

An Era of Exile: The Qing Dynasty and Punishment

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This study denominated the Qing era “an era of exile” and clarified the character of the Qing dynasty as a successor to the Chinese tradition.

In the punishment system of premodern China, exile was nominally below the death penalty, but due to doubts about its effectiveness and the complexity of execution, it could actually be replaced by other punishments. However, in the Qing dynasty, four types of exile punishments were executed. There was not only the “*liuxing* (流刑 ordinary exile)”, one of the five punishments (*wuxing* 五刑), but also the “*chongjun* (充軍 military exile)”, which was arranged to maintain the military houses in the Ming dynasty, but became the same as ordinary exile in the Qing dynasty. Moreover, “*faqian* (發遣 deportation)”, an exile to the frontier, and “*tuxing* (徒刑 intra-provincial exile)”, originally a labor sentence, but then used as exile within the province, were executed. Given this unprecedented prominence of exile punishments, it is not unreasonable to call the Qing dynasty the “era of exiles.”

Since the beginning of the twenty-first century, the key issue in the Qing study has been how to understand it as the Manchu Empire. Under the term “New Qing History,” the Qing dynasty’s governance system, territory, and diplomatic issues have been addressed, together with their influence on various other areas. With regard to judicial administration, the separation of frontier areas, falling under the jurisdiction of the Court of Colonial Affairs, and China Proper, subject to the *Great Qing Code*, has been taken up as an example highlighting the character of the Qing Empire.

However, because of the emphasis on the imperial characteristics of the Qing, it must be said that the inland judicial system has converged within the framework of “Chinese traditional

law.” In other words, while emphasizing exile to Xinjiang, the judicial privileges enjoyed by the Manchu elite and the judicial administration of the Court of Colonial Affairs, the characteristics of the Qing era in the imperial lineage of China’s judicial system, including the compilation of the provincial code, the reduction of monetary penalties, the introduction of detention as punishment, and the heavy use of exile, have been overlooked. In discussing these characteristics of the Qing judiciary, their backgrounds should be considered before arguing about the “characteristics of Manchus” or “the Great Qing Empire.”

Exile is distinguished from bodily punishment and death penalties in that it does not end at the moment of execution. In other words, several exile punishments were laborious penalties that incurred the efforts of not only transporting convicts to the place of exile, but also managing them. In addition, exile under Qing rule was different from that in previous eras, when exiled criminals were banished to military garrisons and remote areas; it accommodated a majority of exiles within the general counties in China Proper. This meant that the distance between convicts and civilians was shortened, and as a result, the management of exiled criminals was closely related to inland security and social issues. Consequently, the end of the “era of exile” was “the end of exile.” Exile was abolished in 1911, and one of the reasons for this involved the problems that became apparent during the era of exile. However, instead of the intrinsic factors of the Qing dynasty, previous studies have focused on the purpose of eliminating consular jurisdiction.

The present study focuses on three significant factors for exile punishments in the Qing dynasty that have not been emphasized to date: the fact that exile was widely executed as a real punishment, that general counties in the mainland became the place of exile, and that the emergence of various problems such as the management of criminals became an internal factor in exile reform and, by extension, the traditional five-punishment system. I considered two issues in performing this research. First, I investigated the background to the widespread use of exile punishments in the Qing dynasty. Second, I considered the aspects of exile execution and

how to deal with the problems derived from it, together with central norms and aspects of local treatment.

In Chapter 1, “The transition of *chongjun* into *liuxing* and the development of exile in China Proper,” I analyzed the transition of the *chongjun*, which was the starting point of the exile era. *Chongjun*, which was greatly expanded in the Ming dynasty, had the function of punishing serious offenders, putting criminals in the military garrisons, and maintaining the number of military houses. However, under the rule of the Qing dynasty, the eight banners were in charge of the core of the military power, so the role of the military houses was limited to shipping, and the number decreased sharply. Under these circumstances, the Qing dynasty chose to send military offenders to general counties instead of military garrisons. Along with this, the main components of the Ming dynasty *chongjun*, which are distinguished from *liuxing*, disappeared. On the other hand, the charts for the exile (*daolibiao* 道里表), which were used to designate the *chongjun*'s place of exile, were introduced into *liuxing*. As a result, both of the exile punishments became sending criminals to inland counties depending on the exile distance.

In Chapter 2, “Structure of distance-based exile seen through the *Chart for the Five Military Exiles* (*wujun daolibiao* 五軍道里表),” I argued that the establishment and revisions of the chart of exiles was based on not only a realization of the exact exile distance, but also the reality of the local yamen which had to manage criminals in the place of the exile. *Liuxing* and *chongjun* were the punishments that sent criminals inside China Proper, and the places of exile were designated by the distance of exile. I referred to this exile system as distance-based exile. The exile distance had been set before the sixth century, but was not considered a practical criterion for designating the place of exile. However, in the Qing era, the exile distance was used as real criterion for designating the place of exile, so it was one of the characteristics of exile in the Qing era. In the latter part of the chapter, I analyzed the *Chart for the Five Military Exiles* and its revisions, in consequence, to ascertain the point of the revisions. There were two large-scale revisions. The first, in 1767, was for reflecting the exile distance correctly in an

attempt to carry out the distance-based exile faithfully. However, as a result of this revision, the number of places of exile per prefecture decreased, so criminals could be concentrated in some places. Therefore, another large-scale revision in 1779 aimed to increase the number of places of exile, and as a result, secured more than double that in the previous version.

In Chapter 3, “Alteration of *tuxing* and introduction of distance”, I showed that the element of distance-based exile was also introduced into *tuxing*. *Tuxing* was originally a punishment that had no connection with distance, and after the eighteenth century, the relay station in the criminal’s original province served as the place of exile. However, even from this point, forced labor had not been carried out smoothly, and livelihood problems were common for criminals who could not work. Under such circumstances, Yunnan Governor Tan proposed a reform plan for *tuxing*. He suggested three guidelines for the placement of criminals: with or without a relay station, calculating the distance, and taking the number of criminals already exiled into account. With the approval of the Ministry of Punishments, this became a national uniform provision for the execution of *tuxing*. Here, “calculating the distance” shows that Tan’s proposal was influenced by distance-based exile. After that, each province started to create its own placement rules based on the new ordinances, and in Shandong Province, the *Chart for the Five Inter-provincial Exile* was created. This is based on the five grades of *tuxing* and specifies that light criminals should be sent closer to their hometown and heavy criminals should be sent far away; this could be an example of distance-based exile.

In this way, the punishments of the Qing dynasty were ranked through the exiled distance. *Tuxing*, an exile within the province, *liuxing*, an exile of less than 3,000 *li*, *chongjun*, an exile of less than 4,000 *li*, and *faqian*, an exile to Xinjiang or other frontier areas. This is due to the fact that the original intentions of each punishment did not function well, so distance emerged as a new method of gradation in the punishments.

In Chapter 4, “The reality of the exiles and local control”, I introduced the reality of criminals in the place of exile. In Chinese history, controlling the floating population was long a

task undertaken to ensure tax revenues, secure the labor force, and control the populace. However, unlike controlling the floating population, there was an exile with the combined aim of punishing criminals and buttressing the frontier. Nonetheless, the exiles in Qing era were not trapped in forced labor or excluded from the general population. Therefore, from the government's point of view, exiles were pitiful subjects who lived painful days away from their hometowns, and at the same time, were potential offenders who could commit crimes again. The cases seen from the Ba County Archives show the actual conditions of exiles, including their livelihood, level of poverty, and sometimes successful escape. Under these circumstances, local officials had to take measures to control exiles to avoid punishment and stabilize their rule; thus, they sometimes left the duty of managing criminals to long-standing exiles. Unless the old punishment system was fundamentally reformed, it was inevitable that exiles would accumulate in local areas, but the central government did not pursue reform; rather, it was delegated to each province.

In Chapter 5, "Release of exiles and invoking their self-renewal", I argued that a kind of prison term was formed on exile punishments. Traditionally, in the Chinese penal system, rather than the view that punishment would rehabilitate criminals, the view that punishment would block the possibility of rehabilitation was prevalent. However, in the eighteenth century, there were proposals for releasing criminals after a certain period of time if they had been rehabilitated. Because of the heavy use of exile, the number of criminals in the place of exile had been increasing. Local officials wanted to control the number of exiles by releasing them. However, it was not easy to set an exile term, so the Qianlong Emperor tried to solve this problem by giving mercy to criminals in the place of exile for 10 years. The lists of criminals in the place of exile, identified in the Ba County Archives, help to measure the actual effect of the amnesty. They show that the release of exiles that had been stable for 10 years did not do enough to relieve their excessiveness. This was the reason why from the nineteenth century, amnesty in the name of rehabilitation became more frequent. In the long view, an exile term

determined by amnesty was establishing the foundation for setting a prison term even before the introduction of Western criminal law.

In Chapter 6, “*Faqian* in the era of exile”, I revealed that *faqian* was being used flexibly to respond to the demands of the era of exile. *Faqian* was a punishment for sending criminals to remote areas such as the northeast, Xinjiang, and southwest regions to respond to follow-up measures such as forced labor, cultivation, and slavery. First, I analyzed the nature of the crime that was set to be punished with *faqian*. Looking at the *Great Qing Code* of 1680, it was confirmed that there were two functions of deportation: to punish bannerman criminals and to replenish slaves with criminals. However, as this was linked with the change of the situation in the northeast region, non-bannermen were exiled to the southwest region. In such a situation, Qing conquered Xinjiang. There was a demand for labor in Xinjiang, and an overabundance of exiles in China Proper. Therefore, Xinjiang began to be actively used as a new place for settling exiles. However, as in the northeast region in the past, exile problems arose in Xinjiang, and the exiled criminals were sent to the southwest again. What can be confirmed from the above process is that, unlike the fixed system of exile punishments in China Proper, *faqian* was used according to its needs and circumstances. Paradoxically, *faqian* could be used flexibly because it was not systematized; it lacked unity in follow-up measures and the place of exile, so there was room for application according to the situation. Internally, *faqian* was able to distribute the pressure of exiles in China Proper, and externally, it was possible to respond to the needs of the border region.

The eighteenth century was a time when the place of *chongjun* was fixed in general counties and the problem of managing exiles in local areas emerged. Examining local officials’ comments about exiles at that time, it can be seen that there was concern that criminals could escape from the place of exile or commit another crime. At the root of this was the idea that “the exile is a person who has committed a felony and has a bad nature” and “exile causes trouble due to hardships in life.” The two are not unrelated, but have led to different solutions, heavy

punishment for recidivism or escape, and livelihood assistance for exiles. However, in either case, the premise was to maintain the existing punishment system. The central government ignored the side effects of the current system, the issue of managing exiles, or was unable to reform it.

From the standpoint of officials who needed to manage exiles, the exiles were those that the emperor had spared from death, so they could not be left alone to die. At the same time, escape and recidivism by exiles were directly linked to the fact that officials were disciplined for a lack of proper management. Under these circumstances, officials had to take measures to control exiles so as to avoid punishment, and sometimes left that management to long-standing exiles.

In short, exile was an ancient yet controversial system within Chinese history that was inherited by the Qing dynasty. The Qing rulers engaged with traditional challenges as well as China's well-developed criminal law, administrative system, and local organizations. In dealing with exile as a form of punishment, the Qing dynasty acted as a faithful implementer of traditional Chinese law rather than as a reformer.