



**HAL**  
open science

# Serving and Working for Others. Negotiating Legal Status and Social Relations of Household Laborers in Late Imperial China

Claude Chevaleyre

► **To cite this version:**

Claude Chevaleyre. Serving and Working for Others. Negotiating Legal Status and Social Relations of Household Laborers in Late Imperial China. *Journal of Global Slavery*, 2020, 5 (2), pp.170-203. 10.1163/2405836x-00502003 . hal-02889686

**HAL Id: hal-02889686**

**<https://hal.science/hal-02889686>**

Submitted on 15 Jul 2020

**HAL** is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L'archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d'enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.

# Serving and Working for Others: Negotiating Legal Status and Social Relations of Household Laborers in Late Imperial China

Claude Chevaleyre

CNRS / Lyon Institute of East Asian Studies / Bonn Center for Dependency and Slavery  
Studies

[claude.chevaleyre@ens-lyon.fr](mailto:claude.chevaleyre@ens-lyon.fr)

This is a preprint version of the final article published in the *Journal of Global Slavery* 5.2, p.  
170-203

<https://doi.org/10.1163/2405836X-00502003>

## Abstract

Over the past decades, “wage labor” has been a lingering issue in studies on the development patterns of late imperial China. The legal reconfiguration of the category of “hired laborers” (*gugong* 僱工) between 1588 and 1788, in particular, has been foregrounded as a salient manifestation of the “incipient capitalism” going hand in hand with the emergence of a “free” labor market and with the decline of bound labor. Questioning the preconception that the mere appearance of labor relations mediated by means of wages would suffice to prove the existence of “free labor,” this article proposes to revisit the issue of “hired labor” in late imperial China. It approaches this issue from a conceptual standpoint, as a first step toward an overdue reassessment of the significance of wages in labor relations and their impact on the status of workers. The first section endeavors to sketch out a general conceptualization of *gugong* from the *Great Ming Code* and from Ming and Qing legal exegesis. The second section focuses on the study of the legal redefinition of *gugong* between the late sixteenth and eighteenth centuries, and looks for the social and legal implications of being hired. By doing so, it also explores changes in the Chinese conception of the notion of “service” and its relationship with what we would name “servitude.”<sup>1</sup>

## Keywords

Labor; Late Imperial China; Social Dependency; Status; Wages;

---

<sup>1</sup> I thank Christian G. de Vito (BCDSS) and Juliane Schiel (Vienna University) for their friendly support and constructive criticism on successive versions of this article. I also thank Béatrice L’Haridon for her insights on an early version of this article, and Imogen Herrad, academic editor at the Bonn Center for Dependency and Slavery Studies, for her diligent proofreading.

## Introduction

Over the past decades, “wage labor” has been a lingering issue in studies on the development patterns of late imperial China. The legal reconfiguration of the category of “hired laborers” (*gugong* 僱工), in particular, has been foregrounded as a salient manifestation of the “incipient capitalism” that emerged during the Ming-Qing period.<sup>1</sup>

Between 1588 and 1788, the imperial government reshaped the definition of *gugong* several times, with the apparent effect of gradually releasing a number of laborers working in exchange for wages from a hitherto highly asymmetric labor relation. Some historians have seen in this process a “precapitalistic emancipation” of “wage labor.” Others have interpreted it as a merely “technical” adaptation of the law to an already capitalistic, “free” and “contractual” labor market.<sup>2</sup> Revisiting this issue in his study of Chinese business history, David Faure has perceptively noted that “the literature is fraught with difficulties, for it has looked for capitalism in the wrong places.” Faure rightly added that “if the existence of wage labor was all it took to create incipient capitalism, we should not wonder that some historians have found it all the way from ancient China.”<sup>3</sup> To many historians of late imperial China, however, the emergence of “free wage labor” (understanding the advent of a “free” labor market as carrying the seeds of “capitalistic” relations of production) was (and remains) a crucial hallmark of the transition from “feudalism” to the “capitalist” stage of China’s historical development.

“Wage labor” and “wages” have also been of interest to the many economic historians who have endeavored to resolve the “problem” of the nineteenth-century “divergence” between China and Europe. Making the best of the scarce data available for the vast, diverse and changing Ming (1368-1644) and Qing (1644-1911) imperial formations, economic historians can be credited for having seriously contributed to nuancing the Malthusian analyses of China’s alleged “stagnation” and ultimate “failure” to industrialize.<sup>4</sup> Their attention has been particularly drawn to wages as a gauge for living standards<sup>5</sup> and to the role of the extended

Chinese household in the allocation of labor.<sup>6</sup> However, when addressing the issue of “bound labor,” they seem to agree that the phenomenon declined sharply from the sixteenth century onward and that the autonomy of workers increased as “wage labor” expanded.<sup>7</sup> Many of their studies thereby convey a common implicit assumption that “bound labor” became a negligible factor in late imperial Chinese context.<sup>8</sup>

Extreme forms of social dependency in Ming and Qing China never reached the scale and intensity of European colonial slavery. The still-overlooked category of *nubi* 奴婢 (translated as “bondservants,” “slaves,” or “serfs”) never represented more than a few percent of the population. Although their number probably decreased after the Ming era, evidence show that owning *nubi* and trafficking in human beings persisted well into the early twentieth century.<sup>9</sup> Besides, *nubi* were not the only workers whose social identities were affected by various sets of asymmetric obligations. The above-mentioned *gugong*—a category which encompassed most of the laborers working in exchange for wages—closely resembled *nubi* and, like them, were incorporated into the structure of their employers’ households. As such, *gugong* did not only hire out their labor, but also “placed [them]selves temporarily with [their] whole person in a dependent position” (to borrow the words of Marcel van der Linden).<sup>10</sup> Thereby, *gugong* (variably translated as “workers,”<sup>11</sup> “hired-laborers,”<sup>12</sup> “hired workmen,”<sup>13</sup> “[hired] worker-serfs,”<sup>14</sup> “agrarian hirelings,”<sup>15</sup> or “dependants”<sup>16</sup> and “serviteurs gagés” in French<sup>17</sup>) can hardly be regarded as autonomous and independent economic actors, contrary to the impression often conveyed by the semantic of “wage labor” (and “free market”) employed in economic history literature.

Questioning the preconception that the mere appearance of labor relations mediated by means of wages would suffice to prove the existence of “free labor,” this article proposes to revisit the issue of “hired labor” in late imperial China. It approaches this issue from a conceptual standpoint, as a first step toward an overdue reassessment of the significance of

wages in labor relations. The first section endeavors to sketch out a general conceptualization of *gugong* from Ming law and from Ming and Qing legal exegesis. The second section focuses on the process of legal redefinition of *gugong* between the late sixteenth and eighteenth centuries, and looks for the social and legal implications of being hired. By doing so, it also explores changes in the Chinese conception of “service,” and its relationship with what we would name “servitude.” Hereafter, *gugong* 僱工 (lit. “to hire labor[ers]”) and *gugongren* 僱工人 (“persons whose labor is hired”) refer to the above-mentioned legal category. “Hired laborers” is used in reference to persons receiving wages in exchange for their labor, be they legally considered as *gugong(ren)* or not.

## I. Sketching Out *Gugong* from Ming Law

Promulgated in 1397, the *Great Ming Code* was never altered under Ming rule and remained the backbone of Chinese legislation until the early twentieth century. Despite the apparent permanence of late imperial law over five centuries, legislative innovation flourished in the form of “substatutes” promulgated, revised and abrogated on an ad hoc basis. The corpus of statutes and substatutes was composed of proscriptive texts that characterize crimes, prescribe standard punishments, and specify sentence modulations based on the relative status of the offender and the victim. Ming and Qing penal codes do not provide positive definitions of any social category; neither can they be regarded as accurate reflections of changing social practices. They nonetheless constitute a major source of information for the study of how social components and their evolution were conceptualized. *Gugong* appear in numerous regulations, from which elements of a general definition can be grasped. Occurrences of the term in the *Great Ming Code* can be divided in two broad subsets.

## ***Gugong and the Misuse of Labor***

The first subset of Ming regulations concerned with *gugong* mainly addresses offences related to the misappropriation and the misuse of labor (*gong* 工) by officials. The terms *gugong* and *gugongren* appear in several statutes concerned with the “private” (or “illicit,” *si* 私) appropriation of the services (*yi* 役) of commoners, artisans, or soldiers.<sup>18</sup> For instance, article 2 of the law on the “Restitution and Confiscation of Illicit Goods” stipulates:

If criminals are punished on the basis of illicit goods, and the original illicit goods still exist, such goods shall be returned to the government or owners. If the goods have already been expended, or the criminals themselves die, the goods shall not be repaid. All other illicit goods shall be repaid. If the illicit goods are calculated from the value of wages for hired laborers or the rent (*gugong linqian* 雇工賃錢), such goods shall not be repaid either.<sup>19</sup>

To explain the meaning of the last sentence of this article, the late-Ming jurist Wang Kentang (1549-1613) gives the following examples: “If one privately uses the services (*yi* 役) of an artisan, or privately uses postal horses, the [value of] the illicit good shall be calculated from the money price of the laborer (*gong*)’s service (*yi*) or the rental [of the horse].”<sup>20</sup> In other words, the irregular/illicit mobilization of labor by officials was considered a form of embezzlement. The resulting illicit gain was evaluated on the basis of an official daily wage rate (set at 60 copper coins in the early Ming period).<sup>21</sup>

*Gugong* is also present in statutes punishing the illicit hiring of substitute workers to fulfil one’s labor duties, as exemplified by the following regulation:

When sent to work (*gongzuo* 工作) for the Palace Treasury or the Imperial Storehouses, if artisans do not [...] enter the Palace to perform service (*yi* 役) themselves, and [instead] hire (*gu* 雇) others using false names to take their place, they and their substitutes are punished by 100 strokes. The money used to hire [substitute] laborers (*gong* 工) is forfeited to the government.<sup>22</sup>

In a legal context, the wording *gugong* therefore either meant “to hire laborers,” or referred to an undefined category of “hired laborers” working *for* or *in lieu* of others. The *Great Ming Code* does not associate *gugong* with any specific labor term or with particular activities and skills. Thus, the main defining feature of *gugong* as a labor relation seems to proceed solely from the payment of wages in exchange for one’s labor power. Although this is evocative of a symmetric labor relation and reminiscent of the modern “free” wage earner, the variety of terms used to translate *gugong* in Western scholarship (cf. *supra*) suggests otherwise; as does the close association in legal and normative texts of *gugong* with the notion of *yi* 役.

A polysemic term, *yi* was used in Ming and Qing times in various occupational titles, like those of the sub-bureaucratic “runners” (collectively known as *yayi* 衙役, or “*yamen* servants”).<sup>23</sup> It also referred to a major form of taxation (the “corvée labor” or “service levy” paid in kind and in labor, later commuted into silver payments).<sup>24</sup> Western dictionaries consistently translate *yi* with nouns and verbs revolving around notions associated with “service” and suggesting various levels of subordination.<sup>25</sup> Modern Chinese dictionaries trace the origins of the term back to ancient military border duties and define it either as a “duty,” as “servitude” (*puyi* 僕役),<sup>26</sup> or as an action verb meaning to “order and summon” (*shihuan* 使喚), “to direct and order” (*qushi* 驅使), especially with reference to *nubi*.<sup>27</sup> *Yi* and compounds thereof were indeed key notions in the conceptual vocabulary of *nubi* bondage. *Yishi* (“to use the services and to command”), for instance, was commonly used as a title sentence in lineages’ treatises on the “governance” of *nubi*.<sup>28</sup> Contracts also ordinarily defined the duties of *nubi* as “performing” or “providing services” (*fuyi* 服役, *gongyi* 供役), as they did for the obligations

of *gugong*. That terms so central in the conceptual vocabulary of *nubi* servitude were also constantly used in relation to *gugong* points to a close proximity of the two categories.<sup>29</sup>

### **Gugong in Ming “Domestic” Law**

The proximity of *nubi* and *gugong* can be highlighted by the frequent association of the two categories in a second subset of statutes that I have come to label “domestic law” (i.e. the body of statutes regulating interactions within the unit of co-residence, the “household”). Such proximity has been subject to various interpretations. Some historians consider that there was “little difference between them,”<sup>30</sup> whereas others have pointed to major discrepancies.<sup>31</sup> Both views have a basis in the sources.

#### **Proximity with *Nubi* Inside the Household**

In practice, distinguishing *nubi* from *gugong* might not have been self-evident to outside observers. Clan regulations prescribing similar treatment to both categories;<sup>32</sup> repeated demands for strictly enforcing the law prohibiting commoners from possessing *nubi* instead of hiring *gugong*;<sup>33</sup> and the fact that domestic law often imposed analogous sentences on the two categories; all suggest that *gugong* was closely akin to *nubi*.

Like *nubi*, *gugong* were considered members of their employer’s household. They were subject to similar disciplining and requirements as other “inferior and junior” relatives (*beiyou* 卑幼)<sup>34</sup>—like the (non-reciprocal) obligation to conceal crimes committed by a “superior and senior” (*zunzhang* 尊長) by virtue of household solidarity.<sup>35</sup> Furthermore, when subordination to the authority and respect for the revered figure of the household head had to be emphasized in the law, *gugong* were sentenced to the same penalties as *nubi* and children<sup>36</sup>—especially in



relation to crimes with strong ritual significance (like the desecration of the master's buried body,<sup>37</sup> premeditated murder,<sup>38</sup> or illicit sexual relations).<sup>39</sup>

*Gugong* were again treated like *nubi* when the limits of their incorporation into the household needed to be emphasized, as was the case when access to property was at stake. In Ming law, “theft” (*dao* 盜) was characterized only when the victim and the perpetrator had no family ties or belonged to different units of co-residence. “Inferiors and juniors” who stole from “superiors and seniors” only fell within the ambit of the lesser offence of “misappropriation” of household property (*sishan yongcai* 私擅用財).<sup>40</sup> However, when *nubi* and *gugong* stole from household members, they committed theft in a legal sense. They were sentenced with reference to the punishments for ordinary theft, albeit decreased by one degree, and exempted from branding.<sup>41</sup> In so doing, the law (which otherwise strictly considered them “inferiors and juniors”) selectively manipulated their incorporation into the household so as to produce marginality by excluding them from claiming a share of the patrimony. On another hand, by sentencing them to the same penalties as for stealing from outsiders to the household decreased by one degree, and by exempting them from branding, the law treated them more leniently than complete outsiders. As explained by Wang Kentang, “in relation with the household head and his close relatives, although *nubi* and *gugong* have no claim to patrimony, they are co-residents (*tongju* 同居). Hence, they do not compare with outsiders.”<sup>42</sup>

### **Differences Between *Nubi* and *Gugong***

Despite such similarities, from a legal and conceptual standpoint *gugong* were nonetheless clearly distinguished from *nubi*.<sup>43</sup>

*Nubi* belonged to the wider legal category of “mean people” (*jianmin* 賤民), a composite socio-legal group including entertainers, prostitutes and various “outcaste groups,” of which

*nubi* were both the epitome and the largest numerical component.<sup>44</sup> *Nubi* were bought and owned by “masters” (*zhu* 主), also referred to as “household heads” (*jiazhang* 家長) in legal and normative sources. They were permanently excluded from the reference community of the “honorable” people (*liangmin* 良民, a cognate of “innocent” subjects)<sup>45</sup> through a series of legal impediments and systematic discriminations. Incorporated into the household’s domestic sphere, they were placed under the direct authority of the household head and his closest relatives, who exercised almost absolute power over their labor and persons. The process of household integration itself was monitored through a selective analogy with the most asymmetric relationship (i.e. the father-son relationship), which made *nubi* absolute social “inferiors and juniors.”<sup>46</sup> In other words, *nubi* underwent a complete and definitive reshaping of their social identity *as nubi*, which resulted in altering all their social relations, inside *and* outside their master’s household.

*Gugong* shared most of the features of *nubi*. However, they were not bought and owned by their “employers.” The social demeaning and legal discriminations bearing on *nubi* applied to them *only* within the limits of their term of labor and within the boundaries of the employer’s household. Although often treated like *nubi*, *gugong* were not completely and definitely excluded from the reference community of “honorable” subjects.<sup>47</sup> Their identity was only partially altered by a mitigated analogy with *nubi*. This can be illustrated by their absence from the three statutes regulating the interactions between “mean” people and “honorable” outsiders to the household,<sup>48</sup> and by the fact that, contrary to emancipated or redeemed *nubi*, no *macula servitutis* bore on former *gugong*.<sup>49</sup>

Inside the household, *gugong* were monitored by the same statutes as those regulating crimes committed by *nubi* (cf. *supra*). However, the law was also occasionally more lenient with them. When beating the household head, for instance, *gugong* were subject both to a broader scale of penalties and to mitigated sentences.<sup>50</sup> When *nubi* beat their masters, the *Code*

only distinguished between three incriminations (beating, killing, killing by accident), all punishable by death. As for *gugong*, the law distinguished between seven incriminations (beating, causing injuries, causing fractures, killing, intentional killing, accidental killing) punishable with lesser penalties (the death penalty being inflicted only when causing fractures or death).<sup>51</sup> In other words, although assimilated to *nubi* and similarly subject to the household head's authority, *gugong* were not as much incorporated into the household and its domestic sphere. As pointed out by Zhang Kai (1398-1460), inside the household, “*gugong* do not compare to *nubi*, [...] yet, both are mean dependents” (*jianli* 賤隸).<sup>52</sup>

### **Conceptualizing *Gugong***

From the limited information provided by the *Great Ming Code*, we can attempt to outline a general definition of *gugong* as it was framed in the early Ming period. *Gugong* was a legal status bearing on “honorable” subjects (or “commoners”) who committed to perform labor in exchange for wages. Whatever the nature of the labor and the length of the term, being hired was apparently enough to trigger a process of legal and social differentiation analogous to the demeaning provoked by becoming a *nubi*.<sup>53</sup> However, *gugong* remained “honorable” in their relationships with outsiders to the employer's household and family. One could therefore consider *gugong* as an intermediary category standing *in between* “mean” and “honorable” people.<sup>54</sup> Considering that status in late imperial China was always relative (i.e. the product of multiple factors and always context specific), it could also be argued that *gugong* were *both* “mean” and “honorable,” depending on who they interacted with. Still, one question remains: why were they “demeaned” and so closely assimilated to *nubi*?

Social and legal demeaning in late imperial China were mainly conceived as the natural sequels of engaging in polluting activities, of having suffered physical punishments, or of

having committed a serious moral fault.<sup>55</sup> Yet, Ming and Qing penal codes never associate *gugong* with specific occupations (polluting or otherwise). As for judicial sources, they only testify to the fact that, beyond being described as “serving” (*yishi* 役使), *gugong* were men and women of all tasks involved in all sectors of activity (household labor, agriculture, commerce, handicraft production, etc.). If the activities they performed were not demeaning per se, and if they remained “honorable” outside the household of their employer, the only possible answer to our question is to be found in the labor relationship itself.

Ming texts are relatively silent about the rationale underpinning social demeaning, but delineating the contours of the various social categories became an obsession of the Qing administration. This clarification effort sheds a retrospective (albeit incomplete) light on categories previously taken for granted and not worth explaining. Highlighting both the similarities and differences between *nubi* and *gugong*, a 1820 memorandum of the Codification Bureau expounds:

Although *nubi* and *gugongren* are similarly subject to “name-distinction” (*mingfen* 名分), there are differences in terms of benevolence and solidarity (*enyi* 恩義). Once bought as a *nubi*, one will serve (*fuyi* 服役) for the rest of one’s life and look up to the master for beverages, food, and clothes. [In the case of *nubi*] benevolence is heavy. This is why “name-distinction” is heavy. As for *gugongren*, those are only laborers (*yonggong* 傭工) who are hired (*shougu* 受僱). Yet, as they are serving and commanded (*yishi* 役使), one cannot but [still] distinguish between [what is] above and [what is] below.<sup>56</sup>

This document not only points to similarities between *nubi* and *gugong*. It also provides elements to explain the parallels between them. First, it highlights a close correspondence between being “ordered,” “commanded,” or “summoned,” and the conception of “service.” It then establishes a correlation between “performing” or “providing services” (*gongyi* 供役, *fuyi* 服役) and being placed “below” within the household hierarchy.<sup>57</sup> In other words, once

incorporated into a household for the purpose of working *for* (“serving”) the household head, outsiders were ipso facto demeaned (“below”) and thereby subject to “name distinction” (*mingfen* 名分).

*Mingfen* (lit. “denominations and share”) is an abstract Confucian notion. It can be considered the closest equivalent to what we would name “status.”<sup>58</sup> A corollary to the principle of “rectification of names” (*zhengming* 正名), *mingfen* played a fundamental role in the structuring of the imperial social order, especially in the shaping of “non-blood”/contractual hierarchies. Supposedly elaborated in the Golden Age of pre-imperial times, social “denominations” (*ming* 名) required “rectification” (*zheng* 正) when transgressed, in order to restore social order and cosmic harmony.<sup>59</sup> A major function of Confucian rites consisted in protecting the social hierarchies by ensuring the proper correspondence between “the names of social roles” and “the substance of actions.”<sup>60</sup> In practice, *mingfen* implied a clear sense of appropriateness: individuals had to accept their “share” (*fen* 分, or “status”) and behave according to the “names” (*ming*) assigned to them (as stated in the *Analects* XII.11: “A ruler ought to behave like a ruler, a minister like a minister, a father like a father, and a son like a son”).<sup>61</sup>

Built on *mingfen*, the locution “name (or status) distinction between master and *nubi*” (*zhupu mingfen* 主僕名分) was central to the engineering of the master-*nubi* relationship. Used in normative, judicial and moral texts on human bondage, it served as a reminder that a person assigned *nubi* identity was to act as a *nubi* (which meant, in practical terms, being obedient, submissive, diligent and respectful). It was also used as a key notion symbolizing the extreme statutory distance between a master and his (outsider) dependents, as well as the weight of the latter’s obligations. Its extension to *gugong* therefore suggests that the ubiquitous analogy between *nubi* and *gugong* was not simply one of convenience, but rested upon the idea that

“serving” (i.e. working for others) was in essence demeaning and in itself a source of social dependency and subordination. Hence, although *yi* 役 is often and loosely translated as “service” in the context of household labor, its semantic scope appears to be narrower and closer to what we would name “servitude.”

The sole, but essential, difference between *nubi* and *gugong* was one of intensity (as mentioned above, “status distinction” weighed less “heavily” on *gugong*); not only because the situation for the *gugong* was temporary, but also because their relationship with their “employer” rested only upon a labor agreement (they were “only laborers”),<sup>62</sup> which lessened the weight of “benevolence and solidarity” (*en*yi 恩義). When entering the household, *nubi* engaged in a relation based (in theory) on mutual aid and “reciprocity” (*yi* 義, a pivotal notion in contractual relations conveying the meaning of “appropriateness” and “solidarity”). In exchange for performing and interiorizing their new role, *nubi* benefitted from their masters’ “benevolence” (usually expressed in paternalistic terms of treating them as one’s own children and, in practice, of providing food, clothes, spouses, housing, and a sepulture).<sup>63</sup> Benefiting from lesser “benevolence and solidarity” (limited to the payment of wages), *gugong* were less deeply affected by the relation. As stated by the author of the influential *Great Qing Code with Comments and Notes* (1715), *gugong* “only receive from others a [money] price for being hired (*guzhi* 雇值). They perform services (*yi* 役) for others and that is all. Their activity (*shi* 事) is debased (*jian* 賤), not their person (*shen* 身).”<sup>64</sup>

A final explanation as to why performing labor for others was in essence demeaning can be inferred from legal commentaries of the late-Ming period. Those amply testify to the fact that the ideal agrarian and immobile society envisioned by the Ming founder was essentially one in which the population worked *for* and *by* itself. This is why, according to several jurists, “honorable” subjects were (in theory) forbidden to possess *nubi*. The anonymous Wanli era

(1573-1620) *Golden Mirror of the Penal Treatises of the Great Ming*, for instance, expounds: “Regarding the possession of *nubi*, a crucial point lies in the two words ‘ordinary people’ (*shumin* 庶民). If the families of the ordinary population must work by themselves, how could they possess [*nubi*]?”<sup>65</sup> Although mainly concerned with *nubi*, such commentaries unveil an underlying rationale according to which “honorability” also emanated from working for and by oneself rather than relying on the labor of others.

Although Ming legal commentators often underline that *gugong* were not much different from *nubi* with regards to the tasks they performed,<sup>66</sup> one could argue that their occupations were not very different from those “honorable” people performed for themselves. The nature of labor itself was not a decisive factor in the alteration of the social identity of individuals (except when it was of a polluting nature). On the contrary, the nature of the labor *relation* was a crucial criterion. If this principle does not seem to have changed over the late imperial period, the definitions of the labor relations and categories underwent major changes.

## II. The Legal Redefinition of *Gugong*, 1588-1788

As a legal category, *gugong* was a Ming innovation.<sup>67</sup> Up to the end of the sixteenth century, its legal definition remained rather unambiguous: every person who performed labor in exchange for wages, regardless of the agreed term, the nature of the activities involved and the existence or not of a written labor agreement, was a *gugong* under the law. From 1588 to 1788, a series of new “substatutes” led to narrowing this definition down.

### ***The 1588 “Newly Submitted Substatute”***

Following a recommendation by capital censor Wu Shilai (?-1590), a substatute designed to clarify the differences between *nubi*, *gugong* and *yinan* 義男 (adopted sons) was promulgated in 1588. The text reads as follows:

From today onward, when a person is hired to perform labor (*guqing gongzuo* 僱倩工作), if a contract has been established and if a yearly term has been agreed upon, prosecute as *gugongren*. Only when hired for a short period of days or months and not receiving high wages (*shouzhi buduo* 受值不多), prosecute in compliance with the ordinary [laws, i.e. as commoners]. As for bought adopted sons, if those have been fostered with benevolence over a long period (*enyang nianjiu* 恩養年久) and have received a wife (*peiyou shijia* 配有室家), prosecute as sons and grand-sons, in compliance with the [existing] substatutes. If they have been fostered with benevolence for a short period and have not been married, prosecute as *gugongren* when in families of scholars and commoners. When in families of officials, prosecute in reference to the statutes on *nubi*.<sup>68</sup>

The “Newly Submitted Substatute” did not alter the legal treatment of subordinate categories in the household, but it set new criteria as to who belonged to which legal category. As it only stipulates that individuals meeting the criteria were to be *judged according* to the laws of the corresponding category, its impact on practices may have remained limited. Late-Ming judicial sources nonetheless show that the regulation was actually enforced by judicial courts soon after 1588.<sup>69</sup>

The 1588 substatute was designed more clearly to distinguish three categories that often overlapped or were confused in practice. First and foremost, it addressed the lingering debates about who was legally entitled to possess *nubi* and about the widespread albeit contested practice of concealing *nubi* behind adoptions.<sup>70</sup> The *Great Ming Code* strictly restricted the possession of *nubi* to the small and outdated group of “meritorious officials” (*gongchen* 功臣).<sup>71</sup> Two centuries later, possessing *nubi* had become common practice even among



commoners who resorted to “adoption” contracts to bypass the prohibition.<sup>72</sup> Furthermore, many were advocating in favor of interpreting the law as allowing all families of officials the right to possess *nubi*.<sup>73</sup> By considering “bought adopted sons” in the families of officials as *nubi*, regardless of the duration of the relationship and what they had received from their master, the new regulation proved them right. On another hand, by stipulating that “adopted sons” bought by (non-office holding) scholars and commoners were now to be judged either as *gugong* or as “sons and grandsons” (i.e. as true family members, not as *nubi*), the text reaffirmed that owning *nubi* remained a State elite privilege, and clearly opposed the practice of concealing it behind adoptions.<sup>74</sup>

The new statute also reshaped the legal definition of *gugong*. Whereas receiving wages for performing labor had formerly been the sole criterion, the duration and the degree of “benevolence” (i.e. benefits) involved in the labor relation were now to be taken into consideration. Individuals contractually hired for more than one year remained *gugong* under the law, whereas persons hired for days or months were henceforth considered as complete outsiders to their employer’s household (the above-mentioned *Golden Mirror of the Penal Treatises of the Great Ming* gives tailors, wood carvers and masons as examples of short-term hired laborers).<sup>75</sup>

The legal narrowing of the *gugong* category has been interpreted either as the legal formalization of an already common distinction between *gugong* and casual hired workers,<sup>76</sup> or as a manifestation of shifting labor practices (in particular of the expansion of a less paternalistic “hired labor” approach) following the economic burst of the late-Ming period.<sup>77</sup> After a period of contraction, the Chinese economy expanded steadily over the course of the sixteenth century. Spurred by massive inflows of Japanese and New World silver (from the 1540s onward) and by the regional specialization of market-oriented production, long-distance trade and national markets connected to global networks flourished. Consumerism, new business organizations,

increased social and geographical mobility, and the commercialization of the economy as well as of social relationships are some of the hallmarks of the dynamic, but highly uneven, late-Ming society.<sup>78</sup> In developed areas like Jiangnan (China's economic heartland), cash crops and manufactures increasingly required specialized labor and a more "efficient labor allocation";<sup>79</sup> social boundaries manifestly eroded, and the necessity to "delineate legal discriminations between honorable and mean statuses" intensified.<sup>80</sup> Hence the practices of distinguishing between short- and long-term laborers working for wages, and of relying on more impersonal labor relations, were probably already widespread in 1588.<sup>81</sup> Eventually, a few decades after the new regulation was adopted, it was clear to many that a person "hired occasionally for money" (*linxing yongcai gu* 臨行用財僱) was no longer the same as a *gugong* "employed by one's household" (*benjia gugongren* 本家僱工人),<sup>82</sup> and that receiving wages was no longer a sufficient and necessary factor for identifying *gugong*.

The 1588 statute undeniably contributed to legally "emancipating" a (hardly quantifiable) number of laborers working for wages from the authority of the household head and from servile status. Working for others was no longer demeaning per se: the demeaning impact of being hired was now to be evaluated on the basis of the *intensity* of the labor relation, itself measured in terms of *duration* (above one year) and *benefits* ("high" wages in the case of *gugong*; being "raised with benevolence" and receiving a spouse for genuine "adoptive sons"). Not setting a threshold beyond which daily and monthly wages were to be considered "low," the 1588 regulation remained subject to interpretation, leading to several revisions under Qing rule. The criteria for identifying *gugong* were refined each time, but the underlying rationale of measuring the intensity of the labor relation never changed, nor did the legal treatment of *gugong*.

## *Evolutions of Gugong Status under Qing Rule*

Up to the mid-eighteenth century, judicial courts continuously enforced the 1588 distinction between short- and long-term “hired laborers.” The statute was incorporated unaltered into the 1646 edition of the *Great Qing Code*. It was still present in its 1740 edition, albeit in an abridged version (drafted 1725) stating: “In families of officials and commoners, persons hired to perform labor under contract and a yearly term are prosecuted according to the statutes on *gugong*. Only when hired for a short term of days or months, prosecute like ordinary persons.”<sup>83</sup>

### **The 1759-1760 Revision**

A first substantial revision occurred in 1759, following a proposal by Shanxi Provincial Judge Yong Tai:

Set aside pawned household members (*diandang jiaoren* 典當家人) and bonded personal attendants [of officials] (*lishen changsui* 隸身長隨) who shall all be sentenced with reference to the established regulations, when a person is hired to perform labor (*guqing gongzuo* 僱傭工作), if a contract has been established and a yearly term has been agreed upon, or if, in the absence of a contract and an [agreed] yearly term [that person] has received wages for five years or more, [then] set the sentence for offending the household head in all cases according [to the laws on] *gugongren*. When hired for a short term or for temporary needs (*suishi duangu* 隨時短僱) and not receiving high wages, still incriminate like ordinary [persons].<sup>84</sup>

The text of the 1759 statute was completed one year later by an “established regulation” stipulating: “When the household head kills a *gugongren*, *only when* a contract has been established and a yearly term agreed upon can the sentence be set according to [the laws on] *gugongren*. If not, prosecute like ordinary [persons].”<sup>85</sup>

The preliminary discussions leading to the revision of the 1588 statute having not been transmitted, its motivations and intentions remain to some extent unclear. It seems

plausible, however, to assume that the revision was prompted by conflicting interpretations of “low wages” and of the necessity to having signed an agreement setting the terms of employment—increasingly leading judicial courts to judge long-term hired laborers as commoners rather than *gugong*.<sup>86</sup> It was also a secondary outcome of a typically Qing-era effort toward clarifying social norms in general and the operation of the *nubi* institution in particular.<sup>87</sup> Over the first century of Qing rule, reforms touched upon the many dimensions of the institution, including the right to own *nubi*,<sup>88</sup> the practice of commendation, the handling of runaways,<sup>89</sup> the status of *nubi*’s wives,<sup>90</sup> the rules of emancipation and redeeming, the organization of bondage within the Manchu banner system, the difference between private and officially stamped bondage contracts,<sup>91</sup> registration, etc. The complexity of the Qing legislation on bondage is beyond the scope of this article, but the continual, often ad hoc refining of the law created inconsistencies and affected the definition of related subordinate categories like *gugong*.

Overall, the 1759 revision did not bring major changes to the legal definition of *gugong*. As in 1588, the length of the labor relation remained a key factor in differentiating *gugong* from casual commoners working for wages. The threshold was still set at one year of receiving wages when a contract had been established. The major innovation resides in the attempt to regulate situations where no contract had been established beforehand (a grey zone of the previous regulation). In the absence of a contract, five years of effective labor were deemed necessary to consider a worker as a *gugong*. This resulted in further narrowing the legal category and the authority of the household head over the fraction of hired laborers working on a daily, monthly, and now non-contractual bases.

It is tempting to interpret this extension of more symmetric labor relations to a wider segment of laborers working for wages as an inexorable “progress” toward “free” labor. However, Yong Tai’s intentions were less “progressive” than they seem. As suggested above, his proposal was designed to bring back into the *gugong* category long-term hired laborers who

were often judged as commoners by the judicial courts. Besides, Yong's initial draft included a provision (cut in the codification process) that would have resulted in making *nubi* of all hired laborers having effectively worked ten years or more.<sup>92</sup> Finally, the revision that would occur a few years later marked a slight reversal of the “progress” initiated by the 1759 text.

### The 1767 Revision

The 1767 revision of the statute was meant, again, to bring clarification about the legal status of hired laborers without a contract and/or without having agreed upon a labor term expressed in years. The text is more complex and introduces different criteria for the identification of *gugong*:

In families of officials and commoners, [...] pawned household members, bonded personal attendants [of officials], and *gugongren* with a contract and a yearly term shall still be sentenced with reference to the established regulations.

As for other *gugong* who either have no contract but have agreed upon a yearly term, or have not agreed upon a yearly term but are [subject to] status distinction between master and dependent (*zhupu mingfen* 主僕名分):

- If hired for less than one year, apply a punishment one degree higher with reference to the statutes on increased punishments between honorable and mean (*liangjian jiadeng lü* 良賤加等律) when committing common offences (*xunchang ganfan* 尋常干犯).
- If hired for more than one year, punish like *gugongren*.
- If committing serious crimes falling under such categories as illicit sexual intercourse, homicide, or false accusation, also sentence with reference to *gugongren*, even when hired for less than one year.
- If only hired by peasant kinsmen to perform farm work (*gengzuo* 耕作), [employed as] young shop attendants (*dianpu xiaolang* 店鋪小郎), or hired for a short term or temporary needs (*suishi duangu* 隨時短僱)—that is as individuals who do not provide service (*fuyi zhi ren* 服役之人)—prosecute like ordinary [persons].<sup>93</sup>

The 1767 revision seems to have been prompted by the five-year threshold set in 1759, which appeared inappropriate to “differentiate between mean and honorable” hired laborers.

According to the jurists of the Codification Bureau, although “people often do not establish contracts” in practice, “name distinction between master and dependent actually exists.”<sup>94</sup> To them, laborers hired for two to four years could hardly be considered as “not having been nurtured with benevolence for long” (*enyang yi buwei bujiu* 恩養已不為不久), and thereby be judged as commoners.<sup>95</sup>

The revised statute first reiterated the principal provisions of the regulation passed a few years earlier: 1. The status of the employer had no impact on the status of a hired laborer (being employed by a commoner or an official made no difference, whereas it did in the case of persons bought as *nubi*); 2. Some categories of workers were automatically considered *gugong* (the personal attendants of officials, pawned household members—who could also include household *nubi*<sup>96</sup>—and commoners having contractually agreed upon a labor term of one year or more); 3. Contracts and the duration of the labor relation were still decisive in identifying “genuine” *gugong* (as mentioned in the text, having effectively worked for at least one year amounted to having signed a contract to perform work for one year or more). Hired laborers who could not be automatically identified as *gugong*—i.e. those who fulfilled none or only one of the two criteria (having signed a contract or agreed beforehand upon a term expressed in years) and who had not effectively worked for a full year—were considered neither as complete outsiders to their employer’s household nor completely as *gugong*.

The sentence stating that they shall be “punished one degree higher with reference to the statutes on increased punishments between honorable and mean” is somewhat cryptic. It nonetheless introduced an intermediary level (not a new legal category) between “genuine” *gugong* (as they were now defined) and complete outsiders within the household stratification of subordinate workers. The text here refers to the (already mentioned) three statutes regulating the interactions between *nubi* and “honorable” outsiders to the household. This body of legislation usually prescribed an increase or decrease by one degree of the sentences designated

for a particular crime, depending on whether it was committed by a *nubi* (increase) or an outsider (decrease). For instance, when a *nubi* hit an honorable person, the sentence was calculated from that for ordinary “affrays and batteries” increased by one degree.<sup>97</sup> Affrays between ordinary persons were liable to twenty strokes.<sup>98</sup> Thereby, a *nubi* who struck an ordinary person was sentenced to thirty strokes (one degree higher, see Table 1).

Case	Law	Perpetrator	Victim	Penalty	Calculation
1	Statute “Affrays and Batteries” ( <i>Dou’ou</i> )	Commoner	Commoner	20 strokes	
2	Statute “Affrays and Batteries” ( <i>Dou’ou</i> )	<i>Gugong</i>	Commoner	20 strokes	Same as Case 1
3	Statute “Honorable and Mean Striking Each Other” ( <i>Liangjian xiang’ou</i> )	<i>Nubi</i>	Commoner	30 strokes	+1 degree with ref. to Case 1
4	<b>1767 Substatute</b> to “Nubi Striking the Household Head” ( <i>Nubi ou jiazhang</i> )	Hired laborer (under 1 year)	Household head	40 strokes	+1 degree with ref. to Case 3
5	Statute “Nubi Striking the Household Head” ( <i>Nubi ou jiazhang</i> )	<i>Gugong</i>	Household head	Penal servitude for 3 years + 100 strokes	
6	<b>1767 Substatute</b> to “Nubi Striking the Household Head” ( <i>Nubi ou jiazhang</i> )	<i>Gugong</i> (“genuine”)	Household head	Penal servitude for 3 years + 100 strokes	Same as Case 5
7	Statute “Nubi Striking the Household Head” ( <i>Nubi ou jiazhang</i> )	<i>Nubi</i>	Household head	Death by decapitation	

**Table 1.** Penalties for striking commoners (without causing injuries) depending on the status of the perpetrator, as of 1767. Ordered by penalties

As a result, after the 1767 regulation was passed, hired laborers who struck their employer but could not be considered “genuine” *gugong* (cf. case 4, Table 1) were now sentenced to the penalty for *nubi* who struck an ordinary person (cf. case 3, Table 1) increased by one more degree (i.e. forty strokes). Compared with the death penalty meted out to *nubi* who struck their master (case 7, Table 1) and the sentence of penal servitude meted out to “genuine” *gugong* (cases 5 and 6, Table 1), the penalty was closer to that for commoners (case 1, Table 1).<sup>99</sup> For symbolic as they might seem, the effects of this regulation were still socially significant, as they

reaffirmed that performing labor for others was in most cases still demeaning. A number of workers who may have been considered complete outsiders to their employer's household under the 1759 statute were thus returned to the household head's authority (albeit in an attenuated way). The 1767 statute nonetheless made two exceptions to this new rationale.

First, a hired laborer who did *not* fulfill the criteria allowing to identify them as a "genuine" *gugong* was still legally assimilated to that category when (and only when) they committed "serious" crimes against the household head. In other words, the legal identity was now partly assessed according to the nature of the crime (an exception to the usual rationale of the penal law, in which a person's status was usually assessed regardless of the crime itself).

Second, the text of the new statute fully and explicitly dissociated from the category of *gugong* ("genuine" or by assimilation) workers who did not perform labor pertaining to "service" (*fuyi* 服役). The examples provided in the text include kinsmen hired to perform agricultural work, "youngsters" employed in shops, and casual workers hired for a "short" period or to meet "temporary" labor needs. Such criteria sound rather disparate, as they do not rest on a clear-cut, coherent principle. Yet, by grouping these examples under the umbrella of persons who "do not perform service" and by contrasting them to cases where people were subject to "name (or status) distinction between master and dependent"—and therefore to social differentiation—the text reactivates the notion of "service" and the principle of "name distinction" as pivotal criteria in distinguishing between symmetric and asymmetric hired labor relations. Obviously, occasional and family labor were now detached from "service," but the scope and definition of that central notion still remained nebulous. Some elements of clarification were formalized twenty years later, when the statute was revised and simplified for the last time.



## The 1788 Revision

The text of the revised statute promulgated in 1788 attempted to clarify the meaning of performing “service.” It reads as follows:

In families of officials and commoners, [...] pawned household members and bonded personal attendants shall still be sentenced with reference to the established regulations.

If [workers such as] drivers (*chefu* 車夫), kitchen aids (*chuyi* 廚役), water carriers, cooks (*shuihuo fu* 水火夫), chair bearers (*jiaofu* 轎夫), as well as persons performing menial tasks (*daza* 打雜) and hired to perform services, do not commonly share the same activities [as their employer], do not eat and drink at the same table, would not dare to address one another using familiar terms (*erwo xiangcheng* 爾我相稱), and usually are [subject to] name distinction between master and dependent, whether or not they hold a contract and have [agreed upon] a yearly term, all are judged as *gugongren*.

As for persons hired by peasants and tenants to perform agricultural labor (*gengzhong gongzuo* 耕種工作) and those like youngsters [employed] in shops who commonly sit and eat together [with their employer], who address one another on an equal level (*pingdeng xiangcheng* 平等相稱), who are not commanded and summoned to perform service (*shihuan fuyi* 使喚服役), and who usually are not [subject to] name distinction between master and dependent, whether or not they hold a contract and have [agreed upon] a yearly term, all are judged as ordinary persons.<sup>100</sup>

The 1788 statute marked a new step toward clearing the ambiguities related to *gugong* definition. From then onward, contracts, duration, and the amount of wages received were no longer immediately relevant factors. The legal definition of *gugong* rested thenceforth only on one single factor: the manifestation or not of “name distinction between master and dependent” (*zhupu mingfen*). Laborers working for wages who “served” their employer were considered subject to “name distinction,” and thereby legally treated as *gugong*. Those whose relationship did not rest upon “service” were not subject to “name distinction,” and were therefore treated as complete outsiders. The rule suffered no exception. Intermediary situations—like those introduced in 1767—were now obliterated.

Since the early Ming period, “name distinction” (or status distinction) had always been a distinguishing feature of interpersonal relations involving “serving” others. While the 1788

regulation simply reactivated the centrality of this key principle, it attempted to unpack this abstract notion and translate it into tangible criteria permitting its identification in practice. The criteria did not rest either upon a sectorial division of labor, or upon an opposition between productive and service labor (the professions and labor sectors mentioned in the text only serving as illustrations as to how the rationale of the law applied in practice).

To be characterized as “service,” labor thenceforth had to involve a manifest degree of hierarchy, subordination and social distance between employer and employee. Hired laborers who performed the same tasks as their employers, shared their meals, and addressed them as equals, could not be considered as workers one “commanded and summoned to perform service.” On the contrary, if one’s role as a laborer involved obeying orders, addressing the household head/patron using reverential terms, and not socializing with him when working, then, as performing “service,” one was manifestly affected by “name distinction” and, as a consequence, by social and legal asymmetry.

To some extent, the new regulation marked a return to the original spirit of the principle of “name distinction” (*mingfen*), a key aspect of which was role performance in compliance with the corresponding social denominations. Yet it also marked a reversal of the way *mingfen* operated. Before 1588, role performance had been dictated by denominations: once determined that one was a *nubi* or a *gugong*, one was expected to behave as a *nubi* or a *gugong*. Two centuries of legal experimentations later, as a result of repeated efforts to formalize tangible manifestations of “service,” *gugong* denomination (and legal status) was inferred from role performance. A second important outcome of this process was that it extracted a number of hired laborers from the legal category of *gugong*. In doing so, it resulted in narrowing the meaning of “service” down by altering the preexisting correlation between performing “hired labor” and performing “service.”

## Conclusion

The legal reshaping of the category of *gugong* described in this article has mainly been interpreted as the result of a necessary adaptation of old principles to new social and economic realities.<sup>101</sup> Philip Huang, who analyzed the evolution of estate management in Northern China during the eighteenth century, explains it as follows: “While the institution of serfdom was giving way to that of the hired worker-serf [i.e. *gugong*], a new set of employer – wage laborer relations [i.e. hired workers released from *gugong* status] was spreading within the small-peasant economy.”<sup>102</sup> To him, the imperial government simply sided with the elite, “as it made little sense to put labor-employing peasants among the upper status groups, distinct from their workers; they were all commoners who got their hands dirty in the lowly and menial tasks of farming.”<sup>103</sup>

The regulations passed between 1588 and 1788 seem to show all the attributes of an emancipation process (especially for short-term hirelings) and to support the idea of the emergence of a “free” labor market going hand in hand with a nascent capitalism. From this perspective, it is likely, as Kenneth Pomeranz suggested, that “when it came to matters of ‘free labor’ and markets in the overall economy, Europe did not stand out from China and Japan; indeed, it may have lagged behind at least China” on the eve of the so-called nineteenth-century “great divergence.”<sup>104</sup> Considering the lack of available quantitative data for the periods prior to the late eighteenth century, the meaning of these successive regulations and the narrative of the advent of “free labor” should nonetheless be taken with a grain of salt.

Let us first recall that, although hardly quantifiable, statutory social dependency persisted until the fall of the imperial regime (and beyond).<sup>105</sup> For the last Ming decades, a figure of one to two million *nubi* (if not more) seems entirely plausible.<sup>106</sup> The sporadic and

heterogeneous *nubi* revolts of the Ming-Qing transition certainly dealt a temporary blow to the practice of owning *nubi*, but the hopes for an overall improvement of the institution (and in some cases for emancipation and equality)<sup>107</sup> were soon dampened by the Manchu rulers. The rules governing the institution underwent significant changes under the combined influence of the introduction of the Manchu bondage system and of the Qing rulers' constant concern for social norms of propriety. Yet, *nubi* and *gugong* remained pivotal categories in the conceptualization of the Chinese social order. *Nubi*, whom commoners were legally allowed to possess as early as 1646, were only manumitted in 1910 (not without resistance) as part of a last modernization effort. As a result, many were made *gugong* for the sole purpose of ensuring that hierarchy and appropriateness between the household head and his subordinate workers would not be undermined.<sup>108</sup>

It should also be stressed that the implicit correlation between the rise of a commercial economy and the emergence of a “free” labor market in late imperial China has not been sufficiently questioned—even by historians, such as David Faure, who would deplore that “the Western-centered post-industrial world is too full of the importance of individual rights and liberties to appreciate the workings of a society ruled more by ritual than by law.”<sup>109</sup> Considering the household as the main unit of labor allocation and business management, for instance, one wonders what relative advantage the hiring of workers on a more symmetric basis could have brought to household head-patrons who, in so doing, would have been deprived of the leverage and control they had over their outsider subordinates as they controlled their own kin. As judicial sources would also demonstrate, *gugong* were probably as flexible as other casual hired laborers. These sources would also show that *gugong* were still employed in all sectors of activity in the late eighteenth and early nineteenth centuries—including cutting sugarcane and wood, planting gardens, farming, harvesting commercial crops (like indigo), handicraft production, sailing, carrying sedan chairs, working in shops, etc.<sup>110</sup>

If we take the “process” of the legal reconfiguration of the *gugong* category for what it reveals about labor and wages, we shall first acknowledge that the issue was never addressed by imperial governments in economic terms or with the intent to adapt the norms to the changing social and economic environment. On the contrary, what it shows is a conservative response grounded in Confucian social philosophy. The 1588 statute was not concerned with the issue of hired labor per se but with curbing the effects of social practices on the ritual function of adoptions and on the privilege of possessing *nubi*. The regulations passed under Qing rule were not much different: all proceeded from a perceived necessity to reinstate social boundaries by making their respective features and differences more explicit. In a sense, this succession of regulations was not a “process” testifying to a natural or necessary historical evolution. It was rather a reiteration of the State’s responsibility to “rectify names” when faced with increasing anxieties and perceived social anomalies.<sup>111</sup> This was achieved through legal experimentation aiming at refining the criteria for measuring the intensity of labor relations (using diverse combinations of criteria like the existence of contracts, the duration of the agreed labor term, time actually spent working for an employer, the amount of benefits received by the worker, or the degree of proximity with the employer). Evaluating the concrete effects of these successive legal reconfigurations would nonetheless require an in-depth examination of the evolution of everyday practices, but that would be the topic of another article.

Retrospectively, this process also unveils a close conceptual relationship between performing labor *for* others and what we would term “servitude.” Being hired by a household head affected the social identity of laborers in a similar way as the fact that they had been bought transformed commoners into absolute social “inferiors and juniors.” In this regard, it must be underlined that “servitude” was closely correlated to a conception of “service” (*yi*) that has not much to do with service in a modern sense (either as “domestic service” or as an economic sector), since *gugong* were potentially the men and women of all tasks. The case of late imperial

Chinese *gugong* might be taken as yet another example of the historical diversity of “wage labor,” and of the anachronistic, albeit frequent equivalence between “free” and “wage” labor. Understanding that working in exchange for “wages” is a different thing from “free” labor relations is not new.<sup>112</sup> This parameter should nonetheless be accounted for in future studies on labor and service in a late imperial Chinese context.

A better understanding of what it meant to be “hired” in late imperial China might also be of some utility to historians of the so-called “coolie trade.” For too long, the debate has been dominated by the issue of deciding whether coolie labor was “free,” “unfree,” or “slave” labor, or even whether it marked a transition from slave to free labor.<sup>113</sup> Encapsulated in the conceptual framework of the modern West, the discussion seems to have paid little attention to the semantics in use on the Chinese side. To its advocates, coolie labor could be presented as “free” because it was contractual and (in theory) temporary, compensated by means of wages, and voluntary. To the Chinese workers sent to Cuba between the 1840s and 1870s, who were considered as *gugong* by the Chinese authorities and whose contracts were often entitled *gugong hetong* 僱工合同 (i.e. *gugong* agreement),<sup>114</sup> the labor relation they entered was certainly neither “free” nor symmetric. Looking at this old problem from the perspective of the Chinese workers might therefore contribute to framing it in renewed terms; and to shedding a different light on the recriminations against coolie labor expressed both by the Chinese workers and by the imperial government.<sup>115</sup>

## Works Cited

Allen, Robert C., Jean-Pascal Bassino, Debin Ma, Christine Moll-Murata, and Jan Luiten van Zanden. “Wages, Prices, and Living Standards in China, 1738-1925: In Comparison with Europe, Japan, and India.” *The Economic History Review* 64 (2011), 8–38.

Biot, Édouard. “Mémoire sur la condition des esclaves et serviteurs gagés en Chine.” *Journal asiatique* 3 (3) (1837), 246–311.

Brook, Timothy. *The Confusions of Pleasure. Commerce and Culture in Ming China* (Berkeley: University of California Press), 1998.

Cartier, Michel. “Liu Yung-ch’eng, Lun Ch’ing-tai ku-yung lao-tung, (LSYC 1962, 4).” *Revue bibliographique de sinologie* 8 (1962), 142.

Chen Wenshi. [陳文石]. “Qingchu de nupu maimai” [清初的奴僕買賣]. *Shihuo yuekan* [食貨月刊] 1 (1) (1971), 29–38.

Chen Yong. [陳永]. *Fajia pouji* [法家稟集]. 1550 (pref.). In *Zhongguo lixue wenxian*, ed. Yang Yifan [楊一凡] (Harbin: Heilongjiang renmin chubanshe, 2004), Vol. 4, 523–652.

Chevaleyre, Claude. “Acting as Master and Bondservant: Considerations on Status, Identities, and the Nature of ‘Bondservitude’ in Late Ming China.” In *Labour, Coercion and Economic Growth in Eurasia, 17th-20th Centuries*, ed. Alessandro Stanziani (Leiden: Brill, 2013), 237–272.

Chevaleyre, Claude. “Asservir pour punir. La nature pénale du statut d’esclave dans la Chine des Ming (1368-1644).” *Extrême-Orient, Extrême-Occident* 40 (2017), 93–117.

Chevaleyre, Claude. “Under Pressure and out of Respect for Human Dignity: The 1910 Chinese Abolition.” In *Distant Ripples of the British Abolitionist Wave*, eds. Myriam Cottias and Marie-Jeanne Rossignol (Trenton: Africa World Press, 2017), 147–198.

Chevaleyre, Claude. “The Abolition of Slavery and the Status of Slaves in Late Imperial China.” In *The Palgrave Handbook of Bondage and Human Rights in Africa and Asia*, eds. Gwyn Campbell and Alessandro Stanziani (New York: Palgrave Macmillan, 2020), 57–82.

Couvreur, Séraphin. *Dictionnaire classique de la langue chinoise* (Ho Kien Fu: Imprimerie de la mission catholique, 1904 [1890]).

Elvin, Mark. *The Pattern of the Chinese Past* (Stanford: Stanford University Press, 1973).

Faure, David. *China and Capitalism. A History of Business Enterprise in Modern China* (Hong Kong: Hong Kong University Press, 2006).

Feng Zi. [馮孜]. *Da Minglü jishuo fuli* [大明律集說附例]. 1592 (pref.) (Tōyō bunka: Niida collection).

Fu Yiling. [傅衣凌]. “Wo dui Mingdai zhongye yihou guyong laodong de zai renshi” [我對明代中葉以後僱傭勞動的再認識]. *Lishi yanjiu* [歷史研究] 3 (1961), 59–78.

Fu Zhongyao. [付鐘瑤]. *Zhongguo gudai guyong qiye zhidu yanjiu* [中國古代僱傭契約制度研究]. MA Thesis (Jilin University, 2006).

Gao Ju. [高舉]. *Minglü jijie fuli* [明律集解附例]. 1610 (Beijing: Xiuding falüguan, 1908).

Giles, Herbert A. *A Chinese-English Dictionary* (Leiden: Brill, 1912 [2<sup>nd</sup> ed.]).

Gu Yanwu [顧炎武] and Huang Rucheng [黃汝成]. *Rizhi lu jishi* [日知錄集釋]. 1670 (Shanghai: Shanghai guji chubanshe, 2006).

Guan Zhidao. [管志道]. *Congxian weisu yi* [從先維俗議]. 1602. In *Siku quanshu cunmu congshu* (Jinan: Qilu shushe, 1994-1997), Vol. 88 (子 Ser.), 186–540.

Guo Runtao. [郭潤濤]. “Qingdai de jiaoren” [清代的家人]. *Ming Qing luncong* [明清論叢] 1 (1999), 376–395.

Hai Rui. [海瑞]. “Xingge tiaoli” [興革條例]. 1562. In *Hai Rui ji* [海瑞集], ed. Chen Yizhong [陳義鐘] (Beijing: Zhonghua shuju, 1962), 38–145.

Hansson, Anders. *Chinese Outcasts: Discrimination and Emancipation in Late Imperial China* (Leiden: Brill, 1996).

Heijdra, Martin. “The Socio-Economic Development of Rural China During the Ming.” In *The Cambridge History of China, Volume 8*, eds. Denis Twitchett and Frederick W. Mote (Cambridge: Cambridge University Press, 2008), 417–578.

Hu Xiangyu. [胡祥雨]. “Taoren fa ru Shunzhi lu kao” [逃人法入順治律考—兼談逃人法的應用]. *Qingshi yanjiu* [清史研究] 3 (2012), 111–125.

Hu Xiangyu. [胡祥雨]. “Qingdai jiazhang jian jiaxia ren youfu zhi fu li kaolun—Man Han falü ronghe de yige lizheng” [清代家長姦家下人有夫之婦例考論—滿、漢法律融合的一個例證]. *Faxue jia* [法學家] 3 (2014), 122–132.

Huang, Philip C.C. *The Peasant Economy and Social Change in North China* (Stanford: Stanford University Press, 1985).

Huang, Ray. *Taxation and Governmental Finance in Sixteenth-Century Ming China* (Cambridge: Cambridge University Press, 1974).

Hu-DeHart, Evelyn. “Chinese Contract Labor in the Wake of the Abolition of Slavery in the Americas: A New Form of Slavery or Transition to Free Labor in the Case of Cuba?” *Amerasia Journal* 45 (1) (2019), 6–26.

Ji Liuqi. [計六奇]. *Mingji nanlüe* [明季南略]. Ca. 1669 (Beijing: Zhonghua shuju, 1984).

Jiang Yanling. [蔣燕玲]. “Lun Qingdai lüli dui gugongren falü shenfen de jieding” [論清代律例對僱工人法律身份的界定]. *Shehui kexuejia* [社會科學家] 103 (2003), 151–155.

Jiang Yonglin. *The Great Ming Code/Da Ming Lü* (Seattle: University of Washington Press, 2005).

Jin Zhen. [金鎮]. “Tiaochen Guangshan panpu xiangyi” [條陳光山叛僕詳議]. In *Guangshan Xianzhi* [光山縣志] (Guangshan: Guangshan xianshu, 1889), 19:16a–18b.



- Jing Junjian. [經君健]. “Guanyu Ming Qing fadian zhong ‘gugongren’ lüli de yixie wenti (shang)” [關於明清法典中僱工人律例的一些問題(上)]. *Zhongguo jingji shi yanjiu* [中國經濟史研究] 4 (2007), 3–22.
- Jing Junjian. [經君健]. “Guanyu Ming Qing fadian zhong ‘gugongren’ lüli de yixie wenti (xia)” [關於明清法典中僱工人律例的一些問題(下)]. *Zhongguo jingji shi yanjiu* [中國經濟史研究] 1 (2008), 19–25.
- Jing Junjian. [經君健]. “Ming Qing shidai gugongren de falü diwei wenti” [明清時代僱工人的法律地位問題]. In *Ming Qing shidai de nongye ziben zhuyi mengya wenti* [明清時代的農業資本主義萌芽問題], eds. Li Wenzhi [李文治], Wei Jinyu [魏金玉] and Jing Junjian [經君健] (Beijing: Zhongguo shehui kexue chubanshe, 1983), 243–260.
- Jing Junjian. [經君健]. *Qingdai shehui de jianmin dengji* [清代社會的賤民等級] (Hangzhou: Zhejiang renmin chubanshe, 1993).
- Lei Feihong, ed. [雷飛鴻]. *Ciyuan* (Tainan: Shiyi wenhua shiye gufen youxian gongsi, 1995).
- Lei Menglin. [雷夢麟]. *Dulü suoyan* [讀律瑣言]. 1563 (Beijing: Falü chubanshe, 2000).
- Liu Yongcheng. [劉永成]. “Lun Qingdai guyong laodong” [論清代僱傭勞動]. *Lishi yanjiu* [歷史研究] 4 (1962), 104–128.
- Luo Yaojiu. [羅耀九]. “Zailun Mingchao Wanli nianjian guyong laodong xingzhi” [再論明朝萬曆年間僱傭勞動性質]. *Lishi yanjiu* [歷史研究] 4 (1962), 78–103.
- MacCormack, Geoffrey. *The Spirit of Traditional Chinese Law* (Athens: The University of Georgia Press, 1996).
- “Mai zhuzai bian” [賣豬仔辯]. *Shenbao* [申報], June 11, 1872, 3–4.
- Mao Yilu. [毛一鷺]. *Yunjian yanlie* [雲間讖略]. Ca. 1620. In *Lidai panli pandu* [歷代判例判牘], eds. Yang Yifan [楊一凡] and Xu Lizhi [徐立志] (Beijing: Zhongguo shehui kexue chubanshe, 2005), Vol. 3, 399–603.
- Marks, Robert B. *Rural Revolution in South China. Peasants and the Making of History in Haiyang County, 1570-1930* (Madison: The University of Wisconsin Press, 1984).
- Mathews, Robert Henry. *Mathews' Chinese-English Dictionary* (Cambridge, Mass.: Harvard University Press, 1972 [1931]).
- McDermott, Joseph P. *The Making of a New Rural Order in South China: Volume 1: Village, Land, and Lineage in Huizhou, 900-1600* (Cambridge: Cambridge University Press, 2013).
- Nylan, Michael. *The Five Confucian Classics* (New Haven: Yale University Press, 2001).

Ouyang Fanxiu. [歐陽凡修]. “Ming Qing liangdai nongye gugong falü shang renshen lishu guanxi de jieshi” [明清兩代農業僱工法律上人身隸屬關係的解釋]. *Jingji yanjiu* [經濟研究] 6 (1961), 49–73.

Pang Shangpeng. [龐尚鵬]. *Pang shi jiaxun* [龐氏家訓]. 1571. In *Congshu jicheng* (Shanghai: Shangwu yinshuguan, 1935-1937), Vol. 976.

Patterson, Orlando. *Slavery and Social Death. A Comparative Study* (Cambridge, Mass.: Harvard University Press, 1982).

Peng Yongming [馮永明] and Chang Bingxia [常冰霞]. “Cong qiyue dao mingfen. Ming Qing gugongren falü xingxiang de yanbian” [從契約到名分。明清僱工人法律形象的演變]. *Ningxia daxue xuebao* [寧夏大學學報] 37 (4) (2005), 80–85.

Pomeranz, Kenneth. *The Great Divergence. China, Europe, and the Making of the Modern World Economy* (Princeton: Princeton University Press, 2000).

Ransmeier, Johanna S. *Sold People. Traffickers and Family Life in North China* (Cambridge, Mass.: Harvard University Press, 2017).

Reid, Bradley. *Talons and Teeth. County Clerks and Runners in the Qing Dynasty* (Stanford: Stanford University Press, 2000).

Rosenthal, Jean-Laurent and R. Bin Wong. *Before and Beyond the Great Divergence. The Politics of Economic Change in China and Europe* (Cambridge, Mass.: Harvard University Press, 2011).

Rowe, William T. “Social Stability and Social Change.” In *The Cambridge History of China, Volume 9*, ed. Willard J. Peterson (Cambridge: Cambridge University Press, 2002), 473–562.

Rowe, William T. *China's Last Empire. The Great Qing* (Cambridge, Mass.: The Belknap Press, 2009).

Shen Zhiqi. [沈之奇]. *Da Qinglü jizhu* [大清律輯註]. 1715 (Beijing: Falü chubanshe, 2000).

Su Maoxiang. [蘇茂相]. [*Xinjuan guanban*] *lüli linmin baojing* [新鐫官版律例臨民寶鏡]. Ca. 1630. In *Lidai zhenxi sifa wenxian* [歷代珍惜司法文獻], ed. Yang Yifan [楊一凡] (Beijing: Shehui kexue wenxian chubanshe, 2012), Vol. 7, 167–276.

Tanaka, Masatoshi. “Popular Uprisings, Rent Resistance, and Bondservant Rebellions in the Late Ming.” In *State and Society in China. Japanese Perspectives on Ming-Qing Social and Economic History*, eds. Linda Grove and Christian Daniels (Tokyo: Tokyo University Press, 1984), 165–214.

Van der Linden, Marcel. *Workers of the World. Essays Toward a Global Labor History* (Leiden: Brill, 2008).

- Von Glahn, Richard. *The Economic History of China. From Antiquity to the Nineteenth Century* (Cambridge: Cambridge University Press, 2016).
- Von Glahn, Richard. “Beyond the Great Divergence: Current Scholarship on the Economic History of Premodern China.” In *A Companion to Chinese History*, ed. Michael Szonyi (Chichester: Wiley Blackwell, 2017), 315–326.
- Wang Kentang [王肯堂] and Gu Ding [顧鼎], ed. *Lüli jianshi* [律例箋釋] (1691).
- Wei Jinyu. [魏金玉]. “Shishuo Ming Qing shidai guyong laodongzhe yu gugongren dengji zhijian de guanxi” [試說明清時代僱傭勞動者與僱工人等級之間的關係]. *Zhongguo jingji shi yanjiu* [中國經濟史研究] 4 (1986), 93–105.
- Wu Kunxiu [吳坤修] et al. *Da Qing lüli genyuan* [大清律例根原] (Anhui: Fuwen shuju, 1871).
- Wu Tan [吳壇] et al. *Da Qing lüli tongkao jiaozhu* [大清律例通考校注]. Ca. 1780 (Beijing: Zhongguo zhengfa daxue chubanshe, 1992).
- Wu Yanhong. [吳艷紅]. “Dui Mingdai beiyounren falü diwei de kaocha” [對明代卑幼人法律地位的考察]. In *Wan Ming shehui bianqian wenti* [晚明社會變遷問題], ed. Wan Ming [萬明] (Beijing: Shangwu yinshuguan, 2005), 364–402.
- Yan Guifu [嚴桂夫] and Wang Guojian [王國鍵]. *Huizhou wenshu dang'an* [徽州文書檔案] (Hefei: Anhui renmin chubanshe, 2005).
- Yao Siren. [姚思仁]. *Da Minglü fuli zhujie* [大明律附例註解]. N.d., Wanli era (Beijing: Beijing daxue chubanshe, 1993).
- Zhang Kai. [張楷]. *Lütiao shuyi* [律條疏議]. 1467. Reprint in *Zhongguo lüxue wenxian* [中國律學文獻], ed. Yang Yifan [楊一凡] (Harbin: Heilongjiang renmin chubanshe, 2004), Ser. 1, Vol. 2.
- Zhang Ning. “Entre ‘loi des Miao’ et loi sur les Miao: le cas du trafic d’êtres humains dans le Guizhou au 18<sup>e</sup> siècle.” *Extrême-Orient, Extrême-Occident* 40 (2016), 79–102.
- Zhang Rizuo [張日佐] et al. [*Qinghe*] *Zhangshi zongpu* [清河張氏宗譜]. 1752. Reprint in *Zhonghua zupu jicheng* [中華族譜集成] (Chengdu: Ba-Shu shushe, 1995), Vol. 8 (Zhang Ser.), 140–807.
- Zhang Tinghui [張廷輝] et al. *Qinghe Zhangshi zongpu* [清河張氏宗譜]. 1878. Reprint in *Zhonghua zupu jicheng* [中華族譜集成] (Chengdu: Ba-Shu shushe, 1995), Vol. 7, 1–721.
- Zhang Xiuli. [張秀莉]. *Minguo Beijing binü wenti yanjiu* [民國北京婢女問題研究] (Beijing: Beijing Shifan daxue chubanshe, 2016).

Zhongguo shehui kexueyuan lishi yanjiusuo wenhuashi [中國社會科學院歷史研究所文化室], ed. *Mingdai tongsu riyong leishu jikan* [明代通俗日用類書集刊] (Chongqing: Xinan shifan daxue chubanshe/Dongfang chubanshe, 2012).

Zhu Qingqi [祝慶祺] and Bao Shuyun [鮑書芸]. *Xing'an huilan* [刑案匯覽]. 1834. In *Xing'an huilan quanbian* [刑案匯覽全編], eds. Yang Yifan [楊一凡] et al. (Beijing: Falü chubanshe, 2008), Vol. 1–8.

---

<sup>1</sup> A major contributor to the field since the 1960s, Jing Junjian provided a lengthy overview of these controversies in a response to his critics. Jing Junjian, “Guanyu Ming Qing fadian zhong ‘gugongren’ lüli de yixie wenti,” *Zhongguo jingji shi yanjiu* 4 (2007): 3-22 and 1 (2008): 19-25.

<sup>2</sup> Jing Junjian, “Guanyu Ming Qing fadian zhong ‘gugongren’ lüli de yixie wenti (xia),” *Zhongguo jingji shi yanjiu* 1 (2008): 19, 23; Luo Yaojiu, “Zailun Mingchao Wanli nianjian guyong laodong xingzhi,” *Lishi yanjiu* 4 (1962): 87, 101; Liu Yongcheng, “Lun Qingdai guyong laodong,” *Lishi yanjiu* 4 (1962): 106-107.

<sup>3</sup> David Faure, *China and Capitalism. A History of Business Enterprise in Modern China* (Hong Kong: Hong Kong University Press, 2006), 17. See also Philip Huang, *The Peasant Economy and Social Change in North China* (Stanford: Stanford University Press, 1985), 294.

<sup>4</sup> Richard von Glahn, “Beyond the Great Divergence: Current Scholarship on the Economic History of Premodern China,” in Michael Szonyi, ed., *A Companion to Chinese History* (Chichester: Wiley Blackwell, 2017), 315-317; Jean-Laurent Rosenthal and R. Bin Wong, *Before and Beyond the Great Divergence. The Politics of Economic Change in China and Europe* (Cambridge, Mass.: Harvard University Press, 2011), 37-43.

<sup>5</sup> Some have recently attempted to reconstruct wages data. See Robert C. Allen et al., “Wages, Prices, and Living Standards in China, 1738-1925: In Comparison with Europe, Japan, and India,” *The Economic History Review* 64 (2011): 8-38.

<sup>6</sup> E.g. Rosenthal and Wong, *Before and Beyond the Great Divergence*, 43-66; Kenneth Pomeranz, *The Great Divergence. China, Europe, and the Making of the Modern World Economy* (Princeton: Princeton University Press, 2000), 91 et passim.

<sup>7</sup> Among others, see Martin Heijdra, “The Socio-Economic Development of Rural China During the Ming,” in Denis Twitchett and Frederick W. Mote, eds., *The Cambridge History of China, Volume 8* (Cambridge: Cambridge University Press, 2008), 517, 524, 544; Pomeranz, *The Great Divergence*, 81-82, 132, 165; Masatoshi Tanaka, “Popular Uprisings, Rent Resistance, and Bondservant Rebellions in the Late Ming,” in Linda Grove and Christian Daniels, eds., *State and Society in China. Japanese Perspectives on Ming-Qing Social and Economic History* (Tokyo: Tokyo University Press, 1984), 174-175, 193. Most of current economic history draws on Mark Elvin, *The Pattern of the Chinese Past* (Stanford: Stanford University Press, 1973), 235 and on Philip Huang, according to whom “all the available evidence points conclusively to an even greater growth of wage-labor in the countryside than has commonly been assumed” (Huang, *The Peasant Economy and Social Change*, 138-139).

<sup>8</sup> Richard von Glahn, *The Economic History of China. From Antiquity to the Nineteenth Century* (Cambridge: Cambridge University Press, 2016), 296-297; Timothy Brook, *The Confusions of Pleasure. Commerce and Culture in Ming China* (Berkeley: University of California Press, 1998), 255; Heijdra, “The Socio-Economic Development of Rural China,” 524.

<sup>9</sup> Johanna Ransmeier, *Sold People. Traffickers and Family Life in North China* (Cambridge, Mass.: Harvard University Press, 2017); Zhang Xiuli, *Minguo Beijing binü wenti yanjiu* (Beijing: Beijing Shifan daxue chubanshe, 2016); Zhang Ning, “Entre ‘loi des Miao’ et loi sur les Miao: le cas du trafic d’êtres humains dans le Guizhou au 18<sup>e</sup> siècle,” *Extrême-Orient, Extrême-Occident* 40 (2016): 89-97.

<sup>10</sup> Marcel van der Linden, *Workers of the World. Essays Toward a Global Labor History* (Leiden: Brill, 2008), 40.

<sup>11</sup> Allen et al., “Wages, Prices, and Living Standards,” 8-38.

<sup>12</sup> Jiang Yonglin, *The Great Ming Code* (Seattle: University of Washington Press, 2005), 216 et passim.

- <sup>13</sup> Geoffrey MacCormack, *The Spirit of Traditional Chinese Law* (Athens: The University of Georgia Press, 1996), 118.
- <sup>14</sup> Huang, *The Peasant Economy and Social Change*, 88.
- <sup>15</sup> William Rowe, *China's Last Empire. The Great Qing* (Cambridge, Mass.: The Belknap Press, 2009), 99.
- <sup>16</sup> Michel Cartier, "Liu Yung-ch'eng, Lun Ch'ing-tai ku-yung lao-tung, (LSYC 1962, 4)," *Revue bibliographique de sinologie* 8 (1962): 142.
- <sup>17</sup> Édouard Biot, "Mémoire sur la condition des esclaves et serviteurs gagés en Chine," *Journal asiatique* 3 (3) (1837): 246-311.
- <sup>18</sup> Statutes no. 92, 247, 264, and 272 in Gao Ju, *Minglü jijie fuli* (Beijing: Xiuding falüguan, 1908), 4:24b-25a, 15:16b, 17:8a, 17:19a. For the numbering of Ming statutes, hereafter I follow Jiang, *The Great Ming Code*.
- <sup>19</sup> Law no. 23, *ibid.*, 1:59a-60a. Translation by Jiang, *The Great Ming Code*, 33 [Unless stated otherwise, translations of the *Great Ming Code* are adapted from Jiang's].
- <sup>20</sup> Wang Kentang and Gu Ding, eds., *Lüli jianshi*, 1691, 1:49a. See also Yao Siren, *Da Minglü fuli zhujie* (Beijing: Beijing daxue chubanshe, 1993), 1:44a.
- <sup>21</sup> The *Code's* "Public works" section contains similar regulations (statutes no. 448-450, in Gao Ju, *Minglü jijie fuli*, 29:1a-4b).
- <sup>22</sup> *Ibid.*, 13:14b.
- <sup>23</sup> *Yamen* underlings were initially recruited through corvée labor. With the progressive commutation of corvée into monetary payments, this heterogeneous body of sub-bureaucratic workers professionalized from the Ming era onwards while some of them came to be considered as being of "servile status." See Bradly Reid, *Talons and Teeth. County Clerks and Runners in the Qing Dynasty* (Stanford: Stanford University Press, 2000), 32, 70.
- <sup>24</sup> Ray Huang, *Taxation and Governmental Finance in Sixteenth-Century Ming China* (Cambridge: Cambridge University Press, 1974), 34.
- <sup>25</sup> Herbert Giles, *A Chinese-English Dictionary* (Leiden: Brill, 1912), 691; Robert Mathews, *Mathews' Chinese-English Dictionary* (Cambridge Mass.: Harvard University Press, 1972), 455; Séraphin Couvreur, *Dictionnaire classique de la langue chinoise* (Ho Kien Fu: Imprimerie de la mission catholique, 1904), 310.
- <sup>26</sup> Modern dictionaries follow the definition of the oldest transmitted dictionary (*Shuowen jiezi*, ca. 100).
- <sup>27</sup> Lei Feihong, ed., *Ciyuan* (Tainan: Shiyi wenhua shiye gufen youxian gongsi, 1995), 582.
- <sup>28</sup> Zhang Rizuo, [*Qinghe*] *Zhangshi zongpu*, 1752 (Chengdu: Ba-Shu shushe, 1995), 13:17b-19a.
- <sup>29</sup> See Zhang Shenbao's contract (1584) in Yan Guifu and Wang Guojian, *Huizhou wenshu dang'an* (Hefei: Anhui renmin chubanshe, 2005), 402; or the model *nubi* contract in Zhongguo shehui kexueyuan lishi yanjiusuo wenhuashi, ed., *Mingdai tongshu riyong leishu jikan* (Chongqing: Xi'nan shifan daxue chubanshe, 2012), Vol. 16, 578.
- <sup>30</sup> Robert Marks, *Rural Revolution in South China. Peasants and the Making of History in Haifeng County, 1570-1930* (Madison: The University of Wisconsin Press, 1984), 11.
- <sup>31</sup> MacCormack, *The Spirit of Traditional Chinese Law*, 118.
- <sup>32</sup> Pang Shangpeng, *Pang shi jiaxun*, 1571 (Shanghai: Shangwu yinshuguan, 1935-1937), 9.
- <sup>33</sup> Hai Rui, "Xingge tiaoli," 1562, in Chen Yizhong, ed., *Hai Rui ji* (Beijing: Zhonghua shuju, 1962), 73; Gu Yanwu and Huang Rucheng, *Rizhi lu jishi* (Shanghai: Shanghai guji chubanshe, 2006), 800; Jin Zhen, "Tiaochen Guangshan panpu xiangyi," 1786, in *Guangshan xianzhi* (Guangshan: Guangshan xianshu, 1889), 19:17b.
- <sup>34</sup> Wu Tan, *Da Qing lüli tongkao jiaozhu*, ca. 1780 (Beijing: Zhongguo zhengfa daxue chubanshe, 1992), 26, 777. See also Jing Junjian, "Ming Qing shidai gugongren de falü diwei wenti," in Li Wenzhi et al., *Ming Qing shidai de nongye ziben zhuyi mengya wenti*, (Beijing: Zhongguo shehui kexue chubanshe, 1983), 248. *Beiyong* refers to inferiors in generation and age.
- <sup>35</sup> Wang Kentang and Gu Ding, *Lüli jianshi*, 1:51b, 1:76a-b; Gao Ju, *Minglü jijie fuli*, 28:9b-10a.
- <sup>36</sup> Jing, "Ming Qing shidai gugongren de falü diwei wenti," 252.
- <sup>37</sup> Statute no. 299 (Gao Ju, *Minglü jijie fuli*, 18:61b-63b).
- <sup>38</sup> Statute no. 307 (*ibid.*, 19:5b).
- <sup>39</sup> Statute no. 397 (*ibid.*, 25:11b). See also statutes no. 312 and 323 (*ibid.*, 19:14b-15b and 19:37b-38a).
- <sup>40</sup> Statute no. 94 (*ibid.*, 4:26b).
- <sup>41</sup> Statute no. 295 (*ibid.*, 18:42b-43b).
- <sup>42</sup> Wang Kentang and Gu Ding, *Lüli jianshi*, 18:51b.
- <sup>43</sup> See statute no. 323 in *Da Qinglü jijie fuli* (1646 ed.), "Legalizing Space in China", [http://lsc.chineselegalculture.org/eC/DOLJJFL\\_1646/all](http://lsc.chineselegalculture.org/eC/DOLJJFL_1646/all) (accessed 23/06/2019).
- <sup>44</sup> Claude Chevalyere, "Acting as Master and Bondservant: Considerations on Status, Identities and the Nature of 'Bond-Servitude' in Late Ming China," in Alessandro Stanziani, ed., *Labour, Coercion and Economic Growth in Eurasia, 17th-20th Centuries* (Leiden: Brill, 2013), 245-246. On outcaste groups, see Anders Hansson, *Chinese Outcasts: Discrimination and Emancipation in Late Imperial China* (Leiden: Brill, 1996).
- <sup>45</sup> On the conceptual relation between honorability and innocence, see Claude Chevalyere, "Asservir pour punir. La nature pénale du statut d'esclave dans la Chine des Ming (1368-1644)," *Extrême-Orient, Extrême-Occident* 40

---

(2017): 106-107. Using Orlando Patterson's terminology, *nubi* were "extruded" from the reference community. Orlando Patterson, *Slavery and Social Death. A Comparative Study* (Cambridge, Mass.: Harvard University Press, 1982), 41.

<sup>46</sup> Jing, "Ming Qing shidai gugongren de falü diwei wenti," 247.

<sup>47</sup> On the temporary nature of *gugong* labor, see Feng Zi et al., *Da Ming lü jishuo fuli*, 1592 (Tōyō bunka: Niida collection), 8:47b-48a; Gao Ju, *Minglü jijie fuli*, 20:24a; Peng Yongming and Chang Bingxia, "Cong qiyue dao mingfen," *Ningxia daxue xuebao* 37 (4) (2005): 80.

<sup>48</sup> Statutes no. 121, 336, 397 (Gao Ju, *Minglü jijie fuli*, 6:33b-34a, 20:22a-23a, 25:11b).

<sup>49</sup> Shen Zhiqi, *Da Qinglü jizhu*, 1715 (Beijing: Falü chubanshe, 2000), 751.

<sup>50</sup> Jing, "Ming Qing shidai gugongren de falü diwei wenti," 253.

<sup>51</sup> Statute no. 337, (Gao Ju, *Minglü jijie fuli*, 20:25a-26a). The same rationale applied to other incriminations, like accusing or cursing the household head. See statutes no. 350 and 360 (Gao Ju, *Minglü jijie fuli*, 21:3b, 22:30a-31b).

<sup>52</sup> Zhang Kai, *Lütiao shuyi*, in Yang Yifan, ed., *Zhongguo lüxue wenxian* (Harbin: Heilongjiang renmin chubanshe, 2004), Ser. 1, Vol. 2, 371.

<sup>53</sup> Wei Jinyu has convincingly demonstrated that, in Ming times, the nature of the work performed had no impact on *gugong* identity. Wei Jinyu, "Shishuo Ming Qing shidai guyong laodongzhe yu gugongren dengji zhijian de guanxi," *Zhongguo jingji shi yanjiu* 4 (1986): 94.

<sup>54</sup> Jiang Yanling, "Lun Qingdai lüli dui gugongren falü shenfen de jieding," *Shehui kexuejia* 103 (2003): 154.

<sup>55</sup> Chevalyere, "Acting as Master and Bondservant," 248-250.

<sup>56</sup> Zhu Qingqi and Bao Shuyun, *Xing'an huilan*, 1834, in Yang Yifan et al., eds., *Xing'an huilan quanbian*, (Beijing: Falü chubanshe, 2008), 2035-2036.

<sup>57</sup> See also Zhang Rizuo, [*Qinghe*] *Zhangshi zongpu*, 13:17b.

<sup>58</sup> To translate *mingfen*, I chose to stay close to the Chinese term. Joseph McDermott translates it with "the weight of [one's] station." See Joseph P. McDermott, *The Making of a New Rural Order in South China: Volume 1: Village, Land, and Lineage in Huizhou, 900-1600* (Cambridge: Cambridge University Press, 2013), 255.

<sup>59</sup> Household regulations (*jiafa* 家法) provide detailed explanations of the meaning and implications of *mingfen* in practice. See for instance Zhang Tinghui et al., *Qinghe Zhangshi zongpu*, 1878 (Chengdu: Ba-Shu shushe, 1995), Vol. 7, 17.

<sup>60</sup> Michael Nylan, *The Five Confucian Classics* (New Haven: Yale University Press, 2001), 274.

<sup>61</sup> The rationale could be extended to any social relation. See for instance *Xunzi* IX.18.

<sup>62</sup> See also Jiang Yanling, "Lun Qingdai lüli dui gugongren falü shenfen de jieding," 151; Jing, "Ming Qing shidai gugongren de falü diwei wenti," 245.

<sup>63</sup> Chevalyere, "Acting as Master and Bondservant," 255-257.

<sup>64</sup> Shen Zhiqi, *Da Qinglü jizhu*, 747.

<sup>65</sup> *Da Ming xingshu jinjian*, quoted in Jing Junjian, *Qingdai shehui de jianmin dengji* (Hangzhou: Zhejiang renmin chubanshe, 1993), 139. See also Gao Ju, *Minglü jijie fuli*, 4:11a; Lei Menglin, *Dulü suoyan*, 1563 (Beijing: Falü chubanshe, 2000), 123. On *Da Ming xingshu jinjian*, see Yang Yifan, ed., *Zhongguo fazhi shi kaozheng xubian*, (Beijing: Shehui kexue wenxian chubanshe, 2009), Vol. 2, 172-185.

<sup>66</sup> For an example, see Feng Zi, *Da Ming lü jishuo fuli*, 8:22b-23a.

<sup>67</sup> Fu Zhongyao, *Zhongguo gudai guyong qiyue zhidu yanjiu*, MA Thesis (Jilin University, 2006), 3, 10; Wu Yanhong, "Dui Mingdai beiyou ren falü diwei de kaocha," in Wan Ming, ed., *Wan Ming shehui bianqian wenti* (Beijing: Shangwu yinshuguan, 2005), 383.

<sup>68</sup> Gao Ju, *Minglü jijie fuli*, 20:28b-29a.

<sup>69</sup> Wei Jinyu, "Shishuo Ming Qing shidai guyong laodongzhe yu gugongren dengji zhijian de guanxi," 95-96. For an example, see Mao Yilu, *Yunjian yanlie*, in Yang Yifan and Xu Lizhi, eds., *Lidai panli pandu* (Beijing: Zhongguo shehui kexue chubanshe, 2005), Vol. 3, 417.

<sup>70</sup> Hai, Rui, "Xingge tiaoli," 73; Chen Yong, *Fajia pouji*, in Yang Yifan, ed., *Zhongguo lüxue wenxian* (Harbin: Heilongjiang renmin chubanshe, 2004), Vol. 4, 643.

<sup>71</sup> Chevalyere, "Asservir pour punir," 98-99.

<sup>72</sup> Guan Zhidao, *Congxian weisu yi*, 1602, in *Siku quanshu cunmu congshu* (Jinan: Qilu shushe, 1994-1997), 子 Ser., Vol. 88, 2:61a. See also Wu Yanhong, "Dui Mingdai beiyou ren falü diwei de kaocha," 385.

<sup>73</sup> Lei Menglin, *Dulü suoyan*, 123, 451.

<sup>74</sup> Chevalyere, "Acting as Master and Bondservant," 248, 258.

<sup>75</sup> Wei Jinyu, "Shishuo Ming Qing shidai guyong laodongzhe yu gugongren dengji zhijian de guanxi," 96.

<sup>76</sup> Wu Yanhong, "Dui Mingdai beiyou ren falü diwei de kaocha," 385.

<sup>77</sup> Wei Jinyu, "Shishuo Ming Qing shidai guyong laodongzhe yu gugongren dengji zhijian de guanxi," 94.

<sup>78</sup> On the sixteenth-century "second economic revolution," see von Glahn, *The Economic History of China*, 296-312. The level of late-Ming economic dynamism is discussed in Heijdra, "The Socio-Economic Development of Rural China".

- <sup>79</sup> Von Glahn, *The Economic History of China*, 297-298, 300.
- <sup>80</sup> *Ibid.*, 306.
- <sup>81</sup> *Ibid.*, 298. See also Ouyang Fanxiu, “Ming Qing liangdai nongye gugong falü shang renshen lishu guanxi de jieshi,” *Jingji yanjiu* 6 (1961): 53; Fu Yiling, “Wo dui Mingdai zhongye yihou guyong laodong de zai renshi,” *Lishi yanjiu* 3 (1961): 69; Huang, *The Peasant Economy and Social Change*, 90, 94, 95-96; Brook, *The Confusions of Pleasure*, 256.
- <sup>82</sup> Su Maoxiang, [*Xinjuan guanban*] *lili linmin baojing*, in Yang Yifan, ed., *Lidai zhenxi sifa wenxian* (Beijing: Shehui kexue wenxian chubanshe, 2012), Vol. 7, 771.
- <sup>83</sup> Wei Jinyu, “Shishuo Ming Qing shidai guyong laodongzhe yu gugongren dengji zhijian de guanxi,” 97-98. See statute no. 284 of the *Great Qing Code* (1740 ed.), “Legalizing Space in China,” [http://lsc.chineselegalculture.org/eC/DQLL\\_1740/all](http://lsc.chineselegalculture.org/eC/DQLL_1740/all) (accessed 23/06/2019).
- <sup>84</sup> Wu Kunxiu, *Da Qing lüli genyuan* (Anhui: Fuwen shuju, 1871), 70:17a-b; Wu Tan, *Da Qing lüli tongkao jiaozhu*, 842.
- <sup>85</sup> Peng Yongming and Chang Bingxia, “Cong qiye dao mingfen,” 82.
- <sup>86</sup> Wei Jinyu, “Shishuo Ming Qing shidai guyong laodongzhe yu gugongren dengji zhijian de guanxi,” 99-102; Liu Yongcheng, “Cong qiye dao mingfen,” 120.
- <sup>87</sup> Rowe, *China's Last Empire*, 99.
- <sup>88</sup> Compare the versions of the law “Illegally Designating Wives’ Sons [as Heirs]” in the *Ming Code* (Gao Ju, *Minglü jijie fuli*, 4:9ab) and the 1740 Qing edition of the *Code* ([http://lsc.chineselegalculture.org/eC/DQLJJFL\\_1646/all](http://lsc.chineselegalculture.org/eC/DQLJJFL_1646/all) [accessed 23/06/2019]).
- <sup>89</sup> Hu Xiangyu, “Taoren fa ru Shunzhi lü kao,” *Qingshi yanjiu* 3 (2012): 111-125.
- <sup>90</sup> Hu Xiangyu, “Qingdai jiazhang jian jiaxia ren youfu zhi fu li kaolun,” *Faxue jia* 3 (2014): 122-132.
- <sup>91</sup> Chen Wenshi, “Qingchu de nupu maimai,” *Shihuo yuekan* 1 (1971): 29-38.
- <sup>92</sup> Quoted from Ouyang Fanxiu, “Ming Qing liangdai nongye gugong falü shang renshen lishu guanxi de jieshi,” 59.
- <sup>93</sup> Wu Kunxiu, *Da Qing lüli genyuan*, 70:17b-18b. The indentation of the text, not present in the original source, was introduced to facilitate its reading.
- <sup>94</sup> Judicial cases show that contracts were less used when hiring people from the neighborhood than from afar. See Jing Junjian, “Guanyu Ming Qing fadian zhong ‘gugongren’ lüli de yixie wenti (shang),” 6. Huang’s study also testifies to this practice (*The Peasant Economy and Social Change*, 94).
- <sup>95</sup> Wu Kunxiu, *Da Qing lüli genyuan*, 70:18b; Wu Tan, *Da Qing lüli tongkao jiaozhu*, 840.
- <sup>96</sup> “Household member” (*jiaren* 家人) is an ambiguous term employed in the Qing period as a euphemism for *nubi*. See Guo Runtao, “Qingdai de jiaren,” *Ming Qing luncong* 1 (1999): 376-395.
- <sup>97</sup> Gao Ju, *Minglü jijie fuli*, 20:21a-22a.
- <sup>98</sup> *Ibid.*, 20:1a-2b.
- <sup>99</sup> *Ibid.*, 20:25a-26a.
- <sup>100</sup> Wu Kunxiu, *Da Qing lüli genyuan*, 70:21b-22a.
- <sup>101</sup> Luo Yaojiu. “Zailun Mingchao Wanli nianjian guyong laodong xingzhi”, 87, 101 et passim; Liu Yongcheng. “Lun Qingdai guyong laodong,” 106-107.
- <sup>102</sup> Huang, *The Peasant Economy and Social Change*, 90.
- <sup>103</sup> *Ibid.*, 99.
- <sup>104</sup> Pomeranz, *The Great Divergence*, 165.
- <sup>105</sup> Ransmeier, *Sold People*, 136 et passim.
- <sup>106</sup> Claude Chevalyere, “The Abolition of Slavery and the Status of Slaves in Late Imperial China,” in Gwyn Campbell and Alessandro Stanziani, eds., *The Palgrave Handbook of Bondage and Human Rights in Africa and Asia*, ed. (New York: Palgrave Macmillan, 2020), 59-60.
- <sup>107</sup> As an example, see Ji Liuqi, *Mingji nanlie* (Beijing: Zhonghua shuju, 1984), 270.
- <sup>108</sup> Claude Chevalyere, “Under Pressure and out of Respect for Human Dignity: The 1910 Chinese Abolition,” in Myriam Cottias and Marie-Jeanne Rossignol, eds., *Distant Ripples of the British Abolitionist Wave* (Trenton: Africa World Press, 2017), 166-167, 170.
- <sup>109</sup> Faure, *China and Capitalism*, 3.
- <sup>110</sup> Liu Yongcheng. “Lun Qingdai guyong laodong,” 102; Zhu Qingqi and Bao Shuyun, *Xing’an huilan*, 1294, 1504, 1461, 1302, 1372, 2035, 1244, 1995, 2035-2036.
- <sup>111</sup> William Rowe, “Social Stability and Social Change,” in Willard J. Peterson, ed., *The Cambridge History of China, Volume 9* (Cambridge: Cambridge University Press, 2002), 501;
- <sup>112</sup> Van der Linden, *Workers of the World*, 40-46.
- <sup>113</sup> Evelyn Hu-DeHart, “Chinese Contract Labor in the Wake of the Abolition of Slavery in the Americas: A New Form of Slavery or Transition to Free Labor in the Case of Cuba?” *Amerasia Journal* 45 (1) (2019): 16-21.
- <sup>114</sup> “Mai zhuzai bian,” *Shenbao*, June 11, 1872: 4; Evelyn Hu-DeHart, “Chinese Contract Labor in the Wake of the Abolition of Slavery in the Americas,” 12.

---

<sup>115</sup> Evelyn Hu-DeHart, *op. cit.*, 15-16.