use, “government mountains” were becoming barren.

We can conclude that Wu recognized that the government mountains were extremely important for local people’s lives, and he was also fully aware of the open-access nature of the government mountains and even noted a kind of “tragedy of the commons” (or “tragedy of open access”). Of course, these trends should be considered in the context of population growth and resource shortages. Furthermore, Wu might have realized the need to provide the people with the means to satisfy their basic needs, such as firewood, by planting trees with the authorities’ help. Based on the notions earlier, Wu proposed giving incentives to government officials, gentlemen, and common people to plant trees on government mountains. This suggestion gained the approval of the Qianlong emperor; a document was then circulated to each local official through *gongbu* (“the board of construction”), and the actual condition of government mountains was investigated by local officials.

However, responses from the local government officials regarding giving tree-planting incentives were predominantly negative. Not all of the local government officials fully understood the significance of Wu’s proposal. The reasons for this negativity can be classified as follows: The most frequent reason was that there was no government mountain on which to plant trees in the district concerned, or the existing government mountains were so barren that no plants could be cultivated. Another frequent reason given was that government mountains were lands that lacked ownership and were used by the poor for gathering firewood or for burial, so it was desirable to leave them untouched. In addition, some officials argued against providing incentives because tree planting was the duty of local officials. Furthermore, some officials suggested that the land should not be maintained as “government mountains,” but instead changed to “private properties” to better utilize people’s capacity.

After the replies from each local government official had been submitted, and despite their widespread objections, official regulations were introduced to establish incentives for tree planting and these were given to local officials and gentlemen. However, the proposals were vague in their contents and their impact was so slight that we cannot trace evidence of the regulations being subsequently implemented in practice. Wu’s aim to keep government mountains covered by forest did not bear fruit.

The mountains in Qing China may be classified into two types: the mountains from which any individual had the right to derive profits, called “private property,”

and those from which no one had the right to derive profits, called “government mountains.” Of the former type, some were owned by individuals, but in many cases, they were owned jointly by various means. These jointly owned mountains were called “public mountains.” All members of the coownership could freely gather firewood and pasture on these mountains, which often had boundaries and were closed to the outside world. Therefore, if nonmembers crossed a mountain boundary, the members would attack them. To summarize, these lands were “open” to members, but “closed” to others. The second type of mountain was called “government mountains”: essentially, anyone could access them and could gather firewood and bury ancestors freely thereon, provided these activities did not disturb the mountain’s use by other people. This type can be classified as an “open” mountain. Both of these types of mountains, though their openness is different, had the function as “commons,” and served as a reliable source of people’s daily necessities.

Making a living by gathering firewood was considered to be standard practice for the poor and weak. Thus, it may be said that, to some degree, allowing use of the public or government mountains was intended to ensure the survival of the disadvantaged. Both types of mountains could therefore be called a kind of “commons” for the poor in early modern China. On government mountains, the legitimacy of these lands’ use was specified by the Qing government, and ultimately by the emperor himself. In these mountains, the Qing government determined policies through directions appropriate not to disturb the people’s daily use, but to prohibit ownership by individuals for profit-making purposes. However, it is difficult to deduce to what extent the Qing imperial court took an active role in providing livelihoods for the weak and poor while maintaining the reproduction of sustainable resources. As far as can be discerned from the records, it seems that the prevention of disputes in these mountains was the government’s main interest. Even if this deduction is correct, we can conclude that some of the poor’s basic needs were nonetheless addressed by these policies. In the eighteenth century some proposed actively prescribing that the forest covering the “commons” must be preserved; however, the actions of the Qing government were too vague to institute changes in the management and use of land on such a large scale.

The findings presented are expected to contribute to a better understanding of commons in China and a basis for comparison with similar examples in other regions. However, there are still many unanswered questions. Most of the evidence in this chapter comes from southern China, where forest resources are relatively abundant. The term “government mountain” appears most frequently in historical records from Jiangxi, Guangdong, and Fujian. Further study is needed to examine differences between the regions. In addition, it will be necessary to consider these issues from the perspective of the non-Han people’s customs of forest use, as they have a long history in southern China’s mountains.

Disagreements over the use and management of forest resources have become a more urgent subject in modern times, as both officials and the people have become aware of the sparse forest cover in China in comparison to other areas in the world, and afforestation has consequently become an important policy issue. Conflicts have arisen when authorities established national or public forests or disposed of areas that “no one had the legitimacy to possess,” which actually were often the areas of people’s daily use.

Based on newly established forest laws or regulations in the late nineteenth century and twentieth, many “government mountains” and “government wilderness areas” (*guan huang*) were sold or were lent to common people or local entities, and authorities tried to establish exclusive ownership in forests. However, there were many appeals against these actions, citing such reasons as “the mountain is for people gathering firewood and it is unsuitable for occupation.” This indicates that some form of the “forests as commons” still functions as a source of resources for basic needs in contemporary China.

## NOTES

1. There are various definitions of “commons” offered by many researchers; this definition of commons is based on Inoue 2004.
2. One well-known study is Ostrom 1990. With regard to developing the study of commons, see Mitsumata 2014.
3. Tanaka 1925, Hatada 1973.
4. Hatada 1973.
5. To give some representative examples, Menzies categorized several kinds of forest and argued about the land management of forests in late imperial China by using various documents as well as reports produced under customary law in China (Menzies 1988, 1994, chap. 5). Perdue claimed that a redefinition of Chinese land property rights was in progress, as a response to new trends of population growth, commercialization, and ecological exploitation in eighteenth-century China (Perdue 2002). Quoting examples of *kai yezi*, Suga Yutaka reached the conclusion that Chinese commons were a result of “passive, defensive cooperation” and were maintained by networks of individual relationships, not by villages with definite boundaries and membership (Suga 2009). Ōta Izuru articulated that some parts of the water surface of near Taihu Lake could be regarded as a form of open-access commons (Ōta 2009). Hirano Yūichirō and Okuda Shin’ich considered forest policy in present-day China, showing people were pressed for various responses with the change of the forest possession policy by the nation (Hirano 2008, Okuda 2014).
6. For further information about KKTB, see Horichi 2012. Osborne and Buoye also investigated land problems using this kind of material (Osborne 2004, Buoye 2000).
7. Du 2008.
8. For example, mulberry trees (an example can be seen in JQX, 22), the cultivation of other trees (JQX, 591; i.e., *Cunninghamia lanceolata*, JQX, 1785), fruit trees (JQX, 1565), *tong cha* (JQX, 1227), cy-presses (ASX, no. 119973), the cultivation of bamboo (JQX, 721), the grazing of maize (JQX, 810), selling trees (JQX, 809), cultivation (many references), and plantations of indigo (JQX, 1248).
9. For example, coal mining (JQX, 230), grazing (JQX, 590), gathering bamboo shoots (ASX, no. 44535), making charcoal (JQX, 547, 905, 1248), gathering and making lime (JQX, 1248), cutting grass for fertilizer (ASX, no. 1306), cutting grass for raising cattle (ASX, no. 89904), and collecting dung

(ASX, no. 73119). The most popular activity of this type was “gathering firewood,” which served not only for daily use but also for fertilizing the land and making bricks (ASX, no. 72825).

10. On this type of use, some historians discuss in detail the regulations concerning the sale of graveyards and neighboring land and trees. See Nakajima 2004, Wei 2015.

11. On the notion of *wang-tu wang-min* and *ye*, see Terada 1989 and Kishimoto 2011.

12. This classification is mainly based on Morita 1984.

13. Menzies 1994, chap. 3.

14. Niida 1962.

15. Morita 1976.

16. Menzies 1994, chap. 6.

17. Ōta Izuru based his study on a survey of the fishermen at Taihu Lake, arguing that the surface of the water, called “government lake” (*guan hu*), was also open access, with no one having exclusive rights to it. Furthermore, he observed that the surface of the water provided materials for the livelihood of “little people” (Ōta 2009).

18. Torigoe 1997.

19. Yanagisawa 2012.

20. Saito 2014.

21. This section is based on Aihara 2007. Wu’s memorial was copied by Junji-chu (office of Grand Council of State) and in the collection of *Junji-chu Lufu Zouzhe* no.0978–035, in the First Historical Archives China.

22. *Funing Fu Zhi* (Gazetter of Funing, in Fujian Province), printed in 1762, chap. 32, 24b.

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