

The legal characteristics of the *tianmian tiandi* (田面田底) custom ; a conceptual analysis

by Hiroaki TERADA

From the late Ming until the early Republican period, a special legal custom called the *tianmian tiandi* or the *yitian liangzhu* (一田兩主) land system existed all over China and especially in the Jiangnan region. Niida Noboru (仁井田陞) has defined the *yitian liangzhu* land system as a type of "devided property rights," and this definition has been accepted by many historians. But recently as Fujii Hiroshi (藤井宏) and Kusano Yasushi (草野靖) have pointed in their studies Niidás explanation was inadequate : I think he fails to clearly define what he means by property rights. This paper tries to fill this deficiency by defining more closely the legal characteristics of the *tianmian tiandi* land system through a comparison with other contemporary legal customs relating to land.

In the first section, the following points were elucidated by a comparison between the *yitian yizhu* and the *yitian liangzhu* land systems. The land ownership rights of the landlord in the *yitian yizhu* are based on a system in which the legitimacy of the landlord to manage the land freely is acquired from the former landlord. In the *tianmian tiandi* land system the tenant acquires his legitimacy to cultivate his land from the former tenant, as well as the landlord acquires the legitimacy to collect rent from the former lanflord.

In the second and third sections, the *tianmian tiandi* land system is compared with other forms of cultivation rights *in rem*. The second section discusses how the landlord gives some one else the legitimacy (which is transferable to a third party) to cultivate and pay rent centering on the concept of *dingyu* (頂与) and elucidates how this is related

to the *tianmian tiandi* land system, the rent deposit (押租) custom and the mortgaging and sale of land. The third section discusses the various forms by which tenants claim their inherent legitimacy to cultivate their land (for example a legitimacy arising from improvements made) when told to leave the land by the landlord. It examines the process in which the *tianmian tiandi* land system formed autonomously from these forms of tenant protest against landlord's demands to leave the land.