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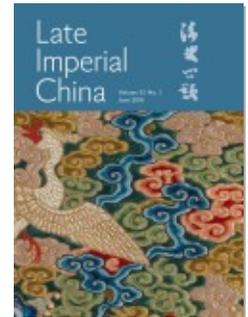
## Administrative Law and the Making of the First Da Qing Huidian

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# Administrative Law and the Making of the First *Da Qing Huidian*

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In the fall of 1690, after decades of development and deliberation, the Qing court issued the first edition of the collected statutes of the dynasty. This hundred-volume compilation pulled together all organizational stipulations for government personnel, as well as the institutional regulations and codes for administrative procedure and activity. It incorporated rules pertaining to political and administrative actors, including the emperor, and outlined the organization and operations of every office and political station of the Qing state. These compiled regulations were, for all intents and purposes, the administrative law of the Qing Dynasty.<sup>1</sup> This was the *Da Qing huidian*, and it laid the

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\* The idea for this article developed in a conversation with my dissertation advisor, Mark Elliott, whose advice and comments on numerous drafts have been invaluable. Michael Chang read and commented on an early draft as a panel discussant at the 2014 Northeast AAS conference, and continued to provide valuable feedback on subsequent revisions in his role as an editor for this journal. I would also like to thank Michael Szonyi and Ian M. Miller for their detailed comments, as well as John Gregory, Nancy Park, David Porter, Teemu Ruskola, and the two anonymous reviewers. Additional research and final revisions were completed during my year as a Jerome Hall Postdoctoral Fellow at Indiana University Maurer School of Law.

1. I follow a broad understanding of administrative law, defined as the institutional organization of the state, and the rules and regulations for administrative procedure, including the duties and responsibilities of administrative personnel. See Cane, *Administrative Law*, 5th ed., 14; de Laubadère, Venezia, and Gaudemet, *Traité de Droit Administratif*, 14th ed., 13–25. A narrow definition of administrative law can be found in studies of American law, which emphasize the role of the judiciary in protecting private rights from abuses of state power. For the classic formulation of this definition see Stewart, “The Reformation of American Administrative Law.” Also see Head, *Administrative Law: Context and Critique*, 3rd ed. For a brief discussion of the application of these definitions to China see Ohnesorge, “Administrative Law in East Asia,” 79–82.

foundation for the running of the Qing state and its multiethnic empire for the next 220 years.

The pages that follow explore the making of the first *Da Qing huidian* (which is also known as the Kangxi *Huidian* because it was commissioned and produced under the Kangxi emperor).<sup>2</sup> I explain the formation of the rules and regulations for the Qing administration beginning with the establishment of the six boards in 1631 and ending with the publication of the Kangxi *Huidian* in 1690. I chart the administrative problems that arose in the early Qing, and how state-makers turned to the Ming *Huidian* for answers but consistently found it unable to provide solutions for the Qing context. This led to calls to produce a Qing-specific *Huidian* that would account for innovations in administrative structure and apparatus. I argue that the Qing *Huidian* was not merely a copy of the Ming document of the same name; rather, it was a compilation of the regulations that developed in response to administrative and political challenges over a sixty-year period, and did so in tandem with the development of the Qing state.<sup>3</sup> To put it another way, this Qing-specific document was as much a product of early Qing state-making as the Qing state was its result.

A second equally significant finding is that the Qing had administrative law. This article counters the view that administrative

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2. There is a debate among historians about the existence of a Chongde *Huidian*. In short, Chinese scholars argue that the Qing produced a *Huidian* in 1636, while Japanese scholars refute the claim. The debate was sparked by Zhang Jinfan and Guo Chengkang in a 1983 article over the existence of the characters “huidian” in reference to fifty-two regulations that appeared in a copy of a Shunzhi-era *Taizong shilu*. Shimada Masao and Kanda Nobuo each independently investigated the claims, and each concluded that there is no substantial or convincing evidence that such a *Huidian* was composed or existed. Kanda determined that all uses of “huidian” in the early Qing referred to the Ming *Huidian*. The published articles of the debate are reproduced along with a rejoinder in Zhu Yong, ed., “*Chongde huidian*,” “*hubu zeli*” *ji qita*. For a summary of the debate see Li Liuwen, “*Da huidian yanjiu*.” I agree with Shimada and Kanda that there was no Chongde *Huidian*. The regulations referenced by Zhang and Guo were not part of a formal compiled text, but rather referred to regulations that later came to be included in the Kangxi *Huidian*.

3. I refer to the state here and throughout as an organization that not only held a monopoly on the legitimate use of both physical force (Weber) and symbolic violence (Bourdieu), but also the power to set binding rules that were backed up by that force (Mann). See Bourdieu, “Rethinking the State”; Mann, *The Sources of Social Power*, 37; Weber, “The Profession and Vocation of Politics.”

regulations in pre-modern China were merely “like a set of specialized penal law used to discipline a bureaucracy in the performance of its tasks,”<sup>4</sup> making them synonymous to a list of punishments meted out by the patrimonial ruler. Rather, as shown below, the intent behind the regulations of the *Huidian* was to lay out enforceable procedural requirements that regulated administrative activity, as well as to set binding rules about the organizational structure of the state and the relations among actors and internal agencies. This is the definition and function of administrative law.<sup>5</sup>

Scholars have long recognized the importance of the *Da Qing huidian*. As early as the nineteenth century, scholars turned to it in search of Chinese constitutional law;<sup>6</sup> at the beginning of the twentieth century, H.S. Brunnert and V.V. Haglestrom based their entire investigation of the Qing state on the *Huidian*.<sup>7</sup> Similarly, Thomas Metzger’s penetrating study of the Qing bureaucracy drew heavily on the *Huidian* for his discussion of Qing administrative procedure and the process of rule-making,<sup>8</sup> and modern-day Chinese and Japanese historians have explored in detail the structure and nature of the *Huidian* of both the Ming and Qing dynasties, yielding a wealth of knowledge about the text through their efforts in outlining the different editions, discussing the kinds of materials used and number of editors employed, and charting the years covered in each edition.<sup>9</sup>

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4. The quote is from a discussion about views of administrative law in premodern China in Ohnesorge, “Administrative Law in East Asia,” 81. (To be clear, this is not Ohnesorge’s position.)

5. Despite the otherwise excellent analysis, most of the literature on contemporary China takes as its premise the lack of a precedent of administrative law in late imperial China. Susan Finder, for example, writes that administrative law was introduced to China in the early twentieth century. Finder, “Like Throwing an Egg against a Stone,” 1. Similarly, John Ohnesorge, while acknowledging a tradition of law in China, proceeds by analyzing the “modern system of administrative law” as distinct and divorced from anything that came before. Ohnesorge, “Chinese Administrative Law in the Northeast Asian Mirror,” 137.

6. Preston, “Constitutional Law of the Chinese Empire,” 13–29.

7. Brunnert and Haglestrom, *Present Day Political Organization of China*.

8. Metzger, *The Internal Organization of Ch’ing Bureaucracy*.

9. For a good overview of the different editions see Yamane, “Min Shin no kaiten.” For a comparison of the different editions of the Ming *Huidian* see Yuan Ruiqin, *Da Ming huidian yanjiu*. Two representative works on the Qing *Huidian* are Guo Songyi, “Qingchao de *Huidian* he zeli”; Lin Qian, “*Qing Huidian* de lici zuanxiu yu Qingchao xingzheng fazhi.”

Despite these contributions, little is known about the initial compilation of the Qing *Huidian* and its relation to the Qing state. Much of the scholarship on the *Huidian* views the formal rules it lays out as separate from and preexisting the social and political order that took shape in the early Qing. Such research often assumes the law to be something already formed and contained in code, which is then applied to the new social order. In this view, either the *Huidian* becomes the object of analysis in itself, divorced from the social reality from which it arose and attempted to regulate, or it pre-exists the social world and appears as a prescriptive document for the activity of social actors.<sup>10</sup>

Historians often understand the Qing *Huidian* as a revised copy of the Ming *Huidian*, and see Qing state-makers appropriating the Ming *Huidian* upon the conquest of China and rebranding it with a new dynastic name.<sup>11</sup> In fact, until recently, scholars assumed that Qing institutions and practices were either copied or borrowed wholesale from the Ming — a position that is consistent with a view that the Manchus moved into Beijing and adopted the administrative infrastructure of the collapsing Ming<sup>12</sup> — and then implemented Ming laws with little revision except changing the name of the dynasty in the title of the code.<sup>13</sup> Given this analysis, there was little incentive to ask about the nature of Qing law

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10. This latter position is most prominent in those works that take law as their subject. Of those works cited above especially see Lin Qian, “*Qing Huidian de licì zuanxiu*.” Bodde and Morris explicitly say as much in reference to the Qing code. Bodde and Morris, *Law in Imperial China*, 60. For a general discussion of this kind of treatment of law in the historiography see Alford, “Law, Law, What Law?,” 398–419.

11. As one example of this kind of thinking see Van der Sprenkel, *Legal Institutions in Manchu China*, 56.

12. For example, Spence and Wills highlight the administrative structure as a point of continuity in the Ming-Qing transition. Spence and Wills, eds., *From Ming to Ch’ing*, xi-xxi. For recent statements of this view in terms of the Qing state see Henry Choi Sze Hang, “China, Imperial: Qing or Manchu Dynasty Period, 1636–1911”; Pei Huang, *Reorienting the Manchus*.

13. The general trend of earlier scholarship was to conflate Qing law with all of Chinese law in order to make general conclusions about law in premodern China. To this end, scholars would draw on legal texts and codes from across Chinese history—from the classics through the Qing—to illustrate a conception of law based on hierarchy, community, respect for authority, mediation, and harsh penalties. This scholarship argued that China lacked a rational legal system and was an obstacle to progress. For two prominent examples of this approach see T’ung-tsu Ch’u, *Law and Society in Traditional China*; Bodde and Morris, “Basic Concepts of Chinese Law.”

as distinct from the Ming, or any other dynasty, let alone investigate the formation of the Qing *Huidian*.

Scholars have recently argued, however, that the Manchus constructed new institutions, incorporated new actors, and built a multiethnic empire. Qing institutional innovation both modified existing administrative offices and created new ones to deal with the problems that arose in their new political context;<sup>14</sup> Manchu-specific organizations and institutions, such as the Eight Banners, facilitated conquest and expansion;<sup>15</sup> and new administrative techniques and strategies were employed to rule a vast territory that incorporated borderlands and different ethnic groups with varying cultural and political practices.<sup>16</sup>

This understanding of the nature and development of the Qing raises questions about the structure of the Qing state, as well as the content of the law and its relation to administration: How was this multiethnic state built? What changed and what remained the same across the dynastic divide? How were old institutions, such as the offices of the six boards, modified? How much of the legal code was borrowed from the Ming and how much was created anew? Indeed, given recent research showing the Qing advancing and developing in ways different from other Chinese dynasties, it would seem unlikely that the Manchus merely copied Ming institutions and laws.<sup>17</sup>

This article pursues these questions through an investigation of the making of the *Da Qing huidian*. In doing so, it helps reconcile our understanding of the rules and regulations for the organization and operation of the Qing state with what we know about Qing institutional innovations and developments. It looks at key issues articulated by early state-makers and how officials responded in law and practice. The rules

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14. The creation of the provincial governors, for example. Guy, *Qing Governors and Their Provinces*.

15. See Mark C. Elliott, *The Manchu Way*.

16. For an overview of the work in this area see Waley-Cohen, "The New Qing History."

17. Recent scholarship has shown the advances and developments of Qing law and the legal system, to be sure. Much of this research explores developments in the eighteenth and nineteenth centuries, however, with little work done on the initial formation of Qing law. But cf. Xiangyu Hu, "Reinstating the Authority of the Five Punishments." Furthermore, to date, little work has been done on administrative law. For a collection of recent research in Chinese legal history see Li Chen and Zelin, eds., *Chinese Law: Knowledge, Practice and Transformation*.

and regulations that went into the Qing *Huidian*, for example, were not preconceived or borrowed practices, but rather emerged out of debates among early Qing administrators and state-makers about how to run their state and the shortcomings of the Ming *Huidian* as a framework for Qing institutions. In this way, the article shows that the formation of Qing administrative organization and regulations cannot be separated from the state-making process, but rather that they developed in tandem.<sup>18</sup> In order to understand the Qing state, we must understand the formation of its administrative law.

The four-part argument below demonstrates that Qing state-makers compiled the Kangxi *Huidian* in response to particular problems that the Ming *Huidian* could not address. It further shows that the rules and regulations developed by Qing administrators as they confronted these problems became Qing administrative law. The first part offers a short explanation of the nature and history of the document called *Huidian*. The article then moves to look at how Qing officials made use of the Ming *Huidian*. It draws on officials' memorials to show that Ming regulations served as a convenient standard for administrative organization and procedure, as well a source of guidance in the areas of state sacrifice and foreign affairs. The third section explores the shortcomings of the Ming *Huidian* as seen by Qing actors, and outlines the numerous calls from Qing officials to compile new regulations and decrees into a Qing *Huidian*. This section highlights three key concerns about the Ming text as seen in the documents: it could not account for the structure of Manchu political organization, it did not provide regulation for different political actors and ethnic groups, and it did not address relations with Central Asian states. The Kangxi emperor finally acceded to the request for a new *Huidian* in 1684, as discussed in the final section, when he ordered the compilation and codification of Qing regulations. This was published in 1690 as the *Da Qing huidian*.

The analysis is based on a survey of the documentary evidence. In addition to the various Ming and Qing editions of the *Huidian*, I consulted extant memorials from the Tiancong, Chongde, Shunzhi, and Kangxi reigns, which are now housed in the First Historical Archives in Beijing and the Grand Secretariat Archives in Taipei. The hundred-

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18. Kent Guy refers to this as "tinkering." Guy, "Who Were the Manchus?," 162–63; Guy, *Qing Governors and Their Provinces*, 8.

plus documents referenced for this article, from archives and published sources, give a rich picture of the administrative concerns of early Qing officials and state-makers, and illuminate early Qing administrative activities and regulations.

I read documents with the goal of understanding the formation of the *Huidian* and the principles underlying Qing administrative law. While acknowledging the many conflicts among the different political actors and groups of the period,<sup>19</sup> this article focuses on the codification of the structures and operations of the Qing state as articulated through the *Huidian*. Other visions of the Qing state lost out in the process and did not get expressed in the *Huidian*. An exploration of those visions, ideas, and positions, and their influence over the final settlement must await another study, however.

The article reveals how contemporary actors engaged in institutional innovation as they attempted to establish the new dynasty as a legitimate source of rule-making authority. Qing political actors developed and described a new political order, as well as produced rules, regulations, codes, and guidelines to define that order. As shown below, early Qing state-makers and administrators not only saw their regulations as distinct from previous political organizations, e.g. the Ming, but also as comprising a whole in the form of the *Da Qing huidian*. Here, contemporary actors imagined a Qing state, and created a set of distinctly Qing administrative laws to organize and regulate that conception of the state.<sup>20</sup>

In this analysis, it becomes clear that the Qing had a sophisticated and complex legal system that facilitated the conquest and rule of a vast multiethnic empire. As recent research has continued to find,<sup>21</sup>

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19. I discuss the early conflicts, their consequences, and the outcomes in my dissertation: Keliher, "The Manchu Transformation of Li." The seminal studies in English on the Kangxi period and factional politics are Kessler, *K'ang-Hsi and the Consolidation of Ch'ing Rule*; Miller, "Factional Conflict and the Integration of Ch'ing Politics"; Oxnam, *Ruling from Horseback*. For a more recent overview see Spence, "The K'ang-Hsi Reign."

20. "The state is this well-founded illusion," Pierre Bourdieu once said, "[but] this place exists essentially because people believe it exists" (Bourdieu, *On the State*, 10). This study is concerned, then, with the illusion of political actors about the Qing state, and how and why the state was expressed in its own code.

21. For an overview of recent developments in Chinese legal history see Sommer, "The Field of Qing Legal History."

contrary to conventional understanding, the Qing legal tradition was not some malignant collection of particular penal codes that functioned as an instrument of power to enact and maintain social control. Nor was Qing law a primitive set of random punishments that subjugated the population, thwarted political and technological progress, and kept China from entering the modern world.<sup>22</sup> Rather, the emergent Qing legal tradition - and the administrative law of the *Da Qing huidian* in particular - laid the basis for the growth of state capacity in military mobilization and governance of an early modern empire.

### *On the Nature of the Huidian*

The text called the *Huidian* — which is often referred to in English as the collected statutes<sup>23</sup> — is a compilation of institutional rules and regulations for administrative procedures and activity. Although scholars often take the *Huidian* as a set of bureaucratic guidelines for Qing administration, it also articulates punishable offenses throughout, which suggests that it was something more than an administrative manual that merely provided guidance for official affairs.<sup>24</sup> Lu Li claims that the Qing *Huidian* is both a document of administrative law and foundational or constitutional law. She argues that the *Huidian* contained laws that regulated all state operations and laid out the rules for administrative affairs. In this way, it was distinct from a penal code, which put forth guidelines and rules for assessing guilt and punishments. At the same time, she argues, the *Huidian* served as more than just a handbook for government activity: it was the code that organized all political, social, and economic life.<sup>25</sup>

22. For a discussion of the prevalence of these views see Yonglin Jiang, *The Mandate of Heaven and the Great Ming Code*, 5–8.

23. Metzger, *The Internal Organization of the Ch'ing Bureaucracy*, 211; Wilkinson, *Chinese History: A New Manual*, 843. Historically, it has also been referred to as a constitution. Preston, “Constitutional Law of the Chinese Empire.” Liang Qichao rejected such a comparison, however, on account of the lack of a declaration of citizens’ rights. Liang took a very narrow view of the *Huidian*, seeing it as containing only bureaucratic regulations. Liang Qichao, *Liang Qichao quanji*, 3:1312.

24. Metzger, *The Internal Organization of the Ch'ing Bureaucracy*; Guo Songyi, “Qingchao de Huidian he zeli.”

25. Lü Li, “Lun Qing *Huidian* de genbenfa yu xingzhengfa de heyixing”; Lü Li, “Qing *Huidian* bianxi.” Pierre-Etienne Will echoes this position in a discussion of the Ming *Huidian*, which he calls an “administrative constitution” that was both descriptive of the structure of the state, and prescriptive of the behavior of state actors. Will, “Virtual Constitutionalism in Late Ming Dynasty,” 264.

This collection of imperial laws was organized according to the six ministries and other major government departments, helping guide officials and administrators in their everyday dealings. As the Qianlong emperor wrote in the edict commissioning the *Siku quanshu*, “The civil and military officials of our state, both of the inner and outer court, and of all positions and ranks are recorded in the *Da Qing huidian*.”<sup>26</sup> The content of the *Huidian* mirrored the administrative departments, providing detailed descriptions of each agency’s operations in respective sections. Within each section, duties were outlined for the respective department, often through a chronology of ordinances, decrees, edicts, and rescripts that had been made governing an activity in the course of the dynasty. The entry on the New Year’s Day ceremony in the Board of Rites chapter of the *Huidian*, for example, details how the ceremony evolved over the years beginning with the first ceremony in 1632, followed by precedents of the ceremony in 1636, 1651, and 1669. The entry ends with a list of other minor revisions and decrees made over the course of this time.<sup>27</sup> In this way, the *Huidian* charts the developments of regulations and practices, and generalizes a rule.

It became standard practice beginning in the Tang for a dynasty to outline administrative procedures with clear stipulation of rewards and punishments. The Tang administrative regulations, the *Tang liudian*, was based on the ancient texts, the *Zhouli* and *Shangshu*, and distilled an idealized social organization contained in these texts into an administrative code that provided instruction and regulations for governing the realm.<sup>28</sup> The Song produced a similar text called the *Huiyao*, and the Yuan had the *Yuan dianzhang*. These works were often legal descriptions, however, rather than statutes and codes, and they were organized by topic rather than administrative category.<sup>29</sup> In contrast to what would follow, these precursors were concerned with the historical precedents in reference to the previous dynasties, rather than the communication of the current state’s laws.<sup>30</sup> The Ming produced the first entirely contemporary legal statement of all the regulations, ordinances, decrees, and edicts of the current dynasty. This was done

26. *SKQS*, QL45.9.17.

27. *KXHD* 715.1916.1931.

28. Lü Li, “Lun Zhongguo gudai de liyifa;” Lü Li, “*Qing Huidian bianxi*.”

29. Wilkinson, *Chinese History: A New Manual*, 645–46, 757. Shiga, “Shindai no hōsei.”

30. Guo Songyi, “Qingchao de Huidian he zeli;” Metzger, *The Internal Organization of the Ch’ing Bureaucracy*, 217.

almost immediately upon the establishment of the dynasty by the Ming founder in the texts *The Great Ming Code* (*Da Minglü*), *The Great Ming Commandment* (*Da Mingling*), and *The Grand Pronouncements* (*Da gao*).<sup>31</sup> A hundred years later, these laws were reorganized into administrative statutes and renamed the *Da Ming huidian*, which subsequently went through four editions over the course of about a hundred years, only two of which survive.<sup>32</sup> The last edition was published in 1587 and is called the Wanli *Huidian* after the emperor under whom it was compiled. It was this *Huidian* that served as the point of reference for administrative activity in the seventeenth century, and upon which the compilers of the first Qing *Huidian* drew.<sup>33</sup>

### *How Qing Officials Used the Ming Huidian*

The Ming *Huidian* offered a standard for Qing officials in administrative and personnel affairs. It provided a point of reference for administrators on how to organize the state, run the government, uphold protocol for hierarchical order, and conduct foreign affairs. The Ming *Huidian* did not necessarily have all the answers for Qing administrators, but it provided guidance on issues that often arose in everyday dealings. Furthermore, it was a standard to which officials could refer. How many clerks would staff a particular office? When could officials take leave to care for sick parents? What should officials do at the temple sacrifices? How to receive a specific tribute mission? Answers for all these questions were found in the Ming *Huidian*.

Qing officials drew on the Ming *Huidian* for administrative guidance in four key areas: administrative organization, administrative operations, ritual and sacrifice, and foreign relations. Through their discussions about and references to the Ming *Huidian*, it becomes apparent that in seeking practical advice about how to run a state, these officials began to make claims about the larger interests and ideals of a particular vision of the Qing as a hierarchical administrative organization.

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31. See Farmer, *Zhu Yuanzhang and Early Ming Legislation*; Yonglin Jiang, *The Great Ming Code/Da Ming lü*, xxxix–xl.

32. Wilkinson, *Chinese History: A New Manual*, 797.

33. For a discussion of the term “*huidian*” in early Qing documents as signifying the Ming *Huidian* see Kanda, “Shinchō no *Kaiten* ni tsuite,” 99–110.

### Administrative Organization

The Ming *Huidian* served as the guide and model for the structure and organization of the administration of the Qing state. Hong Taiji ordered Dahai to translate it into Manchu in 1629, which was completed three years later on the eve of the establishment of the six boards.<sup>34</sup> Direct evidence of Qing officials using the Ming *Huidian* in the early period of Qing administration is rare. However, the Qing six boards, which were established in 1631 by Hong Taiji, were modeled on the Ming administrative system, which was clearly described in the Ming *Huidian*. Although the form of the Qing boards diverged from the Ming ministries in key ways, such as the existence of two presidents in the Qing boards, one Manchu and one Chinese, the Ming *Huidian* still offered a point of reference, especially as the government began to expand during the Shunzhi period.

There are numerous cases of Qing administrators turning to the Ming *Huidian* for guidance on staffing government agencies. For example, Qing officials found in the Ming *Huidian* a regulation calling for six corvée administration personnel (*xishuyi*) in each office, and the Qing Board of Revenue assigned corvée personnel accordingly.<sup>35</sup> The Ming *Huidian* also served as the standard for any dispute or problem that arose in such staffing arrangements, as it did with the Inner Court Proclamations Office (*Neiyuan zhichifang*) in the early Shunzhi years. In the eighth month of 1644 (SZ1.8.28), Wu Zanyuan, the office drafter in charge of affairs, found his office understaffed and officials overworked. He turned to the Ming *Huidian* to determine the requisite number of personnel for each office in order to make the argument for more people, memorializing that he had looked in the *Huidian* and found that according to regulation, his office was short two people. “According to what is recorded in the Ming *Huidian*,” Wu wrote, “each government office has six corvée servants.” Continuing, he pointed out, “the Board of Revenue has assigned people to each government office based on the *Huidian*, so that not more or fewer are allocated.” However, he went on, “only my office is short two people.” He asked that an order be sent to the appropriate board to “look at the *Huidian* and grant the additional

34. Zu Wei, “Luelun Qingchu Chongde Huidian de yiding,” 163–65.

35. The numbers, service, and Board of Revenue reference are discussed in a memorial by Inner Court Proclamations Office secretary Wu Zanyuan. GSA 185048–023, Sz1.8.28.

personnel so that we can operate as a single body.” The imperial rescript confirmed the complaint and issued the order to “follow the old precedent and amend [the situation] by adding [personnel].”<sup>36</sup> Here both officials and emperor turned to the Ming *Huidian* for reference, and used the statutes in the *Huidian* as the means to resolve discrepancies and disputes.

This trend continued throughout the early Shunzhi period as the administration grew and positions needed clarification. In the second year of the Shunzhi reign, the supervising secretary of the Rites Office of Scrutiny (Li ke jishizhong), Liang Weiben, wrote to warn that the six offices of scrutiny (Liu ke) over the six boards were in disarray as a result of the “lack of clarity on the positions and duties, so that all officials are not without confusion.” He urged ordering the personnel office to “look up in the *Huidian* the specific duties and positions, and to clearly lay them out in regulation.”<sup>37</sup> Similarly, in 1654, the imperial bodyguard was found short-staffed and memorialists referenced the Ming *Huidian* on how to reorganize the bureau. Officials from the Imperial Household Department and the Board of War memorialized that Ming regulations in the *Huidian* said that the imperial guard was composed of five divisions and ten departments, but “since the founding of our dynasty we have been short.” They argued for the creation of more offices to mirror the Ming based on the *Huidian*, and outlined the ranks and positions that needed to be added.<sup>38</sup> Again, in each case the *Huidian* served as the point of reference for the organization of offices and personnel.

In the creation of new offices, the Ming *Huidian* also continued to guide Qing state-makers. When setting up the Court of the Imperial Clan to deal with the Qing imperial relatives, for example, officials turned to the Ming *Huidian* as a model. Manchu Board of Rites president Langkio (Ch. Lang Qiu) memorialized in 1652 on the matter of setting up an organization to deal with the imperial relatives, and he cited the Ming *Huidian* on the administrative structure of such an organization. “I looked up the old regulations in the *Huidian* for when the Ming established the Court of the Imperial Clan,” he wrote in reference to the Ming *Huidian*. “In order to manage the affairs of those belonging to the imperial family, they set up a director, left and right associate directors,

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36. GSA 185048–023, Sz1.8.28.

37. *SL*, p. 175.1, Sz2.8.gengchen.

38. *SL*, p. 660.1–2, Sz11.6.14 (*renshen*).

and left and right assistant directors.” Continuing, he said, “I beg you to order the Board of Personnel to assign officials according to the cited precedent [in the Ming *Huidian*] and offer the positions.”<sup>39</sup>

### Administrative Operations

In the same way that the *Huidian* served as the point of reference on how to set up an administrative structure, it similarly provided a model for how that structure should work. Three key areas of Qing administrative activity in the seventeenth century relied on the *Huidian*, as reflected in a survey of documents from the period: general administrative procedure, such as paperwork and filling vacancies; honoring the dead; and taking leave of office to care for sick parents.

*Administrative procedure.* At the highest levels of running the state, the *Huidian* was the standard for proper procedure. One of the earliest Qing records referring to the *Huidian* for use in administrative practices is from the hand of Hong Taiji. In 1640, the Qing emperor pardoned criminals in celebration of his birthday, which he cited as an imperial precedent and in accordance with the *Huidian*. Hong Taiji here said he was “imitating the *Huidian*” (*fang Huidian*) in his role as emperor in following past precedent of opening the jails on the emperor’s birthday.<sup>40</sup> The Korean king was quick to respond in gratitude to Hong Taiji for releasing Korean captives “in accordance with the *Huidian*.”<sup>41</sup>

The *Huidian* also informed Qing officials of the day-to-day activity of government — how to write official documents, for example. In 1656, the Board of Rites deliberated on a memorial from the Zhejiang provincial military commander complaining about the improper use of documents among officials in the provincial offices. Inferiors were writing to superiors with improper address and under the auspices of document titles reserved for equals, he said. The Board of Rites consulted the *Huidian* and found that when a provincial military commander communicates with the magistrate he should use the form of an “order” (*diewen*), and when a magistrate communicates with a provincial military

39. *BDTB*, 02-01-02-2033-020, Sz9.4.24. For a full discussion of the formation of the Court of the Imperial Clan see Keliher, “The Manchu Transformation of Li,” 165-74.

40. *SL*, p. 709.1, Cd5.11.22 (*wuyin*).

41. *SL*, p. 720.2-721.1, Cd6.1.4 (*gengchen*).

commander he should use the form of a “report” (*shenwen*).<sup>42</sup> This became the accepted form enforced by the Board of Rites.<sup>43</sup> Similarly, in 1662, confusion ensued about who was supposed to use a summary (*huangtie*) at the end of a memorial and when such a summary was appropriate. The Personnel Office of Scrutiny suggested following regulations laid out in the *Huidian*, whereby officials of the third rank and above did not need to use a summary if they were not reporting on corruption and the memorial “contained only a few characters.”<sup>44</sup>

These cases illustrate attempts to regulate administrative procedure in the early years of the Qing state. The *Huidian* here emerged as an authoritative device for pressing a certain vision of a state where administrative activity was made predictable and formal. In this vision, political and administrative activity was regulated through certain procedures that followed a chain of command and adhered to a clear division of tasks and granted more or fewer resources to the various actors within the hierarchy. It further moved to bind political actors together in a cohesive organization as “one body,”<sup>45</sup> and to invest them with a common purpose to conquer and rule. This emergent vision countered patrimonial tendencies still prevalent within the banners, where primacy was given to a charismatic leader and his staff, the uncodified word of the sovereign was law, and the norms of those holding positions of power constituted standard procedure.

The case of the investigation of pending lawsuits in the capital serves as a further example of the emerging vision of the administrative state. In 1655, Aduri, a Manchu official serving in the capital, was ordered to conduct an investigation into pending lawsuits in the capital. According to the *Huidian*, Aduri reported, all government offices need to use their seals when receiving and passing on cases. In the previous year, all the offices adhered to this regulation, but as of the eighth month of the year

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42. Fairbank and Teng say that a “die” is an order from a superior to a subordinate, while a “shen” is a report from a subordinate to a superior. Fairbank and Teng, “On The Types and Uses of Ch’ing Documents,” 59, 65.

43. *SL*, p. 821.1, Sz13.12.*wuxu*.

44. *GSA* 167265–017, Kx1.5.27. The imperial rescript said to forward the suggestion to the appropriate board for deliberation.

45. The idea of “one body” (*yi ti*) is emphasized in at least two memorials, which are quoted here.

of investigation (1655), offices have been failing to use their official seals for cases. “Officials are not adhering to the proper procedure!” Aduri said. “Please issue strict orders to respect and follow the regulation.”<sup>46</sup> That regulation was the one found in the Ming *Huidian*. Implicit in the discussion was the value placed on the uniformity of procedure. (In fact, Aduri mentions at one point the need to bring everyone in line as “one body.”) The Ming *Huidian* served as the basis of an argument for uniform procedure to standardize administrative activity.

Officials also turned to the Ming *Huidian* as an authority in administrative disputes over procedure. In 1653, Supervising Secretary in the Punishments Office of Scrutiny Chen Tiaoyuan opened impeachment proceedings against Supervising Secretary of the Personnel Office of Scrutiny Wei Xiangshu for failing to follow procedure as laid out in the *Huidian*. Under dispute, according to Chen, was that two officials took leave from office and that administrative procedure in the *Huidian* required those positions to be filled in their absence. It was the responsibility of Wei as the supervising secretary to make sure the positions were filled. A week into the absences, however, no one had been assigned to those positions. Chen accused Wei of this oversight and sought to have him impeached for dereliction of duty. He relied on the *Huidian* as the standard by which Wei needed to be held accountable.<sup>47</sup> In his defense, Wei argued that he did in fact follow the procedure outlined in the *Huidian* and called for those positions to be filled. In his capacity as supervising secretary, he said that he sent the memo to the Board of Personnel, who confirmed that the positions would be filled. The fact that they were not filled lay beyond the jurisdiction of his office. Wei emphasized that he followed procedure as dictated by the *Huidian*, and he was now but the messenger, not the executor.<sup>48</sup>

*Posthumous honors.* A second aspect of administrative activity that relied on the Ming *Huidian* was the occasion and procedure of granting posthumous honors, especially during the course of conquest in the Shunzhi years. The matter of granting honors to ranked officials who had died in service constantly arose as a request and became a topic of

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46. GSA 89592, Sz11.8.4.

47. GSA 039012, Sz10.8.23.

48. GSA 038901, Sz10.8.23.

discussion. At issue was not whether they should be honored or not — the act of granting such honors seems to be taken as an accepted and necessary practice — but rather, the standards of who got honored and how. The Manchu president of the Board of Rites, Enggedei, reported in 1653 that the Shunzhi emperor “imitated the sage emperors of old” by announcing the accomplishments of deceased officials and granting them posthumous honors, entitling them to memorial arches and stelae. He said that Chinese officials looked up the regulations for granting such honors in the *Huidian* and determined that the provincial governor, regional inspector, and supervising secretaries and censors killed in battle would receive honors.<sup>49</sup> In the fall of 1655, Enggedei issued another series of memorials requesting honors for deceased officials, arguing that their service and death in battle should be honored. “Previously, Manchu officials gave Han officials posthumous honors according to *Huidian* regulations, which were approved by the emperor [at the time],” he argued to bolster his case in one memorial.<sup>50</sup> He also cited a case from the Ming *Huidian*, where twenty-three Ming officials had been killed by bandits in the late Ming and received posthumous honors, memorial arches, shrines, and state sanctioned annual sacrifice.<sup>51</sup>

The privileges attached to posthumous honors included state sponsored interment and sacrifice. To have a tomb and a stele recording achievements gave honor, status, and influence to one’s descendants. To receive sponsored sacrifice conducted by officials from the Board of Rites once or twice a year even further elevated the position of the family. Given these benefits, officials and descendants lobbied heavily to receive such privileges, and drew upon the *Huidian* to make their case. In 1656, the president of the Board of Punishments asked permission to hold an official ceremony and sacrifice for his recently deceased father. “I checked the *Huidian*,” he memorialized, “and will perform the interment sacrifice according to precedent.”<sup>52</sup> Some years later, the Board of Personnel responded to a memorial from the Shandong governor about a similar request from Provincial Administration Commissioner Wang

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49. GSA 05578, Sz12.7.24. The reference to the honoring of officials in 1653 (Sz10) is contained in the body of this memorial.

50. GSA 05889, Sz12.7.13.

51. Enggedei’s reference to the Ming *Huidian* and officials are in the memorials GSA 05568, Sz12.7.24; *BDTB* 02–01–02–2135–009, Sz12.10.24.

52. GSA 36535, Sz13.4.

Xianzuo. Wang had received imperial recognition in an honorary title for his service and wanted to transfer the title to his ancestors. This was granted.<sup>53</sup>

By 1660, a standard for granting such ceremonial privileges had been worked out based on the Ming *Huidian*. In the fourth month of that year, the Board of Rites promulgated an order on which ranks and positions would receive what kind of sacrificial service in death. Nine stipulations framed this law, each one corresponding to a set of ranks and positions. The first, for example, said that upon the death of one holding the above-rank title of duke, earl, or count,<sup>54</sup> “adhere to the *Huidian* in building a tomb according to his rank.” It further granted sacrificial supplies of paper money and wine, as well as sacrificial officials to make offerings. One level down from this were those in the position of banner commander, grand secretary, board president, imperial censor, or holding the Manchu high rank of viscount,<sup>55</sup> all of whom would receive interment according to the *Huidian* based on their rank. The ritual supplies and sacrificial officials would accord with the position of the deceased, however. And on down the ranks the regulation went, each of the nine stipulations weighing the positions and ranks of officials so as to hierarchically organize social stations according to the *Huidian* and assign the appropriate kind of interment and sacrifice that would be received in death.<sup>56</sup>

*On filial piety.* Officials often found themselves in the position of needing to serve both the state and their filial obligations, and they turned to the *Huidian* when a contradiction in these duties arose. According to Confucian practice, one should care for one’s sick or frail parents, which necessitated taking leave from office. In 1652, Supervising Secretary of the Military Office of Scrutiny Li Renlong asked for leave to care for his 85-year-old mother. He said that his father had died and his frail mother had no one else to care for her. “According to the *Huidian*,” he wrote, “if one’s parents are old with no one else to care for them, then he should return to care for them until they die.” The imperial rescript asked the appropriate board to look into the regulation and prepare for Li to leave

53. *SL*, p. 103.1–2, Kx1.1.*dingbai*.

54. *gong*, *hou*, or *bo*

55. *Jingkini hafan*

56. *SL*, p. 1034.2–1035.1, Sz17.4.*wuzi*.

office accordingly.<sup>57</sup> Similarly, in 1657, Feng Youjing, a censor in Fujian, memorialized on his frail 75-year-old father, for whom he wished to leave office to provide care. “The *Huidian* precedent allows for one to return to care [for him] if there is no one else to do so,” he wrote.<sup>58</sup>

The continued requests by officials, and obscurities in Qing practices on the matter, led to a long sixteen-page memorial in 1654 by the Shandong governor, Geng Tun, on the need for clarification. The occasion for the discussion was a request for leave by Zhang Wanxuan, a vice director in the Board of Punishments, in order to care for his 80-year-old mother, who was in poor health. Anyone with parents over 70 should be allowed to care for them, Geng wrote, quoting a *Huidian* regulation that allowed an official to take leave from office to attend to his parents. The catch, however, was that the *Huidian* statute applied only for those without brothers. Geng thus sent officials to investigate Zhang’s family situation to ascertain if he had other siblings who could take care of their sick mother, which would exempt him from leave. After months of investigations, Geng found that Zhang did indeed have brothers, but they were elsewhere serving in office. Given this situation, Geng concluded, “according to the *Huidian* he should be allowed to go.”<sup>59</sup>

These three kinds of administrative activity — administrative procedure, death rites, and filial piety — are representative of the uses of the *Huidian* as frequently mentioned in the existing documents. They comprise some of the key operations of the bureaucracy and concerns of officials, and show the importance of administrative regulations to guide these actions. For Qing officials, the Ming *Huidian* was the standard on important administrative issues: how ought one to fill vacancies when officials went on leave? Look it up in the *Huidian*. When should a summary of a memorial be written? Check the *Huidian*. What to do when an official’s parents were sick or dying? How to honor the dead? The *Huidian* was the authoritative reference.

These were more than just practical considerations on how to run a state - they reflected the core of the sociopolitical structure of rank, position, and hierarchical order. Using proper documents for official communication was as much about hierarchy and the political

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57. GSA 085742, Sz9.9.

58. GSA 085433–001, Sz10.4.

59. GSA 085442, Sz11.9.

organization of superiors and inferiors as it was about practical day-to-day procedure. Similarly, posthumous honors further recognized individuals in the hierarchy, granting them new positions, rights, and privileges for their service to the state and accomplishments. The state sanctioned interment and sacrifice was accorded hierarchically based on a scale of positions and ranks, and in doing so yielded benefit to descendants, who could see their positions elevated.

### Sacrifice

State sacrifice was a third area of activity for which Qing sovereigns and officials consulted the Ming *Huidian*. Parts of the state ritual system were copied from the Ming and implemented early on in the establishment of the Qing state — mostly in the early years of the Chongde reign (1636–43). Hong Taiji set up the suburban altars shortly after the establishment of the Qing Dynasty in 1636, and ordained state sacrifices to the list of deities. The nature of these ceremonies, and the deities to which offerings were made, followed the historical precedents of previous dynasty, and, given the language and categories employed, were most likely developed out of the Ming *Huidian*. Writing in the early Shunzhi period, former Ming official Tan Qian observed that all Qing rituals were borrowed from the Ming.<sup>60</sup> Be that as it may, there is no mention of the *Huidian* in the formation of this ritual system. It is not unlikely that officials consulted the Ming *Huidian* throughout the early years of establishment and practice of sacrifices, but the documentary evidence does not show discussion of the matter until late Shunzhi.

The earliest sources referring to the *Huidian* in connection with the sacrificial system of the Qing are from 1659, and they appear in discussions to systematize practices. In the seventh month of that year, the *Shilu*, or veritable records of the Qing, states that the Board of Rites reported on a memorial asking to “follow the *Huidian* in holding triennial ancestral sacrifices in the ancestral hall.”<sup>61</sup> This was approved by the emperor, and sacrifices to the four ancestors, Taizu, and Taizong commenced at the end of that year.<sup>62</sup> A few years later, the *Huidian* was consulted on a similar issue of the biannual sacrifice to the historical

60. Tan Qian, *Beiyoulu*, 412–13.

61. *SL*, p. 984.2, Sz16.7.bingxu.

62. *KXHD* 718.3064–3065.

emperors and kings at the Diwang temple. The ceremony was inaugurated in 1645 with the founders of the previous dynasties, including Liao Taizu, Jin Taizu, Yuan Taizu, and Ming Taizu, and then expanded in 1661 to include the second emperors of dynasties going back to the Shang. The proclamation ordered sacrifices “at each of their tombs according to the *Huidian* regulation.”<sup>63</sup>

Documents clearly show Qing officials drawing on the Ming *Huidian* to help standardize their annual sacrifices. In 1660, officials pointed out that the routine ceremonies and sacrifices differed from those of previous dynasties, and recommended that the annual sacrifices to various deities be performed together rather than separately and at random. This suggestion was implemented and the imperial order on the matter decreed to “follow the *Huidian* in holding combined sacrifices every autumn and spring at the suburban altars.”<sup>64</sup> Two months later, the Board of Rites clarified that in “the combined ritual system as outlined in the *Huidian*” there are twenty-four altars that require sacrifice once a year. The memorial went on to say that after dividing the suburbs into four quadrants, the combined sacrifice stopped, but that this year it would begin again with the deities all receiving worship together at the respected altars.<sup>65</sup>

The Ming *Huidian* also provided clarification for Qing officials on the role of participants in the ceremonies and sacrifices. The *Huidian* offered precedents to follow for the preparation and activity for combined sacrifice. The month after it was decided to combine sacrifices, the Board of Rites set out instructions to consult the *Huidian* on setting up the temples for sacrifice, telling the Board of Works to build stages at the altars, and that the master of ceremonies should follow the precedent for the sacrifice as outlined in the *Huidian*.<sup>66</sup> In 1673, confusion arose over what officials should do at the altar and temple sacrifices; clarification came from the *Huidian*. The Board of Rites wrote that it had consulted the *Huidian* on the regulation for officials during the sacrifice, and found that Board of Rites officers should all line up accordingly and do the rite.<sup>67</sup> This reference helped to further standardize the ceremonial activity, as well as to organize politics and give hierarchical form to the ceremony.

63. *SL*, p. 50.2–51.1, Sz18.2.yisi. Also see *KXHD* 719.3241.

64. *SL*, p. 1021.1–2, Sz17.2.renyin.

65. *SL*, p. 1034.1, Sz17.4.yiyou.

66. *SL*, p. 1026.2–1027.1, Sz17.3.xinyou.

67. *SL*, p. 584.2–585.11, Kx12.12.jiayin.

## Foreign Relations

The Ming *Huidian* also served as a guide for diplomatic engagement with rulers with whom the Qing had had no prior interactions. The *Huidian* here offered a reference on how to receive the ambassadors from East and Southeast Asian states, the tribute that should be received, and the gifts given in return. In 1653, the Qing court reported that the Ryukyu prince had sent a tribute mission and wanted to exchange the old Ming seals of investiture for new ones.<sup>68</sup> This caused some confusion in the Qing court over protocol: What gifts should the mission bear? How should they be received? And who were these people and their king, anyway?<sup>69</sup> For answers, Qing officials turned to the Ming *Huidian*, which contained information about Ryukyu and its previous missions to China.<sup>70</sup> By all accounts, this facilitated a successful interaction between the young Qing Dynasty and the Ryukyu kingdom, resulting in the exchange of seals, the reception of tribute and giving of gifts, and a banquet hosted by the Board of Rites.<sup>71</sup>

The *Huidian* provided a precedent for foreign relations and the standards to which tribute states (and their host) needed to be held accountable. It confirmed and helped actualize the hierarchy of international relations. Take for example the Annam and Siam tribute missions in the early Kangxi reign. Annam sent a mission that arrived in early 1664, but did so with tribute gifts that “were inconsistent with the *Huidian*,” according to Qing officials. Board of Rites officials requested that the emperor order the Annam ambassador to “adhere to the *Huidian*,” a request that was quickly approved, even though the unsatisfactory tribute gifts were also accepted.<sup>72</sup> An imperial decree to Annam to bring the proper tribute went unheeded by the offenders, however, for the next mission, three years later, also fell short in their gifts. The Board of Rites memorialized, asking to forgive them for this oversight, for “they have come with tribute every three years in

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68. *SL*, p. 605.2, Sz10.6r.wuzi. For a brief discussion of Ryukyu relations with the Ming and Qing dynasties see Smits, *Visions of Ryukyu*, 35–42.

69. These questions are discussed in *SL*, p. 267.2, Sz4.6.dingchou.

70. *BDTB* 02–01–02–2182–002, Sz11.3.28.

71. For the record of this mission, in addition to the above sources, also see *SL*, p. 644.2, Sz11.3.dingyou; *SL*, p. 652.1, Sz11.4.dingchou; *SL*, p. 667.1, Sz11.6.yashen; *SL*, p. 667.2, Sz11.7.wuzi.

72. *SL*, p. 168.1, Kx3.1.wuyin.

accordance with the *Huidian*.” In contrast to the previous disapproval, this memorial argued that the country was far and the journey presented many challenges but the king still sent missions as required. This led the memorialists to conclude that Annam “respected the imperial instruction and authority.”<sup>73</sup> The Annam mission was excused.<sup>74</sup> A few years later, the same problem arose with a Siam tribute mission. When the mission arrived in Guangdong, the Guangdong governor reported in advance that it bore “tribute goods inconsistent with the *Huidian*. They are short in comparison with the precedent.” Noting the previous case of Annam being excused, but finding no other precedent upon which to act, he asked if should accept these goods and send them on to Beijing or deal with them in Guangdong.<sup>75</sup>

The use of the Ming *Huidian* in these four areas of activity — administrative organization, administrative operations, ritual sacrifice, and foreign relations — helped carve out a particular expression of the organization and operations of the early Qing state. The *Huidian* provided a standard for the organization and activities of personnel; it laid out the hierarchical structure of the state and how officials should operate within that structure, providing details for everything down to the number of corvée clerks in each government department. Officials thus referenced the Ming *Huidian* as a reliable standard to clarify routine practices and create formality and predictability. In short, the *Huidian* offered a model by which to organize actors hierarchically, and instructed them on how to behave both individually and in relation to each other.<sup>76</sup>

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73. *SL*, p. 361.1, Kx7.5.*jiazi*.

74. See below.

75. *SL*, p. 511.1, Kx11.3.*wushen*.

76. From this perspective, it is not surprising to find the majority of the existing references to the use of the Ming *Huidian* made in the years following the death of Dorgon and the end of the regency. In the wake of a period of politics of personality, where rules and consistency could be overrun by personal relations and favor, both those who helped organize the purge of Dorgon’s faction, as well as officials committed to the vision of an administrative state, pressed for standards for procedures, positions, and rewards. Enggedei, for example, the Board of Rites president who relied on the Ming *Huidian* for standardizing posthumous honors, belonged to the Plain Blue Banner and studied for and received his degree in 1634 under Hong Taiji, beginning what would be a long career in the civil administration. He served in some of the highest positions in the Shunzhi and Kangxi administrations, and received numerous honors for his service. (See *QSG*, p. 10,343, *liezhuan* “Nuomin;” *MQNAF*, “En Guotai.”) Similarly,

The kind of administrative state articulated through the *Huidian* was one that favored certain institutions over others, to be sure. It gave primacy to the inner court by emphasizing organizations like the Inner Court Proclamation Office and the Hanlin Academy. It established bureaucratic hierarchy and administrative procedure through the enforcement of certain practices, such as the drafting of official documents and the use of seals. Most important, however, was the work of integrating the imperial relatives into the body politic with the creation of the Court of the Imperial Clan, which was set up in the image of the Ming as an administrative body to oversee the imperial relatives, and acted to merge these political actors into the government as administrators, not power-wielding lords of small fiefs and armies.

### *The Need for a Qing Huidian*

Despite their constant reference to the Ming *Huidian*, Qing officials also found Ming regulations to have acute shortcomings. They were old, for one. Produced almost a hundred years prior, the Ming *Huidian* reflected the concerns of a different time and a different state confronted with different issues. Society and politics under the Qing had changed. As discussed below, the Qing state differed from the Ming in both structure and organization: it had officials from multiple ethnic groups, including Manchu, Mongol, and Hanjun (Chinese bannermen); it had a military system organized around permanent mobilization; it had different

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Langkio, who set up the Court of the Imperial Clan, belonged the Plain Blue Banner, was an imperial relative of the collateral line, and had a long distinguished career in the civil and military administrations of the Hong Taiji and Shunzhi governments (*MQNAF*, “Liang Qiu”). Neither of these men’s careers suffered under Dorgon, but their articulation of the importance of the *Huidian*, as cited above, and their continued bureaucratic service shows that their loyalties and interests were tied less to a single leader or faction, and more to the formation of an administrative state. Furthermore, given that their banner affiliation precluded them from the more intimate struggles for power that happened with Dorgon’s Bordered White, Jirgalang’s Bordered Blue, and the emperor’s Yellows, it seems that these men saw their best opportunity tied to bureaucratic rank and procedure, and that they developed their views as the banner politics played out and they found themselves without a charismatic leader and path to power. The views and policies they professed in the mid-to-late Shunzhi period, then, would have been the development of an administrative consciousness and a product of the hardening of politics. Similarly, Wei Xiangshu pushed for greater rationalization of the state and regulations to delimit the power of officials in the wake of the Dorgon regency (*ECCP*, pp. 848–49).

kinds of diplomatic relations with different states. Recent scholarship has highlighted the multiethnic nature of the Qing, and spoken of it as an expansive empire.<sup>77</sup> The following section builds on this research by showing the considerations and challenges of constructing the multiethnic state. In short, it shows that officials found that the Ming *Huidian* could not speak to the issues of the emerging political order. In an effort to deal with institutions like the banners, different political and ethnic actors, and new counterparts in foreign relations, officials demanded revisions in the administrative regulations. Most immediate was the need to regulate the Qing system of ranks, titles, and positions, and to do so in a way that gave expression to the interests and ideals of Manchu elites. This is seen across four fields of documentary evidence: general calls for a new *Huidian* with new laws reflective of the Qing Dynasty; administrative organization; administrative operations; and in foreign relations.

### *A New Political Order and Calls for a Qing Huidian*

Calls for compiling a new *Huidian* began very early.<sup>78</sup> In the mid-Tiancong years, just after the establishment of the six boards in 1631, a debate erupted over whether the Ming *Huidian* should be revised or not. On one side were those former Ming subjects advising Hong Taiji and his associates in setting up an administrative apparatus, who argued that a document like the *Huidian* consisted of “the laws and promulgations that only the sages can set.” For them, the regulations could not be changed. The structure of the state and its operations, they argued, depended on standardized rules and practices. The six boards followed the *Huidian*, after all, and the Chinese officials brought in to help manage and advise them took the *Huidian* as the standard of practice. To undermine the *Huidian* with changes would compromise administrative integrity and operations.<sup>79</sup>

77. For a recent example see Crossley, Siu, and Sutton, eds., *Empire at the Margins*.

78. The officials calling for these revisions and compilation were both Manchu and Chinese. The Chinese advocates originated from the northeast and had a worldview closer to the practices of the semi-nomadic peoples and frontier life of the region rather than the Ming-controlled south. They included Ning Wanwo, Fan Wencheng, and Wei Xiangshu. For a discussion of their background see Wakeman, *The Great Enterprise*, 37–49.

79. This position was outlined by Ning Wanwo in a memorial that went on to attack such a position (TCZY 2.35a–b). It was also put forth in subsequent memorials by officials discussing the value of the Ming *Huidian*, as addressed above.

Rejecting the inviolability of the *Huidian*, others argued that regulations needed to adapt as the sociopolitical order changed. More specifically, they held that Ming regulations were not sufficient for Manchu administrative practices and organization. These officials saw the need to revise the regulations to form an entirely new law suitable for the emerging Manchu state — they needed to make a Qing-specific *Huidian*, as Chinese advisor and Hong Taiji confidant Ning Wanwo put it. Ning continued to press the point in a long memorial to Hong Taiji, arguing against doctrinalists, who held the Ming *Huidian* to be the definitive document upon which the Manchu state and society should be based. “The six boards in name and design followed the southerners [i.e. the Ming],” Ning wrote. “Because Manchu officials did not originally know how these boards functioned, we have Chinese officials manage them with reference to the *Huidian*.” He went on to point out that in actuality, Qing use of the *Huidian* was sporadic. “Some parts we use and it works; some parts do not work. Some parts are added to and some parts subtracted from.” In characterizing this selective use of the Ming *Huidian*, Ning called it “referencing the Han [Chinese] in consideration of the Jin [i.e. Qing]” (*can Han zhuo Jin*).<sup>80</sup> The full formation of the Manchu state, Ning held, would rely on statutes drawn from both Chinese and Manchu institutions, which would come into being by way of practice. “Every day Manchu officials go before the khan and make reports. These practices and affairs become routine, and gradually they will become the system of China (*Zhongguo*),” he said, arguing that this gives all the reason needed to put them down in a *Huidian* specific to the dynasty. “Someday we will have the southern territory; we must act without confusion [and have clear regulations for the administration and operation of the state].”

The problem with the Ming *Huidian*, according to Ning, was that it was outdated and some of it inapplicable to the contemporary situation. “Although the *Da Ming huidian* is a good book, my state today should not follow it in its entirety. They [i.e. the Ming] ruled for two to three hundred years with borders spanning thousands of *li*, and with immeasurable finances,” all of which stood in stark contrast to the young Manchu state controlling a very small territory in the northeast and facing famine in the 1630s. For officials like Ning, regulations and

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80. This was a phrase that appears sporadically throughout documents from the early Hong Taiji period. Officials used it in discussion about the formation of the early Qing state and political practices. See Tsai Sung-yin, “Hong Taiji shiqi de hanguan, 1627–1643,” esp. ch. 4.

practices should be revised to reflect the situation and practices of the Qing. But even more so, Ning argued, “given that from Hongwu to today, the *Huidian* was added to, subtracted from, and changed countless times, how is that now we do not even consider changing one character of this *Huidian*?!” Not revising the *Huidian* to correspond to the changing world seemed absurd to Ning and his allies. “Each dynasty of rulers must have a system for that dynasty.”<sup>81</sup>

The fact that it would take another sixty years before Ning’s case for a Qing *Huidian* was acted upon does not mean that calls for a new *Huidian* ceased. In fact, quite the opposite — they intensified: throughout the Shunzhi and Kangxi reigns, officials continued to petition for the production of a Qing *Huidian*. There are at least nine extant petitions for a new *Huidian*, beginning with Ning’s in 1633. In 1648, for example, Wei Xiangshu, then serving in the Board of Works, wrote a long memorial arguing for the creation of a new Qing-specific *Huidian*.<sup>82</sup> The next one came in 1657 from a Board of War official,<sup>83</sup> followed by two petitions at the middle and end of 1658 by censors from Henan and Fujian, respectively.<sup>84</sup> In 1668, Wang Xi called for compiling all the new regulation and putting them together in a new Qing *Huidian*,<sup>85</sup> and in 1670, the Jiangnan circuit intendant, frustrated with the lack of a Qing text, memorialized with the suggestion.<sup>86</sup>

In these petitions, officials argued the case that the political organization of the Qing was different from the Ming, and that the regulations needed to be expressed by Qing jurists in Qing — not Ming — law. “Reference and consider what is appropriate for the time,” wrote a Henan censor in 1658 in discussion of the *Huidian*. “Make corrections and put it together as a book, then print it and circulate it.” The Board of Rites and the Censorate seconded this memorial, recommending that the suggestion be followed.<sup>87</sup> At issue was both the idea that each dynasty should have its own set of rules and codified practices, as Ning

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81. The Ning Wanwo memorial can be found in *TCZY* 2.35a–b.

82. *GSA* 006603–001, Sz5.11.

83. *SL*, p. 833.1.

84. *SL*, p. 916.2, 939.2.

85. *QSG*, p. 9694 *liezhuan* Wang Xi.

86. *SL*, p. 446.1.

87. *SL*, p. 916.2, Sz15.5.yichou.

had articulated, and the fact that the Qing was constantly forming new regulations, which officials argued ought to be collected into a compilation and circulated.

These positions are well summed up in a 1648 memorial from Board of Works Supervising Secretary Wei Xiangshu. He argued at length for the need to compile a new *Huidian* as part of the formalization of the state and establishment of the dynasty. Doing so, he claimed, would “clarify the administration and the system of government.” Wei went on to lay out his argument for revising the Ming *Huidian* based on the Qing state.

The emperors and kings of old created a system and established laws. Each dynasty has changes and has made additions and subtractions [to these laws]. Our state was established five years ago, and now the rites and music are complete, the laws and regulations are renewed, the temples are glorious, and the dynasty will last for ten thousand years. If there is still something that needs fixing and which we find lacking, it is certainly the *Huidian*.... Today all the government offices imitate it and use it in their practice. When a situation is pertinent, they reference it; when a situation differs they depart from it and consider something else. How can it be extensive enough? If we continue to use it when the situations are not appropriate, and do so without changing it, then it will not work for future generations.

In Wei’s view, the *Huidian* was an evolving document that contained the rules and regulations of a dynasty, and which would be revised by subsequent generations. As the new political order formed, so did the regulations to govern it. Wei asserted that these new regulations needed to be standardized and codified for state operations. He pointed out that laws needed to account for new circumstances in order to remain pertinent for governance and social order. “In the process of establishing our dynasty, laws have not yet been standardized, and thus they cannot be shown to others or made permanent,” he wrote. The way to proceed, he argued, was “to order each government office to assess the previous generations, to consider the deliberations of Manchus and Chinese, and to compile these and send them on to the inner court. Then edit this and put it together as a book.” This book would be the Qing *Huidian*.<sup>88</sup>

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88. GSA 006603, Sz5.11.

Forceful though Wei's entreaty might have been, it did not lead to the immediate compilation of a Qing book of statutes and laws. What it did do, however, was highlight the need for new laws and regulations, which were produced, although without any cohesive organization. Beginning in the late Shunzhi period, the documentary evidence shows officials discussing at length the growing number of new regulations, which they argued should be collected into a Qing *Huidian*.<sup>89</sup> In 1657, the first use of the name *Da Qing Huidian* appeared in a memorial from the Supervising Secretary in the Military Office of Scrutiny, Jin Handing, who pointed out that new regulations and administrative precedents constantly arose, but were being implemented under the name of the old Ming *Huidian*. "There are new statutes and precedents, but they still come out under the old name," he wrote referring to the Ming *Huidian*. "These are not regulations that were set by one king to rule over others. Today we need to consider a new name: the *Da Qing huidian*."<sup>90</sup>

The new regulations and precedents referred to were those issued and developed as new situations arose. Officials at this time began to recognize that when the Ming statutes failed to provide any direction, new laws were needed. These laws were issued according to the matter at hand, and sent to the appropriate department where it was held on file for implementation and enforcement.<sup>91</sup> Officials calling for a Qing *Huidian* did so out of the need to collect, compile, and edit the regulations, and then put them together in a single repository that would be called the *Da Qing huidian*. The absence of a single publication containing all relevant administrative regulations invited confusion and inefficiency. A memorial from Board of Works President Wang Xi summed this up.

The Shunzhi emperor is industrious and devoted in his governing; the administrative affairs of all officials is detailed in law. In recent years, however, because admonishment has led to revisions, and each department has proposed changes in administration, reforms have been many and precedents have mounted. This has led to officials arbitrarily enacting one thing and not another.

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89. In addition to the cases discussed here also see *SL*, p. 916.2, Sz15.5.yichou; *SL*, p. 939.2, Sz15.11.dingyou; *SL*, p. 446.1, Kx9.5.binzi.

90. *SL*, p. 833.1, Sz14.1.wuchen.

91. This process is discussed in Tanii, "Shindai zokurei shōrei kō."

Please order each department and all officials to look up all the precedents in effect. Any laws that have changed and have problems, change them back to what they were before. Of those that are new, demand a detailed explanation of the reason. The rule will then be standardized.<sup>92</sup>

### Administrative Organization

One of the main shortcomings of the Ming *Huidian* was that it was based on the Ming administrative structure, and was thus ill-suited to Qing governance. Most immediately, the Ming *Huidian* offered no rules relevant to the multiethnic composition of the Qing state. Unlike the ethnically homogenous Ming government, the Qing employed Manchus, Mongols, and Hanjuns in addition to Han Chinese. The former groups were awarded special treatment and consideration, and thus new rules were needed to account for their activity and privileges.

Board of Personnel officials expressed this in concrete terms around 1652, when they pointed to the fact that the Ming *Huidian* was insufficient for staffing the government. “The *Huidian* does not account for the Manchu system of officials,” Board officials wrote, emphasizing that “each department has a certain number of Manchus, Mongols, and assistants of positions of high and low ranks.” These positions although already filled, still needed legal clarification, and a request was sent up to the inner court,<sup>93</sup> where Grand Secretary Fan Wencheng worked on finding the proper translation of names for administrative positions. In a memorial on the translation of office names, Fan listed eight Manchu positions and the corresponding Chinese characters, which, he said, “can be used in a revision of the *Huidian*, as well as in memorials.”<sup>94</sup>

Qing officials here faced a very practical problem in their administration: more posts and fewer people. It was hard to find people to fill all the new posts, and administrators rushed to try to do so in these early years. Moreover, not only did officials scramble to fill positions, but they tried also to find a consistent vocabulary to describe them. Many

92. QSG, p. 9694, *liezhuan* Wang Xi.

93. This issue is discussed at the beginning of a memorial by Fan Wencheng in 1652. See GSA 006609, Sz9.7.20.

94. GSA 006609, Sz9.7.20.

posts, titles, and positions in the early Qing bore Manchu transliterations. In addition to the posts of the non-Han officials, former Ming official Tan Qian also pointed out in 1656 that the *Huidian* lacked descriptions of a number of positions in the Hanlin Academy. Furthermore, he wrote, “The *Da Ming huidian* does not record the duties of the inner court officials.”<sup>95</sup> In short, the Ming *Huidian* offered an insufficient template for the organization of Qing administration.

### Administrative Operations

In the same way that the Ming *Huidian* could not fully account for the administrative organization of the Qing state, it also failed to support the operations of Qing governance. The *Huidian* did not have adequate regulations in those areas of administration that mirrored the areas of operation that drew upon the *Huidian* for guidance, as discussed in the last section on the uses of the Ming *Huidian*. For each area of administrative activity that the *Huidian* was consulted for, it was also found lacking and unable to account for the issue at hand. In administrative practice, the *Huidian* did not provide guidance in dealing with officials and in managing corruption.<sup>96</sup> As for posthumous honors, the standards mapped poorly onto the Qing system of ranks and positions. Similarly, the precedents for filial piety were either dated and impractical, or completely inappropriate for Manchu practices.

*Administrative procedure.* Early Qing officials needed standardized procedures for dealing with personnel problems not fully addressed by the Ming *Huidian*, ranging from making appointments to managing corruption. In 1654, Fan Wencheng as director of the Hanlin Academy confronted a discrepancy in promotions and hiring, which was a reflection of the Ming *Huidian*. The Hanlin Academy as a department was in charge of promoting and hiring its own, while the Board of Personnel took charge of this for all other officials. “We do not have a standardized system,” he memorialized, and hinted that it might be better to discontinue the current practice, which was stipulated in the

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95. Tan Qian, *Beiyonlu*, 312.

96. There is also a case in 1654 of the need to include regulations on military pay and equipment for the banner system. At this time, the Board of Personnel requested the court revise the *Huidian* regulation with the banners in mind. *GSA* 121826, Sz11.2.3.

*Huidian*. Fan called for standardizing all promotions and assigning procedures under the Board of Personnel.<sup>97</sup> Even with a single department in command of assignments, the Ming *Huidian* proved to be at odds with the practices of Qing administration. In 1660, the Board of War attempted to follow the *Huidian* in replacing imperial guards, but found that doing so would offend the Manchu system of ranks. If it filled the position according to Ming precedent, then the guard would be a lower rank than what the Manchu system of ranks demanded. The Shunzhi emperor replied, “The imperial procession guard all serve in the inner court and have a heavy responsibility. For Manchu officials they must have a rank of duke, earl, or count [i.e. above first rank].” With the authority of the *Huidian* in question, the matter was left unresolved in the interim and sent to a council for discussion.<sup>98</sup>

Cases of corruption and administrative transgressions as a result of the lack of clear standards and administrative precedent also led to calls for a new *Huidian*. “Since the time of Yao and Shun, the means of organizing and managing the bureaucracy have not changed. Although the law has been transmitted, the Way relies on people doing it. If the regulations are correct then officials are upright. In taking the throne the most important act of the emperor is to set the regulations clearly,” memorialized Shanxi censor Shao Shibiao in 1652. Although new regulations had continued to be issued under Hong Taiji and the Shunzhi regents, the *Huidian* led to confusion. Shao demanded clarification in the issuing of new laws and procedures. “In consideration of what is recorded in the *Huidian*, and in consideration of the needs of the dynasty,” he wrote, “I have four proposals.” These proposals were to prosecute and prohibit certain behaviors among officials, including the punishment of officials who tolerate parties with adverse interests; the prosecution of corruption among those who bribe their superiors; the prohibition of the arbitrary replacement of inferiors by their superiors and the implementation of standards for appointments; and the prohibition of slander among officials. The enactment of these matters would help discipline the bureaucracy, according to Shao, and the issuing of new regulations in place of the *Huidian* would help standardize administrative procedure.<sup>99</sup>

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97. GSA 163987, Sz11.3.1.

98. SL, 1046.1, Sz17.5.gengchen.

99. GSA 088932, Sz9.9.

Almost a decade and a half later, however, the lack of clarity in administrative procedures continued to haunt the bureaucracy. In 1666, Xiong Cilü, an official in the Palace Academy for the Advancement of Literature, memorialized on the corruption and exploitation occurring in the provinces by officials as a result of the lack of clear laws. He requested that the emperor investigate all the governors-general and governors, and promote those with merit and excise those found to be corrupt. Then “reference the old regulations and consider what is suitable for the age and order the compilation of a *Huidian*.”<sup>100</sup> He emphasized again, “I beg that the council discuss a system and put together a *Huidian*. Superiors will follow the way and inferiors will adhere to the law.”<sup>101</sup>

*Posthumous honors.* Early Qing officials also found fault with the system of posthumous honors in the Ming *Huidian*. Although the Ming *Huidian* provided a standard practice for granting posthumous honors and for the funerals and sacrifices associated with those honors, it contained a number of important discrepancies, which Qing officials quickly pointed out. Tombstones, for one. The *Huidian* regulated the size of the tombstone for the various ranks and positions, but it said nothing about the text that went on the tombstone. A Qing official of the three inner courts memorialized that Ming examples included tombstones that had an official’s name and position, while others had the full text of his honors and patent, while still others had nothing written on them at all.<sup>102</sup> More importantly, the problem with trying to follow the Ming *Huidian* to the letter was that the ranks and titles of the Ming did not correspond to those of the Qing. Or worse, they were not standardized to begin with. As an official from the Board of War put it in a memorial, “The funerary honors to be given to those who have died in battle as recorded in the *Huidian* are not uniform.” The memorialist continued to enumerate the default practice of the Qing, which included differentiated amounts of money for interment according to the position of the deceased military officer. An assistant brigade commander received 100 *liang*, for example, while a company commander got 80, a squad leader 60, and conscripts 30. “This has been the practice, but there is no uniform regulation; the situations are all different for dealing with the military dead,” he wrote.

100. *SL*, p. 307.2–310.2, Kx6.6.jiawu.

101. *QSG* p. 9891, *liezhuan* 49, Xiong Cilü.

102. *SL*, p. 756.2, Sz13.1.yiyou.

“There should be deliberation on the most appropriate differentiation for the funerary ceremony.” At issue for the Board of War here was to clarify the practices of interment for the different ranks and to set that down in law.<sup>103</sup>

Regulations in 1660, drawn up and issued by the Board of Rites, took steps to address these issues. Although not directed specifically towards the military dead, the regulations stipulated the interment and ceremony for the hierarchy of ranks and positions. The nine stipulations laid out in the Board of Rites regulations used the *Huidian* as a point of reference but often explicitly departed from it. The first stipulation dealing with above-rank officials, for example, allowed them a tomb according to the *Huidian*, but gave differentiated amounts of money, sacrificial wine, and officials to offer sacrifice according to their rank. Furthermore, exceptions were built into the law, indicating that those with a particular honor or inherited rank could petition the emperor for further services. Some of the stipulations were based on the *Huidian* in a similar manner, detailing which ranks would receive tombs and ceremony according to the *Huidian*. But other regulations completely bypassed the Ming *Huidian*. For example, stipulations for those ranks and positions of lieutenant colonel, regiment colonel, senior bodyguard of rank *adaba hafan*, bureau directors and vice directors, and banner captains of rank *batalabure hafan* were clearly new, for these were all banner positions. It was determined that if such an official died in battle he would receive a tomb and sacrifice.<sup>104</sup>

*Filial piety.* In the Shunzhi and Kangxi reigns, Board officials were inundated with requests to honor ancestors in ways that were not always in accord with the *Huidian*. In some cases, the Boards insisted on following the *Huidian*, as shown above, but in others they opted to write new precedent. In 1654, for example, a Jiangxi circuit attendant requested that his birth mother also receive his existing rank and honors. The Board of Personnel checked the *Huidian* and found that if the first wife of the father was still alive then any secondary wives could not be honored. Based on the *Huidian*, the Board recommended not to grant the request. The Shunzhi emperor intervened, however, responding, “Although this is

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103. GSA 163883, Sz9.12.11.

104. *SL*, p. 1034.2–1035.1, Sz17.4.*wuzi*.

in accord with the administrative system, the *Huidian* was edited in the early Wanli period of the previous Ming Dynasty and there were many regulations that were not provided for. Today in our dynasty's ritual system, sons express their feelings and we should have precedents. Go and consider again."<sup>105</sup> The regulation on the matter was subsequently changed and the Ming precedent scrapped.<sup>106</sup> Some years later, a similar situation arose in which Wang Xianzuo, a provincial administration commissioner under the Shanxi governor, requested that his honorary title be extended to his grandparents. The Board of Personnel checked the *Huidian* on extending honors to find that it was allowed only for capital officials. "But provincial and capital officials should be treated together as a single body," the Board of Personnel wrote in deliberation, concluding, "Wang Xianzuo should be able to extend." This judgment led to the changing of the precedent so that the same rights and privileges were given to all officials regardless of posting.<sup>107</sup>

Further changes to mourning rites were also necessary, especially for non-Han Chinese officials. Given that the Ming *Huidian* contained no rule on how officials of the banners were supposed to mourn, a standard had to be created. In 1661, the Board of Personnel was ordered to look up the mourning regulation from the Taizu and Taizong eras, only to find that neither the Board of Personnel nor the Board of Rites contained records of any such regulation. The only thing Board officials could dig up was a case from the third month of 1653, when the Guangdong censor took three years mourning according to the *Huidian*, and a case from the sixth month of the same year when it was deemed inconvenient for Manchu, Mongol, and Hanjun officials to take leave from their posts for mourning. This informal practice had become the precedent over the past eight years. Given this situation, and under order to establish a standard, the Boards deliberated and determined that capital officials

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105. *SL*, p. 636.2, Sz11.2.*guiyou*. The outcome of this case is unclear, and the regulations in the Kangxi *Huidian* remain obscure. On the one hand, the regulation follows the Ming, stating that if the first wife is alive then the birth mother cannot be honored with the title. But then it says that both the first wife and the birth mother can receive titles, while a stepmother cannot. *KXHD* 712.540. This was clarified in the Yongzheng *Huidian*, where the regulation was changed to echo the Shunzhi emperor's sentiments quoted here to allow all mothers to receive the title. *GXHDZL* 2.834.

106. *KXHD* 712.535–548.

107. *SL*, p. 103.1–2, Kx1.1.*dinghai*.

should continue to follow the existing practice of mourning for a month, regardless of whether they were Manchu, Mongol, or Hanjun. When the period was complete, they should return to their duties but continue to observe mourning rites when at home for three years. Those bannermen stationed in the garrisons or as officials sent out to provincial posts would, in case of a parent's death, follow the existing practice. If the parent was in the capital, then the official would be allowed to return to the capital and given a half a year of mourning leave. This practice became the official regulation and was later codified.<sup>108</sup>

Not only did the rejection of the Ming *Huidian* and formation of new rules for administrative operations respond to evolving situations on the ground, it also helped shape the political order. Even as officials cited the Ming *Huidian* as an authoritative source to undergird the hierarchical organization, they also found it lacking when the Qing and Ming systems of ranks and positions did not match, or when contradictory regulations contributed to malfeasance. In areas of administrative procedure, granting posthumous honors and rights, and mourning, Qing officials found the Ming regulations insufficient to deal with their affairs, and subsequently changed the regulations. These changes accounted for the Manchu system of administration, accommodating different ethnic groups, the banner system, and new positions into a cohesive administration, and they acquired the force of law when the Qing *Huidian* was issued in 1690.

### Foreign Relations

Even in foreign relations the Ming *Huidian* came up short. By the early Kangxi reign, the Qing had firmly established itself in the region, attracting missions from states for which the Ming *Huidian* contained no precedent. In 1663, for example, the Shaanxi governor-general reported that the monk Dang-ha-er was coming to pay tribute.<sup>109</sup> The Board of Rites searched the *Huidian* for a precedent but found none. "He is sincere and we should prepare to allow him to bring tribute," the Board confirmed.<sup>110</sup> A few years later, in 1668, the Board of War reported that

108. *SL*, p. 87.1–2, Sz18.9.gengyin. For further discussion of mourning periods and the different standards for Manchu and Han see Elliott, *The Manchu Way*, 206–7.

109. The identity and origins of this monk remain unclear.

110. *SL*, p. 161.1–2, Kx2.10.jiazi.

other unnamed foreigners had appeared on the coast wishing to offer tribute gifts and trade at the borders. Lacking any precedent, the case was sent to the Board of Rites, which checked the *Huidian* but found no system of tribute or trade for the newcomers, and thus referred to the Dutch trade in 1663 and the Siam trade in 1664. Because trading relations with both of these states had ended in 1666, the Board recommended they neither receive tribute from the foreigners in question, nor allow them to conduct trade.<sup>111</sup> This decision was not made based on the Ming *Huidian*, however, for the Ming *Huidian* lacked any precedent and thus provided no guidance for the Qing in this situation. Rather, the Qing Board of Rites referred to the more recent cases of Qing dealings with foreign states, showing that Qing officials had begun to form and build upon their own body of precedents.

New precedent was also created in existing foreign relations at the expense of the Ming *Huidian*. Late in 1668, for example, the Board of Rites reported that Siam paid tribute to the Qing court but presented gifts that were not in accordance with the *Huidian*. The exchange and nature of relations between the Qing and Siam was supposed to follow the precedents laid out in the Ming *Huidian*, and the Board of Rites requested that the Siam mission make up their shortcomings in the next tribute mission. Recognizing that “Siam is small and their goods and products come from other countries,” the Kangxi emperor observed that it was “hard for them to adhere to the *Huidian*,” and excused them, changing the regulation so that in the future they would not need to offer as much tribute.<sup>112</sup> Similar accommodations were granted in 1673 to Turfan, a state in what is the easternmost part of present-day Xinjiang.<sup>113</sup> The ruler of the state asked if he should give tribute according to the old precedent in the Ming *Huidian* or if a new standard had been set. The Board of Rites pointed out that in 1656 they brought 324 horses as a tribute gift, which was then reduced. They were subsequently required to present 4 western horses and 10 Mongol horses, while continuing to follow the Ming *Huidian* with regard to other items, including camels, daggers, grapes,

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111. *SL*, p. 354.1, Kx7.3.dingmao.

112. *SL*, p. 377.2, Kx7.11.yibai.

113. Tu-lu-fan. On the location of Turfan see *KXHD* 720.3716. For a study of the Muslims in Turfan during the eighteenth century see Kwangmin Kim, “Saintly Brokers,” esp. 25–26. On relations in the Yuan and Ming dynasties see Allsen, “The Yuan Dynasty and the Uighurs of Turfan in the 13th Century,” 243; Rossabi, “Ming China and Turfan,” 206–25.

and saddles.<sup>114</sup> In 1673, however, the emperor recognized that an official visit from distant Turfan to Beijing posed exceptional challenges and wrote that the mission only needed to bring horses and jade, but not the other items.<sup>115</sup> This became the standard practice as was recorded in the Qing *Huidian* when it was finally compiled some twenty years later.<sup>116</sup>

The shortcomings of the Ming *Huidian* led to the formation of new regulations, and officials continued to recommend that these new precedents be compiled into a new Qing *Huidian*. In the Qing state, they claimed, new regulations were needed in order to account for non-Han Chinese officials and for new positions in the administration. Similarly, they saw the operations of this administration requiring new regulations in areas of procedure, posthumous honors, and filial piety that were in accord with contemporary practices among all ethnic groups of the Qing state. In foreign relations, Qing officials also needed to revise the Ming rules to account for changing circumstances and to develop protocol for new diplomatic counterparts. Each of these areas reflected a particular vision of the Qing state as a multiethnic administration. In both the development of new regulation and the standardization of official practices, there was an interplay between the formation of law and the development of the structure of the state.

### *The Kangxi Huidian and the Problem of Order*

In 1684, the Kangxi emperor ordered the compilation of a Qing *Huidian*. Although officials had unsuccessfully petitioned three different emperors over the previous fifty years for such a *Huidian* and received only more regulations in return, something happened in the early 1680s to make those in power decide that the time had finally come for a new *Huidian*. No documents or records remain that discuss the logic behind the timing, and further research remains to be done to fully understand the decision to order the compilation of a Qing-specific *Huidian*; what can be said here is that around this time a number of factors converged that point to the recognized need for a system of laws that would solidify the emergent administrative order.

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114. For a list of the original tribute items see *KXHD* 720.3718.

115. *SL*, p. 561.2, Kx12.6.xinchou.

116. *KXHD* 720.3716–3718.

Foremost, the end of military hostilities created new opportunities for legitimization and standardization. In 1681, the Qing suppressed the Three Feudatories revolt, and two years later the last of the anti-Qing forces holding out on Taiwan finally surrendered. This left the Manchus in 1683 as the undisputed rulers of China, a position that could conceivably be further legitimized with a collection of statutes and laws articulating the structure and operations of the government. Furthermore, now that offices and personnel were not engaged in wartime operations, the large number of officials necessary for the collection and compilation of laws could be spared for work on a *Huidian* project.<sup>117</sup> More work is necessary to better substantiate these claims, but both are tenable, especially in light of the trend of greater record-keeping and rule-making under the emergent Qing administration.<sup>118</sup>

The early 1680s also began a new era in Qing politics. The defeat of the Three Feudatories in the south and the Zheng regime on Taiwan led to the political demise of an older generation of Manchus who had advocated for a system of feudal lords and suzerainty over these territories.<sup>119</sup> They were replaced by a new generation of officials, consisting of both younger Manchus and southern Chinese. The new cohort divided not along banner lines, as the political factions had done previously, but rather regionally into northern and southern factions. In this way, they had less interest in the preservation of banner politics and Manchu-centered structures of power, and were more invested in the hierarchy of an administrative state and ensuring their people were placed in key positions. Politics in this period became less about different visions of the state and more attuned to the accumulation of political and material resources within the existing institutions.<sup>120</sup> This situation enabled the Kangxi emperor to play

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117. More than seventy officials participated directly in the compilation project, and the memorials calling for the production of a Qing *Huidian* often outlined a process that included assigning officials in each department to collect regulations. For a list of officials see Li Liuwen, “*Da Qing huidian yanjiu*,” 12–13.

118. On the trend of rule-making see previous discussion above; also note the publication of the treatises on the management of military affairs (*Zhongshu zhengkao*) in 1672. On the expansion of record keeping operations note the initiation of the court diaries (*Qijuzhu*) in 1670 and the compilation of the veritable records (*Shilu*) in 1686.

119. On the position of the old generation of Manchus in the Three Feudatories revolt see Miller, “Factional Conflict and the Integration of Ch’ing Politics,” 100–132. On the Zheng regime and the problem of Taiwan see Ke Li (Macabe Keliher), “Shi Lang de gushi.”

120. Spence, “The K’ang-Hsi Reign,” 160–65.

factions off one another in order to assert the primacy of the sovereign; it also created a favorable environment to put forth a set of rules to regulate ranks and the organization and operations of the administration.<sup>121</sup>

In the front matter of the first *Da Qing huidian*, the Kangxi emperor himself pointed to the need for a cohesive set of rules for government.<sup>122</sup> In the edict ordering its compilation, the emperor repeated many of the arguments made over the past fifty years on the need for a *Huidian*: each dynasty must have its own laws and regulations, old precedents have been deemed unusable and new practices have been established, and officials are confused over the abundance of regulations scattered throughout the departments. He used most of the space, however, to discuss the growth of new regulations since the founding of the Qing, and on the need to collect them into a single compilation of statutes. Doing so, he said, would enable clarity of regulation and standardization of administration:

Taizu laid the basis for the great enterprise, establishing the scope and the scale. Taizong pacified with great effort and created standards to enable flourishing. Shizu united all and brought it to lasting completion. In consideration of the past, the administrative system has been set in preparation for today. [These accomplishments] have been refined and are worthy of endless admiration. Since taking the

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121. It is not the case that the southern faction pushed this Ming-style publication and gained the emperor's ear on the matter. The two editors, for example, Isangga and Wang Xi, were both northerners. Isangga belonged to the Plain Yellow Banner and was a collateral-line imperial relative, and he built a long career in the ranks of the administration including the inner court and imperial lectures in the 1670s. Wang Xi was similarly long involved in the academic institutions of the Qing, including the highest ranks of the Hanlin Academy, editorial office, and imperial lectures. As noted above, he had begun calling for a Qing-specific *Huidian* from the time that the young Kangxi emperor ascended the throne.

122. This discussion of the Kangxi *Huidian* is based on the Chinese-language edition. I recently located five extant Manchu-language editions of the Kangxi *Huidian*, all of which are kept in the rare books reading room at the National Library of China, Beijing. Because of renovations, relocations, and the periodic political sensitivity of "ethnic-minority languages," I was not given access until after this article was in the final stages of publication. A preliminary scan of the Manchu-language preface suggests that it is a corresponding translation of the Chinese. There are variations in emphasis, however, with the Manchu giving greater primacy to the subordination of political actors to formal practices, and these practices becoming standardized and made law. This emphasis fits with the findings of this article, and will be the subject of a future study.

throne I have followed their lead and respected their precedents. At times there have been additions and subtractions, which were necessary only because they were appropriate for the situation and done with the hope that they might achieve perfection. [Doing this] enabled officials to rely on what they know and not commit error. But the problem is that the many regulations are scattered [throughout the various departments]. It is hard for officials to consult them and for people to know what to do.

For this reason, the emperor argued, a *Huidian* was necessary, and he ordered all departments to assign people to collect their departments' regulations and begin compilation.<sup>123</sup>

From start to finish, the entire process of compilation and editing took six years. Over seventy editors are listed in the front of the *Huidian*, but it is clear that many more were involved. Each board, internal office, and government department devoted personnel to collecting the regulations and orders issued over the past sixty years, sifting through them, and organizing them in a way that would give meaning and coherency to a set of statutes to be followed for administrative procedure. The preface of the Qianlong edition of the Qing *Huidian* explained the process as follows:

In the capital, all the departments large and small must send a senior official to choose a capable bureau official to sift through all the records. They work in cooperation with officials in the department to organize and date the particular item for inclusion in the *Huidian*. This is then sent out.<sup>124</sup>

The documents included in the compilation were the internal records of each department, as well as official state records, memorials, and other published books and manuals.<sup>125</sup> The aim was to be comprehensive in the collection of all the precedents and statutes of the Qing over the past sixty years, and to extract the materials most relevant and instrumental

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123. This edict is reproduced at the beginning of the *KXHD* (711.1–2) and in the *Shilu* (*SL*), p. 195.2–196.1, Kx23.5.4).

124. *QLHDZL*, preface.

125. The editorial process and materials are discussed in Guo Songyi, “Qingchao de *Huidian* he zeli;” Ding Huadong, “Qingdai *Huidian* he zeli de bianzuan jiti zhidu” 50–52; Zhu Jinfu, “Luelun *DaQing huidian* de zuanxiu,” 126–33; Li Liuwen “*Da Qing huidian* yanjiu.”

to the particular vision of social and political organization. In this way, the Qing *Huidian* was a carefully constructed document that drew upon Qing precedents and practices with a conscious design that was consistent with the developing organization of the emergent Qing state. It was not simply copied from the Ming.

The Kangxi emperor's preface to the *Huidian* introduces three different themes. First, the preface emphasizes the importance of regulations in the organization and management of a state; second, it elucidates the nature of those regulations and the work they did; and third, it takes up the need to adapt general organizing principles to a particular situation and to reformulate rules and regulations accordingly.<sup>126</sup>

Whereas the Ming emperors in their prefaces made efforts to link their *Huidian* with the concept of universal order followed by arguments for its codification,<sup>127</sup> the Kangxi emperor emphasized the need for order through positive regulation and translated into legal code. "Since ancient times," he began, "in order to manage affairs and govern, there is not one emperor who did not establish regulations." It was through regulations, he argued, that order could be achieved and administrative action formalized. "If you have a central track, then everything will become easy and all can follow. If you set up laws, then people can act accordingly." Such regulations needed to be put into law to set the standard for all operations and activities. "The way to manage the state," he said, "is to put forth the statutes. This is the only way." The kings of old did as much, he added, as did the founders of each dynasty. This ensured regularity and prosperity. For the Kangxi emperor, uniform law was the proven means to govern properly and efficiently. It was necessary for the sovereign to create regulations and to rule accordingly.

In the second part of the discussion, the Kangxi emperor emphasized the principles behind these regulations and how they worked in practice. He began by pointing to the ancient texts, the *Shangshu* and *Zhouli*,

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126. This division is my own reading into the preface of the *KXHD*. The text can be found in the opening pages of the Kangxi *Huidian*. *KXHD* 711.1–8.

127. There are prefaces for each of the four *Huidian* produced in the Ming. Although only two of the Ming *Huidian* are extant, all four prefaces are reproduced in the Wanli-era *Huidian*. See *WLHD*, p. 1–8.

as examples, and emphasized the creation of the system of nine ranks by Yao and Shun, and the six official positions set up in the Zhou through which administrative tasks and duties were assigned, whereby “responsibilities and activities were clear, and all was in order.” These aspects of administrative organization and discipline lay at the heart of the law, according to the Kangxi emperor, for they were transmitted in administrative rules and regulations, which had been drawn up by subsequent dynasties and formed the basis of the Ming *Huidian*. The foundation of government was thus a hierarchical order with officials assigned specific areas of responsibility and duties that were performed according to formal standards.

According to the Kangxi emperor, the regulations contained in the *Huidian* were not divine laws inherited from the sages and imitated by contemporaries. Rather, as he pointed out in the third theme, regulations were created by men and developed over time. The entire preface has a historical perspective, which was adopted as a means of legitimization. Beginning with the opening lines about kings in ancient times establishing regulations, through the narrative about the transmission of the regulations over the dynasties, the preface casts the Qing as the legitimate inheritors of rule. The emperor noted that the *Zhouli* served as the inspiration for the *Tang liudian* and the *Song huiyao*, but was transformed in these two documents to fit the needs of the respective dynasties. Similarly, the Ming *Huidian* maintained the same spirit, even as it reflected conditions in the Ming. “Although one generation after another has made laws, they are not completely the same. The details have to change according to the situation.” The Qing too had a history, which guided the creation of new regulations that would be set forth as law to support the new order. The Kangxi emperor outlined the roles of Nurhaci, who “suppressed unrest and brought order to the land through the making of new laws and regulations;” Hong Taiji, who “built on this foundation and put all affairs in order;” and the Shunzhi emperor, who “brought harmony.” The regulations and formalized practices of the Qing that developed over the years, the Kangxi emperor argued, were pulled together in the *Huidian* so that “all are recorded and well organized.” With the completion of the Qing *Huidian*, the emperor boasted the regulations to be “more detailed than [those of] any previous dynasty.” Moreover, they were not copied or compiled from earlier works,

but “each has been made carefully and recorded dutifully without aims of mere decoration or means of extravagance.”

The emperor’s discussion in the Qing *Huidian* preface gave expression to a certain conception of the state that the law would represent. It outlined the understanding of the importance of establishing rules and regulations in the organization of politics, that the nature of this organization lay in a system of hierarchical ranks and positions, and that these would be manufactured anew by each dynasty to fit its social and historical circumstances. The regulations of the Qing *Huidian* did this in fact, as a compilation of Qing practices and rules that came into being in tandem with the reorganization of political order.

The structure and practices expressed in the Kangxi *Huidian* were but one competing vision of the Qing state, to be sure. Other visions that lost out in the political struggles were sidelined with the ascendancy of the Kangxi emperor and his control of competing factions. Oboi’s vision, for example, gave primacy to the banners over a meritocratic bureaucracy. This enabled organizations like the Imperial Household Department, Court of Colonial Affairs, and the Council of Princes and High Officials to have greater influence in political and decision making processes, while those institutions set up under the Shunzhi emperor, like the Grand Secretary (*Neige*), Censorate, and Hanlin Academy were replaced. During the Shunzhi and early Kangxi years, Oboi and his allies tried to mold the state around the organization and power structure of the banners, not the bureaucracy. This competing vision was ultimately overrun and defeated in the 1680s, to be replaced with settlements that were given full articulation in the publication of the first *Da Qing huidian* in 1690.

### *Epilogue*

The publication of the Kangxi *Huidian* initiated a period of rule-making and formalization.<sup>128</sup> In both structure and content, this massive codification and compilation of regulations served as the model for

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128. The early Qing process of administrative standardization and codification marks an important stage in state formalization and legal development, not only in Chinese history but also in the early modern world. In China this process appears to begin in the mid-Ming: see Langlois, “The Code and Ad Hoc Legislation in Ming Law.” Similar developments began around the same time in the Ottoman Empire: Burak, *The Second Formation of Islamic Law*; Buzov, “The Lawgiver and His Lawmakers.”

further regulation and codification of administrative activity. Some forty years after the publication of the first *Huidian*, an update was issued under the Yongzheng emperor, expanding the regulations and precedents, but adhering to the same structure and form established in the first edition. The Qianlong, Jiaqing, and Guangxu emperors all followed suit and issued updated and expanded editions of this administrative code. In total, the Qing produced five *Huidian*. Although each of these later editions took the Kangxi *Huidian* as the blueprint for rule stipulation and regulatory content, jurists eventually found the regulations too specific and precedents too abundant to continue to combine together in the same text. Beginning with the Qianlong edition, they thus separated the general principles of the regulation from the precedents and published the latter as the *Huidian shili*. This format enabled an immediate reference to the rule and its practice, while still preserving the history of its evolution and practices in what amounted to lengthy appendices.<sup>129</sup> (The subsequent Jiaqing and Guangxu editions grew in size and expression but continued to follow the Qianlong format.) In addition to the *Huidian*, a code was published in 1740. This code, or *Da Qing lili*, mirrored the organization of the *Huidian* by structuring the law around the six boards and the main administrative bodies. It put forth the punishments for transgression of rules laid out in the *Huidian*.<sup>130</sup>

As the foundation of the Qing administrative organization and operations, the Kangxi *Huidian* was the legal expression of the state. Developed in concert with the formation of the Qing political order, the rules and regulations for administrative procedure as codified in the *Huidian* served as the basis for Qing governance and rule. These laws knitted together disparate ethnic and class groups in a unified political body and invested them with the common interest and goals of the military and bureaucratic operations of running an empire. As detailed above, the key provisions of this task were administrative organization and procedure. The Qing used Ming rules as a guide for dealing with the immediate issues of administrative organization and day-to-day operations, but Qing officials constantly found these rules lacking or

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129. Nancy Park is working on the development of the Qianlong *Huidian*, preliminary results of which were presented at a panel I organized for the 2014 Northeast Association for Asian Studies annual conference. Park, "The Evolution of the *Huidian*."

130. The evolution of the Qing code is discussed in Zheng Qin, "Pursuing Perfection."

unsuitable, and actors called for both revisions to the regulation, and the production of a new compilation of statutes. In administrative organization, the inclusion of Manchu, Mongols, and Hanjun in addition to Han Chinese in the Qing administration presented an administrative problem not addressed in the Ming regulations, as did the employment of the imperial relatives. This especially pertained to Qing-particular institutions, such as the banners, for which the Ming *Huidian* provided no guidance to help manage affairs such as discrepancies involving bannermen in the capital versus those in the provinces. As political relations were further worked out and clarified, protocol were developed so as to correspond to the relations of power and the hierarchies established. The emergent regulations were then codified into administrative law and published in the Kangxi *Huidian* in 1690.

This formation and articulation of administrative law in the seventeenth century enabled many of the advances of the eighteenth century. An organized administrative staff with clear operating procedures could efficiently and effectively respond to the immediate and long-term challenges and growth of empire. Territorial expansion, for example, necessitated the ability to mobilize men and convey information;<sup>131</sup> the ability to respond to crisis, like famine and rebellion, required the efficient distribution of resources to hard hit localities.<sup>132</sup> This administrative system also laid the foundation for administrative innovations, such as the Grand Council, which relied on clarity of role, task, and practice of officials in service of the Qing emperor and state.<sup>133</sup> The organized system of positions with defined rules for action and accountability created a cohesive staff that worked in pursuit of a common goal of Qing governance. The Qing-specific version of the *Huidian* was the codified articulation of that administration and its operations.

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131. The role of the Qing administration in territorial expansion is taken up in Perdue, *China Marches West*.

132. Will, *Bureaucracy and Famine in Eighteenth-Century China*.

133. Bartlett, *Monarchs and Ministers*.

## GLOSSARY

Aduri	阿都里
Chen Tiaoyuan	陳調元
<i>Da gao</i>	大誥
<i>Da Ming ling</i>	大明令
<i>Da Ming lü</i>	大明律
<i>Da Qing lüli</i>	大清律例
diewen	牒文
Diwang	帝王
Enggedei	恩國泰
Feng Youjing	馮右京
Fan Wencheng	範文程
fang <i>Huidian</i>	仿會典
Geng Tun	耿焯
Hanjun	漢軍
Hanlin yuan	翰林院
huangtie	黃貼
<i>Huidian shili</i>	會典實例
<i>Huidian</i>	會典
<i>Huiyao</i>	會要
Langkio	郎丘
Li Renlong	李人龍
Like jishizhong	禮科給事中
Liang Weiben	梁維本
liu ke	六科
lüli	律例
Neige	內閣
Neiyuan zhichifang	內院制敕房
Ning Wanwo	寧完我
<i>Qijuzhu</i>	起居注
<i>Shangshu</i>	尚書
Shao Shibiao	邵士標
shenwen	申文
<i>Siku quanshu</i>	四庫全書
Tan Qian	談遷
<i>Tang liudian</i>	唐六典
Turfan	吐魯番

Wang Xi	王熙
Wang Xianzuo	王顯祚
Wei Xiangshu	魏象樞
Wu Zanyuan	吳贊元
Xiong Cilü	熊賜履
xishuyi	系書役
yi ti	一體
<i>Yuan dianzhang</i>	元典章
Zhang Wanxuan	張萬選
Zhongguo	中國
<i>Zhongsbu zhengkao</i>	中樞政考
<i>Zhouli</i>	周禮

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## ABBREVIATIONS

- BDTB* *Beida yijiao tiben* (Routine memorials transferred from Beijing University). First Historical Archive, Beijing.
- ECCP* Arthur Hummel, ed. *Eminent Chinese of the Ch'ing Period*. Washington: U.S. Government Printing Office, 1943.
- GSA* *Neige Daku* (Grand Secretariat archive). Academia Sinica, Taipei.
- GXHDZL* *Guangxu Huidian zeli* (Guangxu *Huidian* precedents). Academia Sinica online database.
- KXHD* *Kangxi Huidian. Da Qing Huidian*. Taipei: Wenhai Publishing, 1992.
- MQNAF* *Ming-Qing Name Authority File*. National Palace Museum, Taipei.
- QLHDZL* *Qianlong Huidian zeli* (Qianlong *Huidian* precedents). Contained in the SKQS.
- QSG* *Qing shigao* (Draft history of the Qing Dynasty). Academia Sinica online database.
- SKQS* *Siku quanshu* (Complete library of the four treasures).
- SL* *Qing Shilu* (Veritable records of the Qing dynasty). Academia Sinica online database.
- TCZY* Luo Zhengyu, ed. *Tiancong chao chen'gong zouyi* (Tiancong-era memorials). Reprint, Taipei: Shuwen, 1968.
- WLHD* *Wanli Huidian. Da Ming Huidian*. Taipei: Zhongwen shuju, 1963.

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