

## The Political Identification of *hanjian* in the 18<sup>th</sup> Century: An Invisible Judicial Figure

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### Abstract

This paper attempts to examine an “invisible” judicial phenomenon, that of “*Hanjian*” (Han lawbreakers), identified as a new criminal category during the 18<sup>th</sup> century, at the time of Yongzheng’s administrative reform in the Southwest of China. Through a close analysis of memorials and imperial edicts, we firstly try to reconstruct the process of this official identification of new criminals. We attempt to show how the imperial government’s knowledge about the Miao people changed in the course of the application of this policy, how the lawmaker adjusted its judicial resources to deal with newly encountered problems and what the consequences of this policy were for the Miao regions in particular and the Manchou Empire in general.

Secondly, by examining the judicial treatment of these new types of crimes by the imperial government, we emphasize the fact that the absence of any particular law dealing explicitly with *hanjian* and a general use of other laws by analogy made this phenomenon largely “invisible” from both legislative and judicial points of view.

Thirdly, however, because of their political nature, crimes attributed to *hanjian* were punished by statutes laws often involving special procedures, so that these particular cases were not classified within the ordinary criminal categories.

The last part of this paper focuses on the application of the so-called

“Substatutes on Rootless Rascals” (*guanggun li* 光棍例) into the *hanjian* cases. Created by Qing lawmakers to address a growing number of social problems during the 17th and 18th centuries, this set of substatutes had a metaphoric function which made them susceptible to be implemented in an imprecise way, and applied to various new “indecisive” crimes. These crimes were often responses to a dysfunctional policy. Similarities between the judicial figure of the *hanjian* and that of the *guanggun* are therefore examined in a discussion of this interplay of crime and bad governance.

Keywords: *hanjian* (Han lawbreakers), *gaituguilu* (administrative reform of Yongzheng), statute, substitute, special criminal law, Substatutes on Rootless Rascals