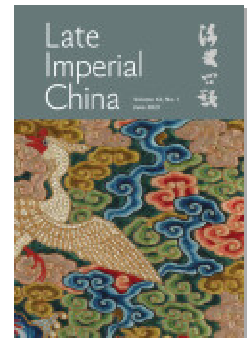
# Wounding Our Customs: Law, Gender, and Pluralism in Chinese Batavia, 1740–1811

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# Wounding Our Customs: Law, Gender, and Pluralism in Chinese Batavia, 1740–1811*

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On October 29, 1788, Zhong Chenguan summoned his wayward wife Liao Gengniang before the Chinese-administered court in Batavia, the capital of the Dutch VOC's (Vereenigde Oost-Indische Compagnie) commercial empire in Asia.[1] According to Zhong, his wife had "eloped" (*siben*) with an Indonesian man whom he called Gaoshe, "bringing disgrace to his doorstep." Liao, accompanied to court by her father, testified that she had indeed eloped with Gaoshe, but not of her own volition. She claimed to have been under the influence of Gaoshe's "evil medicine" (*xieyao*), which had "seized her mind and confused her spirit," and thereby led her to run off with him.[2]

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1. Although I use Pinyin in this article, a more authentic romanization would follow Hokkien/Minnan pronunciation; unfortunately, romanization systems for this dialect are highly balkanized. For many of the Chinese given names in the sources, the last character is an honorific which may or may not replace the third character of the original name. Above, *guan* in Zhong Chenguan and *niang* in Liao Gengniang are honorifics, *guan* denoting a full-status male, and *niang* indicating that the individual is female. Dutch phrases are presented in their modernized spellings. All uses of the anachronism "Indonesian" are purely geographic, referring to the diverse societies of the Indonesian Archipelago. I use the term only when the Chinese-language sources use vague ethnonyms occluding more careful distinctions.

2. Zhong v. Liao et al., 10/29/1788, in GAB, 87.

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Wang Zhusheng and Tang Bianshe, the two lieutenants of the Chinese Council sitting as judges, paused to consider the situation. Ethnic and religious tensions were high. They knew an Arab imam named Saïd Mohammed, known as *Hajji* Duan (Duan Yayu) in Chinese, had been drawing large crowds with demonstrations of preternatural knowledge outside Butcher's Gate only the previous year, before the Dutch deported him and publicly burned his religious texts.[3] Marital cases were tricky enough even without black magic and non-Chinese lovers. First, the two judges attempted to persuade Zhong Chenguan to forgive his wife. When he refused, they tried to make Liao Gengniang return to her husband. She laughed at their naïveté: "You want my husband and me to get back together? I desire this greatly, but since my husband will not agree, what can be done about it?" Apparently sensing that reconciliation was not feasible, the judges first determined that the couple was childless, and then probed Zhong Chenguan about separation, asking "If we were to grant you a divorce, and your wife were to remarry, how would you feel?" Zhong replied, "If she were to remarry a Chinese man, I would agree to it. But if she were secretly to marry herself off to a foreigner (*fanren*), and if I were to find out, I would petition for her to be sent to prison." His wife agreed with these conditions, saying "After the divorce, if I am to return to the path of virtue (*fu cong liang*), I must marry a Chinese man, but if I don't, and I secretly marry myself off to a foreigner, I agree to Zhong Chen[guan]'s terms and would suffer myself to be punished on the spot."[4] Having negotiated this compromise, the judges tore up the couple's marriage license, made note of the ethnic stipulations on Liao Gengniang's ability to remarry, and formally released Liao into her father's custody to "await an appropriate suitor."[5]

This courtroom drama invites us to read it in two ways. The first engages with the gathered figures (and the absent Gaoshe) at the material level: as Chinese or Indonesian bodies castup on Batavian shores. Scholars

3. *The Chinese Annals of Batavia*, 188–89.

4. Zhong v. Liao et al., 10/29/1788, GAB 87. In her statement, Liao is recorded as using the phrase *cong liang*, which by this period had a specialized meaning in Qing legal discourse of transitioning from the (often hereditary) status of prostitute to that of ostensibly chaste commoner (*liangmin*). Here, the formal legal categories probably did not apply, but the connotation remains. See Sommer, *Sex, Law, and Society*, 235–41.

5. Zhong v. Liao et al., 10/29/1788, GAB, 87. Marriage licenses (unknown in Qing Chinese legal practice) were an innovation adopted by the Chinese Council in Batavia.

working in this mode would place Zhong, Liao, Wang, and Tang at the crest of a slowly rising wave of Chinese activity in what they called the Nanyang, or Southern Ocean(s) that had begun in the Tang period (618–907) at the latest, but had quickened rapidly in the seventeenth and eighteenth centuries.[6] These late imperial maritime adventurers were part of a much wider turn to the Qing frontiers to satisfy a growing appetite for exotic luxury products among Chinese and Manchu elites, often running roughshod over Qing restrictions on trade and mobility.[7] Riding alongside traveling merchants and costly cargoes of porcelain, camphor, and birds' nests were increasingly large numbers of male Chinese migrants seeking their fortunes on the frontiers of overseas expansion.

An especially popular destination for these migrants in the seventeenth and early eighteenth centuries was Batavia (modern Jakarta). There, a group of Chinese merchants from the entrepôt of Banten had managed to make themselves (and Chinese migrant labor) essential to the VOC's plans for commercial hegemony in Asia.[8] The Chinese elite in Batavia profited first by bringing in migrant Chinese labor to build urban infrastructure on contract from the Dutch and then by growing and refining sugar in the surrounding countryside.[9] This interpretation forms part of a dominant image of the Chinese in the early modern Nanyang as members of intersecting trade and labor diasporas, driven overseas by economic interest and regional traditions of migration. An emphasis on the physical mobility of Chinese migrants and trade goods forms a key thread running through the work of important scholars in the field, such as Leonard Blussé, Carl Trocki, and Wang Gungwu.[10]

Beyond explaining the material dimensions of diaspora, Zhong and Liao's trial also invites a different interpretive approach. Husband, wife, and the judges presiding over their case were deeply engaged with a set of social questions centered on ethnicity and gender produced by their

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6. Schottenhamer, "The 'China Seas' in World History"; Blussé, *Strange Company*, 97–155; Blussé, "Junks to Java"; Hang, *Conflict and Commerce in Maritime East Asia*.

7. Schlesinger, *A World Trimmed with Fur*; Bello, *Across Forest, Steppe, and Mountain*; Tagliacozzo and Chang, eds., *Chinese Circulations*.

8. Blussé, *Strange Company*, 49–72.

9. Reid, "The Organization of Production in the Pre-Colonial Southeast Asian Port City"; Blussé, *Strange Company*, 73–96.

10. Blussé, *Strange Company*, 49–96; Trocki, "Chinese Pioneering in Eighteenth-Century Southeast Asia"; Gungwu Wang, "Merchants Without Empire".

diasporic situation. Sexual relationships between Chinese men and non-Chinese and creole women were sources of instability within the Chinese diaspora, demanding responses from a variety of social actors. This predicament was not unique to Batavia but could be found all along the Qing southern frontier, from the Yunnan-Burma borderlands to Taiwan.[11] Zhong seems to have been more concerned with controlling the ethnic status of his wife's past and future sexual partners than with punishing her alleged infidelity *per se*. The elite Chinese judges presiding over their case not only recognized these concerns but also thought it possible and desirable to regulate Liao's future sexual behavior. Liao herself found it more convenient to agree to these regulations than to challenge them and the jurisdiction of the court. These developments permit a glimpse of a more puzzling role that being Chinese could play in the lives of Batavian residents. In addition to a label applied to those who traced their personal or family origins to China and a subjective sense of self-identity, being Chinese also involved participation (sometimes involuntary) in a political and legal community. Membership in this category of political belonging stood in a fraught relationship with expectations that group members shared a common set of Chinese cultural values and patterns of behavior.

Zhong and Liao's case presents an opportunity to investigate how the political and legal category of being Chinese was constructed, policed, and challenged in the eighteenth-century Nanyang. Although this story unfolded thousands of kilometers from the nearest Qing official, it bears many of the leitmotifs of late imperial Chinese history: the problematization of Chinese identity vis-à-vis ethnic others, elite claims to legitimately represent their communities, and the use of the law to police sexual morality and gender performance as primary foundations of the social order. These points of convergence reveal how Chinese diasporic connections created new conditions of possibility for the exchange and contestation of social, cultural, and legal ideas across Qing imperial borders. At the same time, bureaucrats, oligarchs, and wayward wives drew these ideas into novel configurations in response to conditions unique to Java under VOC rule.

The Company's response to the problems of administering its large population of Chinese subjects was to rely on a small number of

11. Giersch, "A Motley Throng," 85–87; Li, "The Control of Female Energies," 48–53; Brown, "Taiwan's Intersectional Cosmopolitanism," 94.

wealthy Chinese elites as intermediaries. The Company encouraged the gradual institutionalization of Chinese elite power within the diasporic community through the construction of a Chinese Council (Chinaas Raad, Gongguan), formed of a captain and several lieutenants, and served by various secretaries, runners, and constables. The Council was responsible for most administrative tasks involving Chinese residents, migrants, and trade, but also developed legal jurisdiction over domestic disputes in households headed by Chinese men, such as Zhong and Liao's. In the Company's eyes, the Council's mandate was conditional on the maintenance of order among Batavia's Chinese residents.[12] As Leonard Blussé has shown (and this study confirms), the authority and jurisdictional scope of the Chinese Council was reconstructed and strengthened after the most dramatic episode in the history of the Chinese in Batavia: the eruption of a Chinese rebellion and European counterviolence that wiped out virtually the entire Chinese community in 1740.[13] This study examines the recreation of Batavia's Chinese community in the two generations after this revolt, when prior institutional forms were elaborated and reformed to govern an entirely new set of immigrants and their descendants.[14] The Chinese population quickly surpassed its pre-revolt levels, in part due to the Qing government's relaxation of prohibitions against overseas migrants in 1754.[15] Institutionally, this restoration of the Chinese Council involved borrowing distinctively Qing administrative practices. Ideologically, the Council's moral authority was reinforced with elements of Qing jurisprudence and Confucian moral orthodoxy, empowered by the Council's influence over Dutch colonial judicial ethnography and their control of autonomous courts.

12. See NIPB, vol. 7, 443–44.

13. Blussé, *Strange Company*, 73–96.

14. This took place in part through a process of institutional forgetting: The VOC administrator blamed for the massacre was taken back to the Netherlands in chains, while the Chinese Council commissioned for their chambers an enormous plaque that placed blame for the initial revolt on some "bad elements" in the Chinese community. Blussé, *Strange Company*, 73–96.

15. Kuhn, *Chinese Among Others*, 91–94.

## *Talking about Being Chinese: Self-Consciousness, Classification, and Commonality*

If we are to examine how these constructions of political and legal authority shaped the experience of being Chinese in Batavia, it is important to be clear about what it is possible to say about "Chineseness" in this context. The vocabulary of eighteenth-century Dutch colonial governance abounded with references to a Chinese nation, Chinese individuals, and Chinese customs — as will this article. Frederick Cooper and Rogers Brubaker advocate the analytical separation of three phenomena: senses of "self-understanding" felt by individuals, the often involuntary or coercive sociopolitical practices of "identification and classification," and feelings of "commonality" in the form of group identity.[16] In Batavia, these distinct modalities of being Chinese were frequently drawn into tension as officials and subjects navigated the contradictions between different constructions of proper Chinese behavior.

For most residents of Batavia who were classified as Chinese, the subjective sense of being Chinese — or not — must have played some role in their inner lives and self-narratives. The near-complete absence of private writings from people of Chinese status causes these self-understandings to recede from view. What is left is a set of documentary artifacts of power: public proclamations, officially commissioned chronicles, texts on customary law, and the minutes of court cases. Only in the last of these do the voices of individuals speaking on private issues appear, but even then only in a highly mediated fashion.

When plaintiffs like Zhong spoke in court, they hoped to enlist the coercive power of the legal system to punish or command their opponents. Defendants like Liao sought to escape such power, or to turn it on their accusers. Both strategies shaped testimony to persuade the court. Their speech was then recorded by court clerks, who packaged, summarized, and paraphrased their testimony to meet official expectations. When we read them today, their stories can never be seen "in a free state," independent of their position within "power games and power relations."[17] As Robert Hegel and others point out, rhetorical

16. Cooper and Brubaker, "Identity."

17. Foucault, "Lives of Infamous Men," 161.

strategies, "characterization," and stock language abound in legal texts.[18] These literary devices bedevil any attempt to peel away representation in search of deeper, private realities.

Fortunately for the historian, in addition to a subjective self-understanding, Chineseness was repeatedly invoked in a bundle of practices that we might call *identification and categorization*, active processes whereby individuals are called upon to locate themselves vis-à-vis known others or to place themselves in a category, thereby inviting "us to specify the agents that are doing the identifying."[19] In Batavia, identification and categorization took place within a framework of "pluralism." The *locus classicus* of this term in modern scholarship is J.S. Furnivall's claim that twentieth-century Burma and Java were each:

> composed of a medley of people — European, Chinese, Indian… which mix but do not combine. Each group holds by its own religion, its own culture and language, its own ideas and ways. As individuals they meet, but only in the market-place, in buying and selling. There is a plural society, with different sections of the community living side by side, but separately, within the same political unit.[20]

In Furnivall's account, the interpersonal and political dimensions of social life were contained within sectional categories, each corresponding to a self-evident ethnic group. Some more recent scholarship argues that pluralism was primarily a constructed feature of Batavia's political and legal structure, rather than an accurate descriptor of private social life at any given point in time.[21] However, rather than being superstructural and irrelevant to "real life," ethnic categories — and the political institutions built around them — remained of critical importance whenever Batavians came in contact with authority. This article will explore the productive tension between the ostensible simplicity of Chineseness as a political category and the complexity and diversity of social relations between individuals grouped within that category.

18. Hegel and Carlitz, eds., *Writing and the Law in Late Imperial China*.

19. Cooper and Brubaker, "Identity," 71.

20. Furnivall, *Colonial Policy and Practice*, 304.

21. Coppel, "Revisiting Furnivall's 'Plural Society.'"

A certain subsection of Batavia's population was ascribed membership in a particular category (the Chinese nation) within this plural system and, by virtue of that ascribed status, was allocated certain responsibilities and privileges. While seventeenth- and eighteenth-century Dutch sources referred to this group as the "Chineese natie" (Chinese nation), its members were not citizens of a nation-state, as the modern usage of the term would suggest. Instead, the term represented a distinct corporate group within Batavian society whose identity was theoretically premised on a common origin in the polity the Dutch referred to as China.[22] Local Chinese sources from the same period refer to this group by the classifier *tangren* (people/men from Tang, a toponym for China), defined in opposition to *fanren* (Indonesians, like Liao's lover) and *helan* (Hollanders). People classified as Chinese paid special taxes, were subject to special probate rules, and could appeal to special courts — none of which applied to non-Chinese. When the VOC delegated administrative and legal authority to a Chinese political body, the Chinese Council, that authority was limited to a Chinese-status constituency. Similar assemblages of political and legal rights/obligations formed around other status-categories, such as VOC-employee or *inlander* (indigenous Javanese), although the degree of autonomy, nature of political representation, and character of the obligations varied substantially.[23] The multiple dimensions of citizenship in Dutch colonial Java were determined by membership in one of these status-categories.

In the eyes of the VOC administration, this system of dividing subjects into neat categories was supposed to simplify the problems of ruling a multiethnic entrepôt. Yet this system assumed an easy correspondence between status-categories and real social groups whose commonality or groupness took the form of customs-in-common.[24] Consider Batavia's plural legal system. The Dutch acknowledged the Chinese Council's "power and right" (*de faculteit en het voorregt*) to settle "small affairs" and "domestic differences" among the members of the "Chinese nation" according to "their own laws and customs."[25] The legitimacy of the Council's jurisdiction and the "laws and customs" it

22. The origins and complexities of this concept will be explored below.

23. Ball, *Indonesian Legal History*, 47–77.

24. Cooper and Brubaker, "Identity," 75–76.

25. NIPB, vol. 7, 443–44.

applied presumed the existence of a "Chinese nation" ready to accept that jurisdiction and whose members shared its ideas about what constituted Chinese "laws and customs."

The messy dynamics of diasporic life fundamentally undermined these aspirations, and consequently threatened both the VOC's political strategy of ethnic pluralism and Chinese elites' power over their subjects. Several factors drove wedges between the representation of the "Chinese nation" as a coherent political entity and a much more complex social reality. One of the most important was the fact that the overwhelming majority of migrants arriving in Batavia from China during this period were male.[26] In the context of the late imperial Chinese "marriage crunch," many of these men left home intending to earn enough money overseas to be able to afford a wife on their return.[27] Some did end up returning, but many others found it easier to find a female partner in Batavia. When the city was first settled in the 1620s, and when its Chinese community was repopulated by new (male) migrants after the 1740 disaster, this meant marrying or cohabitating with Indonesian women, whether locally born or from distant parts of the archipelago. Figure 1 illustrates these trends based on annual census data collected in Batavia city, its suburbs, and the *Ommelanden* (environs) directly subject to its administration.[28] From a nadir in 1740, the city was rapidly repopulated by male Chinese migrants, reaching around 12,000 by 1757, and by a combination of local demographic growth and immigration thereafter. More than 4,700 adult women were counted within the "Chinese" census category in 1757; however, vanishingly few of these were likely to have been born to Chinese parents in Batavia, due to the effects of the

26. Kuhn, *Chinese Among Others*, 70; *The Chinese Annals of Batavia*, 96.

27. On the "marriage crunch" (large numbers of poor men remaining unmarried due to elite polygyny and skewed sex ratios), see Telford, "Family and State in Qing China," 924. For an articulation of its effects on male migration, see Kuhn, *Chinese Among Others*, 25–28.

28. I produced this figure using raw data from a digital source publication by A.J. Gooszen, which in turn collates census figures from the Batavia *Daghregisters* (Court Diaries) for the period 1673–1792. The raw data follows the original tabular system in the *Daghregisters*, which subdivides district population into ethno-religious constituencies: "Europeans," "Mestizos," "Mardijkers" (freed slaves who converted to Christianity), "Moors and Gentoos" (Muslim and Hindu Indians), "Malays and Javanese," "Balinese and Makassarese," "Chinese," and "Slaves." The classification was most likely based on the ascribed identity of the head of household, not on individual status, although the details are murky. Gooszen, "Population Census in VOC Batavia," 7.

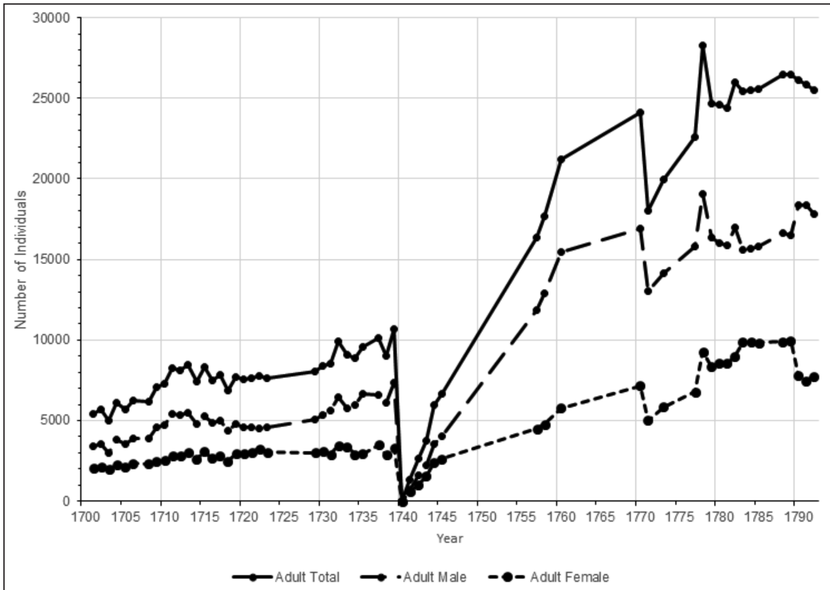


Figure 1. Adult Chinese-classified Population of Batavia from Census Data.

massacre and the time lag to reach adult status.[29] By the late 1780s, the census classified more than 10,000 adult women as Chinese. At most two generations had passed since the massacre, so the vast majority must have been born either to Indonesian parents, or of a union between a Chinese man and an Indonesian woman.

We should be somewhat circumspect about assuming a perfect equivalence between individuals counted as Chinese on the census and the political and legal constituency of the Chinese Council. Nonetheless, the broad outlines are clear: one-third or more of the members of the Chinese status-group were in fact Indonesian women or their direct descendants. Chinese men's marital and sexual liaisons actively brought many non-Chinese women under the formal umbrella of the "Chinese nation." Much like the contemporary PRC's *minzu* system, no "bi-

29. Adult status on this census probably meant that the women were married or cohabitating with adult Chinese-status men, since the census returns contain separate categories for "daughters over the age of 14" and "daughters under the age of 14." See Gooszen, "Population Census in VOC Batavia."

national" or "bi-ethnic" categorization was possible. As a result, when Chinese Council judges applied "Chinese customary law" to this status-group constituency, they were not drawing on shared traditions common to all group members. Instead they were actively using their institutional power to assert a particular (Chinese, male) legal tradition as hegemonic over a heterogenous population.

The rest of this article will examine the Chinese Council's attempts to construct and impose a particular vision of proper behavior for the "Chinese nation" as a status-group, and the active resistance that those attempts produced. It will pay particular attention to gender and attempts to enforce gender roles, since this was the area where the fiction of a homogenous Chinese ethnic group was most unstable. It will also pay close attention to law and the courts as sites where the Chinese Council sought to intervene in the private lives of its subjects.

The following narrative rotates through four vantage points in order to produce a multidimensional image of how these conflicts over gender, ethnicity, and law played out in late eighteenth-century Batavia. First, we will look at how negotiations between the VOC administration and the Chinese officers in the wake of the 1740 massacre allowed the Chinese elite to reinsert itself between the Company administration and a constituency labeled the "Chinese nation," and from there to establish autonomous jurisdiction over certain affairs within that constituency. Next, we will examine how the Chinese elite used this platform to articulate normative, gendered prescriptions about how this "Chinese" constituency ought to behave. Turning from representation to practice, we will explore the riotous profusion of legal strategies used by ordinary litigants to deploy, subvert, or reject this elite discourse in the courtroom. Finally, we will outline the ways that the Chinese elite and its allies within the Chinese constituency sought to reimpose order by capitalizing on their control over judicial power, including the right to impose judicial violence. Looking through each of these keyholes in sequence will reveal not only the internal power relations of the early Chinese diaspora, but also the ways that the European colonial strategy of plural administration catalyzed transformations within the colonized groups it purported to leave intact.

## *Pluralism, Knowledge, and the Instrumentalities of Colonial Rule*

When the Dutch and English trade companies began acquiring territorial possessions in Asia, they faced a historically unprecedented problem. In virtually every colony, most of their indigenous subjects held unfamiliar and opaque expectations of proper governance.[30] These traditions had to be ascertained and accounted for in colonial policy, if only to prevent interruptions in the flow of profits to shareholders in Europe. In Batavia, the Dutch and their Chinese interlocutors created the "Chinese nation" as a political category in an attempt to overcome these problems of colonial government.

The Company relied extensively on economic goods produced by the Chinese. This engendered intense anxiety about how to govern this group so that it continued to produce revenue without undue social unrest. The crux of this issue involved knowledge. In order to identify and punish threats to colonial rule, the VOC would need a method of imposing legibility on the social lives and expectations of its Asian subjects, most of whom did not share a common language with their Dutch rulers. To answer this need, the VOC developed a portfolio of what Bernard S. Cohn calls "investigative modalities": systematic approaches to defining and producing colonial knowledge.[31]

The Company's efforts to develop a set of investigative modalities sufficient to rule Batavia took several forms. First, it sought to register, track, and count the city's population in order to assess taxes, control migration, and locate sources of unrest. In civil cases, the court system needed knowledge about indigenous legal practice: either literally embodied in the form of human representatives of those traditions or codified into a corpus of laws that would allow Dutch judges to rule according to Asian law. A narrow Chinese elite managed to insert itself into each of these projects of knowledge production, offering to assist the VOC administration in collecting and codifying information on a specific subset of the Batavian population: the Chinese nation.

The VOC's relationship with the Chinese community was mediated through a political institution generally referred to in Dutch sources as the "Chinese officers": the Chinese captain and his various lieutenants.

30. Cohn, *Colonialism and Its Forms of Knowledge*, 57–59.

31. Cohn, *Colonialism and Its Forms of Knowledge*, 5.

It is somewhat unclear exactly how the Chinese officers were selected. A document from 1645 indicates that the Dutch city council convened twenty-five of the "most principal Chinese" of the city (merchants, incumbent officeholders, ship captains, and the owners of an arak distillery and a licensed gambling house) to elect a new captain.[32] By the late eighteenth century, most officers seemed to have previously held tax farms or minor legal office as probate judges for the Chinese nation.[33] Many were relatives of previous officeholders. Lieutenant Gao Genguan's 1787 will reveals that officers could amass substantial fortunes: It lists over one hundred thousand rixdollars in cash, one arak distillery, and three sugar plantations, and provides for the manumission of five female bondswomen (*nübi*), two of whom had borne him sons.[34]

The origins of the Chinese officer system lie in a precolonial system for managing trade developed by Javanese rulers. Law codes like the Malay Code of Maritime Law (*Undang-undang laut*) recognize that the skipper or *nakhoda* had extensive powers while on board ship. However, while in port, the *nakhodas* and their crews were under the oversight of another foreign merchant/official, appointed by the prince, called the *syahbandar* (Persian for "harbor-master").[35] *Syahbandars* were responsible for collecting port dues, solving disputes among the merchants and sailors from their community of shared origin, and mediating between the prince and their compatriots. After the founding of Batavia, the Dutch sought to attract wealthy Chinese merchants by reproducing this familiar structure. The first set of Chinese "heads" or "chiefs" (*overste*) were ordered to "resolve all civil matters" among their community of traders while "forwarding all serious (*zwaar*) matters" to the Dutch administration.[36] These heads, renamed captains, still enjoyed jurisdiction over conflicts that arose at sea on board Chinese junks into

32. Hoetink, "Chineesche Officieren," 10–13. Interestingly, few delegates voted for themselves.

33. Hoetink, "Chineesche Officieren," 110–25.

34. There were nominally about two rixdollars to the tael. "Leizhenlan Gao Genguan zai Ba zuo yizhuzi," 11/22/1787, GAB, 8.

35. Reid, *Southeast Asia in the Age of Commerce*, 121, 125.

36. Later, a separate syahbandarship was responsible solely for the collection of customs revenue. Hoetink, "Chineesche Officieren" 10–13. See also Hoetink, "Sọ Bing Kong," 7.

the late eighteenth century, as is evident in a large section of the cases put before the Chinese Council.[37]

The Company seemed to have interpreted the *syahbandar* system as an analogue to the late medieval and early modern European institution of the "trading nation." In the Mediterranean and in the trading ports of the Low Countries, "merchants from the same nation (*naçao*, *nazione*) were generally considered members of a single corporate group which protected its members and was held responsible for their actions.... The host government would deal with the leaders of these foreign merchant diasporas and confirm or, in many cases, further define their legal status."[38] The choice of the term "Chinese nation" suggests that the Dutch read the indigenous system in these terms.

There is considerably less information about what members of the Chinese nation thought about these arrangements. On the Qing mainland, long-distance sojourners from the same ancestral place were primarily organized through native-place organizations (*huiguan*; *gongsuo*).[39] As Bryna Goodman indicates, the spatial catchment zone for *huiguan* could be as small as a county or as large as several adjacent provinces.[40] In this case, it had expanded to include all of "Tangshan" (China) — a shift whose ramifications remain underexplored. Like *huiguan*, the Batavian Gongguan sought to represent and administer a community defined in reference to a specific place of origin vis-à-vis an imperial administration. It is likely that these similarities provided the necessary conceptual referents to translate the institutional form of the syahbandarship/trading nation.

However, neither syahbandarships, trading nations, nor *huiguan* were very well suited as precedents for governing the new forms of Chinese diasporic life that began to appear in Batavia. Instead of a small trade diaspora of sojourning traders, sailors, and local brokers, the burgeoning

37. For example, ordering the *nakhoda* of a junk to pay restitution for mistreating passengers, or ruling on complex consignment-trade issues. Chen et al. v. Lin et al., 3/5/1788, GAB, 28; Huang v. Li, 1/5/1788, GAB, 16–17.

38. Elbl, "Nation, Bolsa, and Factory," 4–5; de Roover, "The Organization of Trade," 60–64; Studnicki-Gizbert, *A Nation upon the Ocean Sea*, 18–20.

39. There has been substantial debate over whether different terms indicate distinct organizational forms — none of which would undermine the claim that there was at least a conceptual category in mainland Chinese experience for the Gongguan as an institution.

40. Goodman, *Native Place, City and Nation*, 11–12.

Chinese community had, after 1740, in large part become composed of migrant laborers, skilled sugar mill operators, artisans, and retail merchants, many of whom established permanent residences and families. This meant that corporate institutions like the Chinese Council had to transition from regulating maritime trade to governing an urban center and its hinterland.

In the course of this transformation, the Chinese officers took advantage of the VOC's need for knowledge about its Chinese subjects to create a sphere of authority and influence for themselves. Our best information about these processes comes in the form of official regulations published by the VOC ostensibly setting rules for Chinese "civil society" (*burgerlijke samenleving*).[41] For Chinese men, the central ritual of this "civil society" was the payment of a poll tax (*hoofdgeld*).[42] This tax seems to have been negotiated as a way to avoid compulsory labor service on town infrastructure projects, and consequently bears a clear resemblance to the Qing *dingshui* poll tax. Collection of the poll tax was usually leased to a member of the Chinese community (usually the Chinese captain) as a tax farm.[43] By 1760, the rolls of taxpayers were verified in a public ceremony conducted by the Chinese captain and his lieutenants in the first days of the new year (in the Gregorian calendar), heralded by criers and cymbalists making the rounds of the Chinese neighborhoods.[44] In addition to securing the collection of tax revenue, the ritual performed an important ideological role in solidifying and defining the boundaries of the Chinese community. When the cymbals crashed and the call went out for the Chinese nation to assemble, the individuals who responded were by definition the Chinese nation (or more precisely: the law-abiding male taxpayers thereof). Since the poll tax ritual only demanded men to present themselves as Chinese, this process of constituency-creation neatly sidestepped the problem of having to precisely define the corporate status of women associated with these Chinese men.

41. These proclamations were also translated into Chinese and Malay and posted publicly; unfortunately only the Dutch versions remain.

42. NIPB, vol. 1, 76–77.

43. NIPB, vol. 2, 251–52. To minimize instability, lease of the tax farm was eventually limited to an officially vetted elite. See Kwee, *The Political Economy of Java's Northeast Coast*, 76–84.

44. NIPB, vol. 7, 433.

Refusal to partake in this annual ceremony or the material exchange of tax money invoked the decidedly non-ideological, repressive apparatus of the state: Those who failed to appear on the designated day could be forced to pay a fine, or, if they had also avoided the ritual and tax that legitimized new Chinese immigrants, suffer deportation or forced labor.[45] For the VOC to punish the noncompliant, it had to know who had assembled when called, and who had not. The Dutch seem to have lacked either the time, personnel, or language skills to produce this knowledge themselves, on their own terms. Instead, they delegated this responsibility to the Chinese officers. The resulting system is remarkable because it not only produced knowledge about subjects marked as Chinese, but also packaged this knowledge in Qing imperial forms.

The core function of the Chinese officers in the population registration system was the compilation of a "general summary or roll" listing every male Chinese resident, his "name, birthdate or age, on what junk, from what place, in what year, he arrived, his place of residence and trade or craft."[46] On the surface, the Dutch administration was enjoining the Chinese officers to conduct a census for tax-collection purposes, as was practiced in most powerful states from the Qing Empire to the Netherlands. Theoretically, this system would have placed Chinese officers at the head of an extensive surveillance network, collecting raw intelligence and digesting it into processed reports. Their registers should have perfectly enumerated and named the Chinese nation as a body of subjects. However, they immediately faced a host of technical problems in producing an accurate population register. The resulting solutions borrowed heavily from instrumentalities of rule practiced in late imperial Chinese bureaucracies, despite the lack of any formal relationship between the Chinese officers and either the Ming or Qing states.

The most transparent case of borrowing involved a Dutch attempt to impose greater legibility on the Chinese population and rein in the autonomy of the sub-officials doing the registration. Like the heads of many bureaucratic states, the VOC administrators seem to have been permanently anxious about the possibility that their subordinates would shirk their responsibility to produce accurate knowledge, whether through laziness or corruption, and thus undermine government

45. NIPB, vol. 4, 197, vol. 7, 434.

46. NIPB, vol. 7, 434.

effectiveness. Since the Chinese officers were the only set of people with direct knowledge of how the registers mapped on to real people, the registration system was constantly vulnerable to distortions, probably exacerbated by the fact that the poll tax operated as a tax farm.

In response to VOC concerns about these abuses, the Chinese officers seem to have persuaded the VOC to adopt a set of measures drawn directly from the Qing *baojia* system. Because Ming and Qing counties were governed by centrally appointed outsider officials supervising local subordinates, local government was plagued by similar epistemological problems. Their solution was to impose a universal system of household registration, whose distinctive feature involved "handing each head of household a 'door plaque' (*menpai*) to be inscribed with the names and ages of the people who lived under his roof."[47] Ideally, this let the supervising official spot-check the population registers compiled by his subordinates. While parishes and provincial governments in the Netherlands also conducted population registration, the *menpai* plaque was uniquely Chinese.[48]

It is therefore surprising to find the periwigged Dutchmen of the Council of the Indies ordering all members of the Chinese nation to "affix a bill to their outer doorpost, stating their name and the names of all their coresidents." Like the *menpai*, this "bill" was intended to ensure "that it can always be determined who and how many people live in each Chinese house."[49]

The registration system was brought even closer in line with the *baojia* model in a set of reforms promulgated in 1802. The Chinese officers had been complaining since 1791 that "the increasing depravity of the Chinese" necessitated an expansion of their political and legal authority.[50] This, they argued, would involve revision of the regulations on Chinese civil society, "so that they and their subjects may strictly comply with them or be punished, and the procedures that have functioned for so long may continue."[51] These revisions only took place in the eleventh-

47. Will, *Bureaucracy and Famine in Eighteenth-Century China*, 108.

48. There is some evidence that European cities implemented similar systems during extraordinary conditions such as plagues; however, this was never a permanent feature of European urban life. Foucault, *Discipline and Punish*, 195–97.

49. NIPB, vol. 7, 443.

50. NIPB, vol. 11, 265.

51. NIPB, vol. 11, 498.

hour reform push under threat of English invasion. One of their effects was to order that "eight separate heads be established over every 96 [Chinese] households (one head for every 12 households), and these eight individual heads will themselves be placed under another head, so that every district is divided into parts of one hundred and five households"[52] This branching hierarchy of households closely resembles the Qing *baojia* system, where every ten households formed a *pai* under a *paitou*, and every ten *pai* formed a *jia* under a *jiazhang*.[53] Like the *baojia*, these provisions were explicitly aimed at maintaining public order and providing the manpower for a night watch.[54] Other late imperial Chinese categories and concepts patterned the entire Batavian population registration system: For example, the officers were to maintain a clear separation between registers of permanent and transient residents, similar to the *ruji/jiji* (permanent registration/temporary registration) distinction in Qing practice.[55]

Through their control over administrative systems such as population registration, the Chinese officers carved their constituency out of Batavia's diverse population. They offered their purported expertise in ruling Chinese subjects, which in turn allowed them numerous opportunities to intervene in the lives of those subjects — not to mention the opportunity to extract revenue from them. When the VOC ran into problems of legibility vis-à-vis Batavia's Chinese residents, the Chinese officers not only furnished data but also entire instrumentalities of rule. Ironically, when VOC merchants peered at the *menpai* that lined the streets of the Chinese quarter on their orders, they were seeing like the Qing state.[56]

These technologies of power converged in the hands of the Chinese officers, but were predicated on the existence of a clearly demarcated and legible community of Chinese subjects who would naturally accept the authority of the Chinese Council. Yet, many of the people marked as Chinese were keenly aware of the relationship between being a subject of knowledge and being politically subjected — an awareness that they

52. NIPB, vol. 13, 486.

53. Ch'ü, *Local Government in China under the Ch'ing*, 150.

54. NIPB, vol. 13, 486.

55. NIPB, vol. 7, 433–43, vol. 13, 487. For the *ruji/jiji registers*, see Du, *The Order of Places*, 182–89.

56. Scott, *Seeing Like a State*, 48.

displayed by trying to flee the Chinese nation at all costs. Before 1759, Chinese could redefine their identity-status through conversion to Islam, which administrators worried was driven by mundane concerns:

> Many Chinese of this jurisdiction, referred to as the "parnakan" [*peranakan*] or "turned" Chinese, have passed from their religion to that of Islam, many in order to free themselves from the ordinary poll tax, and many have subsequently failed to give themselves over to the authority of the [Chinese] headman, and lacking his supervision, can take up wandering and vagabondage.[57]

For the VOC, the way to reinscribe legibility and forestall further attempts to escape political control was to define existing *peranakans* as yet another registered corporate group in Batavia's plural order. Company administrators installed a head of the *peranakans*, charged him with responsibility for registering his subjects, and ordered that they be "issued a *sjap* [sash] to be worn on the head" which would "allow them to be immediately categorized as *inlanders* [natives] and no longer members of the Chinese nation." The Chinese officers viewed this type of conversion as a major transgression, with the new *peranakan* legally considered dead and excluded from inheriting Chinese property.[58]

With their jurisdiction shored up by administrative fiat, the Chinese officers were in a position to make political interventions in the community subject to their authority by relying on their epistemological capital with the Dutch administration.

## *Codifying Custom: Huang Shilao and the* Chinaas Recht

During the period of Company rule, the Dutch administration acknowledged the principle that different identity-groups ought to be able to live under "their own customs and under appointed heads" except in matters deemed of critical importance to the VOC's interests (for example, violence, tax fraud, or smuggling). Initially, this meant that Dutch civil law would only apply in cases involving European citizens, while the heads of the other "nations" would apply their own ethnic

57. NIPB, vol. 7, 356–57.
58. NIPB, vol. 7, 357, 476.

legal traditions in internal disputes within their communities: different versions of *adat* customary law for the various groups of Indonesians, Chinese "customary law" for the Chinese.[59] The VOC saw this as a way to ensure social stability by maintaining institutional continuity with the pre-colonial order. In reality, the configuration of power within these groups was fundamentally reshaped through the Dutch institution of appointed national captains. Dutch concepts of territorial sovereignty also implied that Dutch courts assumed legal jurisdiction over all subjects when Javanese sovereign jurisdiction was extinguished. The contradictions between the VOC's desire to leave indigenous institutions intact and its perceived mandate to exercise sovereign legal authority created a murky jurisdictional order, where Dutch, Indonesian, and Chinese courts all adjudicated civil matters, despite Dutch claims to final jurisdiction.

For Dutch administrators arriving in Batavia in the 1750s and 1760s, this state of affairs would not do. Like many lawyers and intellectuals in the Netherlands itself, they felt that the futures of both the VOC's commercial empire and the Dutch Republic as a sovereign state were in jeopardy.[60] A central source of anxiety was the perceived corruption and private self-interest among VOC servants (which in their minds included the Chinese officers). A coterie of reformists within the Company administration seemed to believe, with Milanese jurist Cesare Beccaria, that the numerous inconsistencies, contradictions, and obscurities in the Batavian legal order allowed decisions on civil matters to be affected by "all those minute factors that alter the appearance of an object in the fluctuating mind of man."[61] Like Beccaria, they thought that the antidote to the corruptibility of human judges was the publication of a comprehensive, written code of laws, which would ensure that the "laws — unalterable except by the general will — are not corrupted as they wade through the throng of private interests."[62] The central focus of their efforts was the 1766 publication of the *Nieuwe Statuten van Batavia* (*The New Statutes of Batavia*), a mammoth compendium of 2,369

59. Ball, *Indonesian Legal History*, 52, 64. Dutch law descended from Roman Civil Law, and made a distinction between criminal and civil jurisprudence. Plural civil jurisdiction refers to the latter of these two meanings.

60. van den Berg, *The Politics of European Codification*, 218–21.

61. Beccaria, "On Crimes and Punishments," 14.

62. Beccaria, "On Crimes and Punishments," 16.

articles, ostensibly containing a record of all VOC-issued civil legislation currently in effect for the Company's possessions in Asia.[63]

Nevertheless, the growing desire to codify law among Dutch administrators ran into serious complications when it tried to make sense of the various "customary" non-European legal systems with whom they shared jurisdictional space. Generally speaking, neither Indonesian headmen nor Chinese officers who adjudicated civil cases in the territories ruled by the VOC privileged written law in the same way that Europeans did. Of course, both groups had intellectual links to textual traditions, in the form of Islamic and Indian jurisprudence for many Indonesians, and the Ming and Qing codes (*lüli*) for the Chinese. In both cases, however, these textual traditions coexisted with or were ignored in favor of local customary practice and innovations, and legitimacy was closely associated with the recognized authority of the person sitting as judge. When Dutch courts needed to make decisions on civil issues for members of non-European corporate communities, they had to consult with community representatives who would testify as to the nature of "customary" law or norms within their corporate body.[64] In the 1750s and 1760s, Dutch administrators evidently came to see this highly personalized, consultative approach to pluralism as especially vulnerable to cooptation by "private interests." In response they undertook an ambitious but ultimately abortive program of codification, targeting both Indonesian groups and the Batavian Chinese. Four major compendia on Indonesian law (two for west Java, one for Cirebon, one for Makassar and Bone) were produced in the period 1749–61, and a compendium for the Chinese was completed in 1761.[65] The aim of this program was to replace the old system, where customary law was inseparable from corruptible non-European bodies, with a new *corpus* of written, immutable principles distilling the legal traditions of subject peoples. In both intent and

63. NIPB, vol. 9; Ball, *Indonesian Legal History,* 33–35. The compendium was never officially ratified by the Council of Seventeen in the Netherlands but was nevertheless considered "to have the binding force of law" well after the dissolution of the Company.

64. This practice closely resembled pre-codification European practice in the Middle Ages, where royal courts would assemble lay judges or councils from local communities to "prove" local custom. See Bederman, *Custom as a Source of Law*, 24.

65. Ball, *Indonesian Legal History*, 68–74, 77.

botched execution, it prefigured later European attempts to objectify and depersonalize indigenous legal systems in the colonies.[66]

In some cases, compendia of customary law were produced by translating legal texts constructed as authoritative by Orientalist scholars or their informants. Generally speaking, this ran the risk of misinterpreting the actual position of the text within local juridical practice, overemphasizing the role of (sometimes archaic) textual material by making false analogies with the unified civil codes that many Enlightenment scholars imagined for European states.[67] In the case of Chinese customary law, however, neither the Dutch nor their Chinese interlocutors seem to have suggested attempting a translation or digest of the Qing Code. Instead, in February of 1756, Peter Heksteen, a secretary of the Batavia Board of Aldermen, and the Chinese captain Huang Shilao (alias Huang Shinao) were jointly tasked with creating a compendium of Chinese customary civil law, later entitled *Chinaas Recht* (*Chinese Law*).[68]

Huang was a strange choice for the job. A Chinese-language history of Batavia drafted in the 1790s remembered him as something of a dissolute literatus: "drunk day and night," fond of pleasure houses, discussing Buddhist doctrine, and writing "poems singing of the wind and rain."[69] Six months after the project began in 1756, his subordinate officers impeached him for having allowed large numbers of Chinese people to dodge the registration requirements and having defaulted on numerous debts, leading to Huang's incarceration by the Dutch.[70] He was released in 1760, a year before the publication of the *Chinaas Recht*, only to discover that his wife had not only "engaged in lewd behavior, and in the meantime had given birth to three children" but also sold off many of his

66. These later attempts have been the subject of a literature too extensive to cover here. For the British in Bengal, see Cohn, *Colonialism and Its Forms of Knowledge*; for China, see Li Chen, *Chinese Law in Imperial Eyes*; for later Dutch attempts, see Burns, "The Myth of Adat." For a rebuttal and attempted rehabilitation of some colonial scholars, see von Benda-Beckmann and von Benda-Beckmann, "Myths and Stereotypes About Adat Law."

67. Examples include British scholarship on Indian and Chinese law: Cohn, *Colonialism and Its Forms of Knowledge*, 65–75; Li Chen, *Chinese Law in Imperial Eyes*.

68. NIPB vol. 7, 476. After the compilation of the *Chinaas Recht*, Heksteen was promoted as extraordinary member of the Council of the Indies (the main governing body of the VOC in Asia), where he oversaw the compilation of the *Nieuwe Statuten*. Ball, *Indonesian Legal History*, 33.

69. *The Chinese Annals of Batavia*, 159.

70. Hoetink, "Chineesche Officieren," 67.

remaining valuables — for which Huang convinced the Dutch to banish her to a prison island.[71] These vicissitudes do not seem to have impacted his credibility as an interpreter of Chinese custom, although they might explain some of Huang's insistence on the legal subordination of women to their husbands.

Based on the resulting text, the production process seems to have involved Heksteen posing questions about specific legal issues, mostly involving marriage, inheritance, divorce, and family property, and Huang responding with what Heksteen took to be Chinese "customs" (phrased as normative statements about the Chinese nation) regarding those matters. The central problem faced by this approach, along with similar efforts in medieval European courts and in other colonial codification projects, was that "custom" was actually a highly contested category.[72] Roman-Dutch legal discourse required legally admissible custom to be both "age-encrusted" and accepted by the community, as demonstrated by widespread practice.[73] Nonetheless, "Chinese" marital and family life in eighteenth-century Batavia took so many different forms and involved individuals from so many ethnic backgrounds that the notion of a normative consensus regarding marriage, inheritance, or any other aspect of social life should have been absurd. In fact, Extraordinary Member of the Council of the Indies Reinier de Klerk, who received Heksteen and Huang's text, repeatedly questioned the representative nature of Huang's testimony in his annotations to the document. Ultimately, these concerns relegated the text to "consultative" uses, rather than binding law.

The resulting text has little value as an accurate source of information about how members of the Chinese nation actually lived, despite its normative claims about the community. Other sources, like the records of cases directly overseen by the Chinese Council, can provide a clearer image of law in practice; however, the *Chinaas Recht* is particularly revealing as an encapsulation of how a powerful, literate Chinese man like Huang thought family life *ought* to be lived in the Chinese community. As scholars of subsequent colonial "invented traditions" have noted,

71. *The Chinese Annals of Batavia*, 162.

72. For example, James Whitman describes a case from fourteenth-century France where litigants competed to produce witnesses willing to swear that their version of a local "custom" was truly "customary." Whitman, "Why Did the Revolutionary Lawyers Confuse Custom and Reason?," 1337.

73. Bederman, *Custom as a Source of Law*, 21, 24.

"codified tradition inevitably hardened in a way that advantaged the vested interests in possession at the time of its codification," largely because the representatives of "vested interests" were the people serving as informants in these projects.[74] Similar dynamics produced a marked contrast between the ostensibly normative subordination of women within the family in Huang's text and their obvious resistance to those norms noted in de Klerck's annotations and in the legal records of the Chinese Council.

Huang's participation in the *Chinaas Recht* project is best interpreted as part of a "flipped" version of the "re-tribalization" that Abner Cohen found in his classic study of the post-colonial Hausa diaspora in Nigeria. He observed that the boundaries between different ethnic groups did not disappear when faced with the elimination of formal political pluralism, increased social interactions, and rapid socioeconomic change: Instead, members of the Hausa diaspora continued to "manipulate some customs, values, myths, symbols and ceremonials from their cultural tradition in order to articulate an informal political organization which is used as a weapon" in the struggle with other groups.[75] Like Hausa elites in their use of distinctive Islamic practices, Huang drew on social and legal norms from the Qing Empire, from local practice, and of his own invention, and asserted that they defined the essence of Chinese custom in diaspora. Unlike the post-pluralist political context of independent Nigeria, however, Huang attempted to use formal state mechanisms to ensure that his values would be enforced by the legal system. He seems to have hoped that, once enshrined, these norms would bring the unruly Chinese community into something more closely resembling his ideal of gendered order.

A central component of Huang's vision for female members of the Chinese nation was aimed at eliminating the legal ability for women to own property independently within marriage or through inheritance. His first claim was that "unmarried women, no matter how old, are under the power of their fathers. Once married, they fall under the power of their

74. Ranger, "The Invention of Tradition in Colonial Africa," 254.

75. Cohen, *Custom and Politics in Urban Africa*, 2. Cohen describes the manipulation of custom *informally* within society to reproduce the effects of formal pluralism, while in this case Huang manipulates custom within a *formally* plural state to affect behavior within society, hence the term "flipped."

husbands, who have full authority over them."[76] Statements to this effect are repeated six times throughout the text. When their husbands were living, this meant that a "married woman may not dispose of her property or engage in trade; she depends for everything on her husband." An even more pressing concern was to prevent the widows of Chinese men from controlling their estates: in Huang's version, a "widow must not alienate the effects of her husband's estate without the prior knowledge and consent of the oldest male heir."[77] Similar provisions argue that Chinese custom prevents a wife from exercising control over her husband's effects or remarrying during his absence on a sojourn, even when he is gone for as long as ten or twenty years.[78]

These were controversial claims. De Klerck, the high Dutch official who reviewed the text, noted that Huang's assertion about husbands having full authority over their wives' property contradicted a statement given to the Board of Aldermen by the Chinese officers in 1733 (now seemingly lost). De Klerck claimed the Chinese officers at that time told the court that no consensus on the issue obtained:

> Among people of prestige and distinction who have married suitably and live decently, goods are held permanently in common without need for a single contract. Among the mean folk, there is no fixed custom. It remains the case that in Batavia under the Chinese, everyone is left to their own discretion when choosing whether to specify the community of property or to remain silent on the subject.[79]

Court cases from the 1780s further show that many female members of the Chinese nation did not respect this supposed custom. Women not only independently engaged in a range of economic ventures including urban real estate investment, moneylending, and renting out agricultural land, but actively sought legal resolution, in both Chinese and Dutch courts, to disputes involving their property.[80] While Guo-Quan Seng's

76. NIPB, vol. 7, 476.

77. NIPB, vol. 7, 477.

78. NIPB, vol. 7, 480–81.

79. NIPB, vol. 7, 481.

80. Li v. Ruan, 1/9/1788, GAB, 19; Wu v. Chen et al., 8/12/1789, GAB, 196; "Shikuibing lie shangtai weicha Huang Da zhangbu yu Wang Zhuniang jiaojie qianxiang," 3/17/1790, GAB, 255.

research on nineteenth-century Chinese probate records deals with a somewhat different, post-VOC colonial regime, he argues that, by frequently favoring female relatives, the de-facto decisions of the Chinese probate court (also staffed with Chinese officers) "betrayed a somewhat higher status for the Chinese woman than the Chinese officers would admit."[81]

Huang's stubborn assertion of a patriarchal property regime in the face of actual practice reveals a deep-seated anxiety about the precarious nature of de-facto control over property among Chinese men. For new male Chinese migrants arriving in Batavia, the threat of incapacitating illness or death lay around every corner. The city's low-lying position and extensive network of brackish canals meant that, by the late eighteenth century, Batavia had a well-deserved reputation as a haven for deadly diseases, most notably malaria. Roughly half of all newcomers (European and Chinese) died within their first six months in the city, with less intense but still substantial attrition taking its toll on the survivors for the remaining ten years it took to develop immunity.[82] Most of those born locally or exposed to the same tropical diseases in early childhood elsewhere in the archipelago, in contrast, would have developed resistance before reaching the age of marriage. As the demographic data shows, male members of the Chinese nation were very likely to belong to the first category, while their wives and sexual partners overwhelmingly belonged to the second. Differential disease mortality elevated the likelihood that a young wife would outlive her husband from a chance occurrence to an everyday fact of life. Given this state of affairs, Huang sought to shore up the claims of the husbands' relatives and male heirs to marital estates against the perceived threat posed by independent widows. This contestation over family law also had ethnic overtones, since men mostly claimed membership in the Chinese nation through extraction or descent, while women as often as not were born to Indonesian parents, and only became "Chinese" through marriage.

A second controversial assertion regarded "customary" ways of forming and dissolving marital partnerships. According to Huang, male-female relationships could fall into one of two legal categories. First was marriage (translated into Dutch as *huwelijken*), which was allegedly

81. Seng, "Disputed Properties, Contested Identities," 28.

82. Jones, *Wives, Slaves, and Concubines*, 35; van der Brug, *Malaria en Malaise*.

considered valid by the community only if the groom went through an elaborate courtship ritual, paying six visits to the bride's family bearing gifts, and eventually applied to the Chinese Council for a marriage license.[83] Huang argued that only legitimate wives married in this way were eligible to inherit a fraction of the estate, and only their children were considered legitimate and capable of receiving a full share of the inheritance.[84] Huang alleged that "divorce, except in cases of adultery, is seldom heard of among the men of our country.... A wife may not request a divorce for continual mistreatment, but must remain silent. When there is an inability to propagate the man's seed, the wife may not complain, but must remain submissive."[85]

Alongside this formal category of marriage, male-female relations could also involve the woman being categorized as an "attendant" or concubine (*bijzitter*, lit. the one who sits alongside). These relationships were explicitly sexual: Huang repeatedly refers to the offspring of a man and his attendants when discussing succession rules and inheritance. Huang also described attendants in commodified terms: A man could have only one legitimate wife but could "purchase as many concubines as he [was] able to support."[86]

Both of these categories undeniably existed within Batavian Chinese society. The Chinese Council archive possesses hundreds of formal marriage licenses from the eighteenth century. [87] Likewise, women labeled *nübi* (female bondswoman or slave) repeatedly appear within the records of the Chinese Council, such as the five Indonesian women manumitted in the late Lieutenant Gao Genguan's will (two of whom had borne him sons).[88] However, de Klerck and numerous other people who had seen Huang and Heksteen's text expressed their doubts that all Chinese relationships fell explicitly within either of these categories. In particular, de Klerck noted that the more casual relationships among "mean folk" (*gemeene volk*) were not marked by the elaborate cultural and legal rituals (and, presumably, payment of the tax on marriage licenses) Huang

83. NIPB, vol. 7, 480.

84. NIPB, vol. 7, 477–78, 487.

85. NIPB, vol. 7, 483.

86. NIPB, vol. 7, 481, 483.

87. Marriage Registers (*chenghun zhuce anbu*), Section 5.1, The Archive of the Kong Koan of Batavia.

88. "Leizhenlan Gao Genguan zai Ba zuo yizhuzi," 11/22/1787, GAB, 8.

asserted were necessary to legitimate marriages.[89] "Most" of de Klerck's informants nevertheless thought these unions should be granted legal status, in clear contradiction of Huang's testimony. Modern scholars tend to confirm these observations by noting that the number of marriage licenses granted by the Chinese Council in the late eighteenth century was far too low given the reported size of the Chinese population.[90]

In short, Huang's testimony in the process of compiling the *Chinaas Recht* text clearly "misrepresented" the Chinese to the Dutch, presenting an image of accepted custom regarding gendered behavior, when in fact no such consensus existed. The fact that he did so suggests that Huang thought the Dutch codification project offered him an opportunity to make a necessary legal or moral intervention in Chinese gender relations. At the same time, the form of his idealized representation tells us a great deal about how elite Chinese men thought those relations should be structured. Women should be subject to agnatic male control at all times, remarriage should be rare and disgraceful, divorce should be infrequent, and female adultery should be punished. The text ends with a passage directly attributed to Huang, in which he claimed that Chinese political thought held that "the commonwealth or human society can be compared to three strong cords."[91]

> The first cord is between the ruler and all the regents, judges, and officials. All these and all those which depend on them must, like the strands of a rope, be unbreakably attached to one another. The second cord is between a father and his family and descendants, who must live immutably clinging to one another and strive to grow the family through marriage and adoptions. The third cord is between husband and wife, inseparably attached, the man following his profession and the wife keeping her house and household, without meddling in the things outside.[92]

89. NIPB, vol. 7, 480.

90. Leonard Blussé, for example, calculates an average of one hundred recorded marriages a year in the eighteenth century, in a population of 30,000. Blussé, "One Hundred Weddings," 19.

91. NIPB, vol. 7, 490.

92. NIPB, vol. 7, 490.

Only when these three sets of obligations were fulfilled, Huang declared, could the commonwealth flourish.

Written next to these sweeping assertions is the following note, in de Klerck's minute handwriting:

> The first and second of these remarks is generally understood and upheld in China as the most non-negotiable and unshakeable ground rules of the state, as necessary for the maintenance of the peace among the residents as it is for the flourishing of the state. But Chinese men and women succeed in corrupting the third according to their own desires no less than the shrewdest nations in all of Europe.[93]

In fact, Huang's Confucian vision of a perfectly gendered Chinese community was promptly seized, twisted, and shattered in turn by his stubbornly litigious subjects as they sought satisfaction of their "own desires" in front of the magistrates of the Chinese Council.

## *Gender in the Courtroom: Divorce and Family Law Cases before the Chinese Council*

When writing the *Chinaas Recht*, Huang Shilao exercised a partial monopoly on the representation of Chinese gender norms, subject only to review by Dutch officials supervising the compilation project. When Huang and his successors sat as judges, however, their normative visions had to contend with those of their constituents. Every week, two of the Chinese lieutenants adjudicated disputes between members of the status-group, which clerks then drafted as minutes written in vernacular Chinese. While the court seems to have been in operation for a much longer period of time, the surviving eighteenth-century records comprise 580 cases in 664 hearings from October 1787 to February 1791. Most concern commercial disputes between men, but in 36 cases spread over 54 hearings, litigants demanded that the court intervene in domestic conflicts involving marriage, divorce, adultery, abandonment, and spousal abuse.

Analysis of these cases reveals a recurring conflict between litigants and judges over the rights and responsibilities of married couples. Both female and male litigants repeatedly presented arguments that assumed

93. NIPB, vol. 7, 490.

a particular vision of the marital bond. In their view, marriage implied a set of gendered obligations that, if unfulfilled, constituted grounds for divorce. Their petitions thus indicate what non-elite members of the Chinese status group viewed as normative and deviant masculinities and femininities. Conflict arose, however, when these litigants asked the court to enforce their views of marriage as a contract that could be dissolved by individual malfeasance. In most cases, judges were unwilling to grant divorces unless both parties remained stubbornly opposed to reconciliation. On one level, this suggests a certain reluctance on the part of judges to intervene in private disputes. On another level, it represents a steadfast commitment to Huang Shilao's moral vision for society. As the dominant figures in the Chinese community, the Chinese officers can only have felt threatened by a fraying of the "third cord … between husband and wife, inseparably attached" if this constituted one of the "non-negotiable ground rules of the state."[94] Consequently, they seem to have remained determined to ensure that divorce was "seldom heard of" no matter how far individuals deviated from their partners' expectations for proper marital behavior.

The judges on the Chinese Council had to defend this commitment in the face of carefully crafted arguments advanced by their constituents. As the court minutes reveal, not everyone agreed with Huang's maxim that Chinese women "may not request a divorce for continual mistreatment, but must remain silent."[95] Many female litigants evidently viewed certain types of mistreatment as grounds for divorce. These allegations fall into two related categories. First, wives frequently accused their husbands of what we might call "failures of masculinity." Guo Zhenniang encapsulated this approach in a petition delivered in September of 1789:

> It has been three years since I entered my husband's house, and during that time I have not had a stitch of clothing to cover my body. When it comes to household matters, [my husband] completely fails to take care of them. When I argued, he beat and cursed me.

In cases of masculine failure, a wife emphasized her patience: she had bided their time, hoping that "he would reform himself." Only when their

94. NIPB, vol. 7, 490.

95. NIPB, vol. 7, 483.

husbands proved to be incapable of "even the slightest change of heart or shift in thinking" (*haowu huixin fanyi*) did wives seek official redress.[96] The most common allegations of masculine failure involved material neglect, physical and verbal abuse, and, less frequently, objections to male polygyny.[97]

These constructions of deviant masculinity may have been intended to appeal to elite preoccupations. In one testimony, the judges tried to determine if a petitioner's husband was a "virtuous man" (*liangren*) by asking whether he was violent, "a gambler or morally loose" (*dang*), failed to provide, kept a concubine, or otherwise engaged in "illicit activities."[98] The repeated appearance of these concerns in female allegations may represent a calculated strategy. If so, the language of these female litigants echoes the discourse of male deviance that Janet Theiss suggests pervaded both Qing courtrooms and moral literature.[99] She argues that Qing magistrates held men accountable to a moral standard of "self-containment," defined as the ability to resist "the four vices of drink, lust, greed, and wrath" and maintain a frugal lifestyle. Women performed Chineseness by invoking these metropolitan values in diasporic courtrooms.

In a second, less common, category of female complaint, litigants stubbornly asserted the right to individual property and financial independence within the context of marriage. These women claimed not only that their husbands had made illegitimate claims on their personal property, but that this constituted sufficient cause for divorce.[100] Huang Yinniang attested that her husband would "press her all day for money," allegedly to fuel ten-month sprees in which he would "abandon himself to self-indulgence in the 'black devil neighborhoods'" (*milian zai wuguixiang*) — a pejorative reference to districts inhabited by

96. Guo v. Xu, 9/23/1789, GAB, 214.

97. On material neglect, three of eight examples are: Zhuo et al. v. Lin, 6/25/1788, GAB, 59–60; Gong v. Yang, 3/4/1789, GAB, 120; Huang et al. v. Lin, 8/19/1789, GAB, 201. On abuse, three of seven examples are: Gong v. Yang, 3/4/1789, GAB, 120; Huang v. Lin, 11/23/1789, GAB, 215; Chen v. Lin, 5/12/1790, GAB, 273. On male polygyny, two examples are: Xu v. Zhang, 1/27/1790, GAB, 247–48; Lin v. Xie et al., 12/29/1790, GAB, 367.

98. Zhang v. Nyai Cai et al., 7/28/1790 GAB, 309.

99. Theiss, "Explaining the Shrew," 46.

100. Li v. Zhang, 11/1/1790, GAB, 327–28.

Indonesians.[101] In these cases, assertion of personal rights dovetailed with rhetoric about failures of male self-discipline.

Far fewer men initiated divorce proceedings, which is perhaps unsurprising considering the gender ratio in the Chinese status-group and the substantial material expense of securing a wife.[102] When they did so, men argued that their wives had deviated so far from acceptable standards of femininity that their marriage contracts were no longer valid. Lin Yinguan claimed that his wife did "not respect established manners," and went "every day to enjoy dramatic performances;" when he threatened to punish her, she refused to reform and thus he now requested a divorce.[103] Xu Xieguan sought a divorce from his wife, who had "brought disgrace to his doorstep" by being caught gambling.[104] Wang Jiguan tried to deploy a similar strategy to wrest control of his wife's business and use its assets to repay his considerable debts. He argued that his wife "spent all day buying and selling without a sense of shame." His attempts to make her cease this disgraceful activity were met with "continual clamor," which disgraced him to the point that he "had no choice but to bend" and seek a divorce.[105]

As with the female petitioners, these allegations seem to have been deliberately shaped to invoke elite anxieties about social disorder. Their rhetorical beats echo those of a proclamation issued by the Council in 1788 aimed at bringing "peace and quiet" to the Chinese districts. It painted certain activities as un-Chinese, unfeminine, and immoral, declaring that "when women gamble or attend dramatic performances, they wound and debase our communal customs (*shangbai fengsu*). It is not for women to do these things." The proclamation enjoined the Chinese community to carefully police female behavior to propagate "correct customs" (*zheng fengsu*) and to prevent evil practices from "proliferating

101. Huang et al. v. Lin, 8/19/1789, GAB, p. 201; Huang v. Lin, 11/23/1789, GAB, 215.

102. Several cases in the minutes indicate that Chinese husbands were expected to pay a bride price of around 60 rixdollars, either to the bride herself or to her family; for example Xu v. Lian, 3/19/1788, GAB, 32; Liu v. Han et al., 5/5/1790, GAB, 270; Lin v. Xie et al., 12/29/1790, GAB, 367.

103. Chen v. Lin, 5/12/1790, GAB, 273.

104. Xu v. Chen, 12/10/1788, GAB, 104.

105. Wang v. Xie, 1/14/1789, GAB, 114.

like swarms of wasps."[106] The opportunistic nature of these appeals is illustrated in a case brought by Lin Jiezhen, who alleged that his wife "did not take care of the household as stipulated in the regulations" and that she "wandered the four quarters on a daily basis."[107] After he was denied a divorce, however, the court discovered less righteous motivations: he had betrothed himself to another woman under the pretense of being unmarried. These machinations were only revealed when he unwisely sought to accuse his erstwhile fiancée of having stolen the engagement gifts he had given her.[108]

Despite the concessions that litigants of both genders made to elite preoccupations, they rarely managed to convince the judges to grant their petitions if the responding party did not consent — most unilateral divorce proceedings ended in the injunction to "return home and make peace, avoiding further enmity" (*huijia hehao, wu dei fanmu*).[109] In hearing these cases, the judges seemed to have weighed two different threats to what they perceived as social order. On the one hand, they took seriously allegations that their subjects were deviating from gender norms, recording them in the minutes of all divorce hearings. On the other hand, only a few forms of deviance could convince them to compromise their higher-order commitment to upholding the marriage contracts issued by the council.

Women could sometimes secure sympathy in particularly egregious cases of physical abuse or prolonged abandonment.[110] Li Ruiniang, for example, shocked the court into leniency when she told them that her husband had beaten her so severely as to interrupt her menstrual cycle, shouting "I would rather die than follow your order to return to my husband!"[111] In these exceptions the court usually issued a separation order mandating specified support payments but forbidding remarriage.[112]

106. "Lin Jia Handan wei difang qingshi, ju yi kou ci chengyue Gongtang," 9/24/1788, GAB, 84–85.

107. Lin v. Nyai Ou et al, 12/22/1790, GAB, 361.

108. Lin v. Xie et al., 12/29/1790, GAB, 367.

109. Guo v. Xu, 9/23/1789, GAB, 214.

110. Wang v. Lin, 7/21/1790, GAB, 307, continued in Wang v. Lin, 7/28/1790, GAB, 311; Huang v. Yang et al., 8/11/1790, GAB, 320–22.

111. Li v. Zhang, 11/1/1790, GAB, 327–28.

112. Qiu v. Huang, 11/3/1790, GAB, 354; Lin v. Xu, 11/3/1790, GAB, 352–53; Zheng v. Cha, 11/24/1790, GAB, 355; Ye v. Sun, 11/24/1790, GAB, 356.

Outside of this narrow set of exceptions, women could obtain permission to leave their spouses and remarry only by directly challenging the power and jurisdiction of the court.[113] Chen Ainiang and her mother Nyai Cai Zhuang took a stand after Chen's husband requested the court's assistance in recovering his fugitive wife. After five failures to appear, the court runners finally dragged the reluctant woman before the court, which found no grounds to deny her husband's request. Chen Ainiang refused to obey, and her mother tried to physically prevent her husband from carrying her home, shouting that she rejected the jurisdiction of the Chinese court and would throw herself at the feet of the nearest Dutchman to demand aid.[114] While Nyai Cai Zhuang was subdued and temporarily imprisoned, both women appeared the following week after Chen Ainiang had run off again. Both mother and daughter were beaten in court for "daring to disobey orders and debase the natural hierarchy of human relations" (*gan fangming bailun*). In the end, Chen Ainiang's husband was so shaken by their display of resistance that he declared that "if coercion is used to make us reconcile, I would fear that my life would be in danger." Having received the husband's permission, the court finally saw no other option but to grant the couple a divorce.[115] While clearly not for the faint-hearted, their experience shows that stubborn civil disobedience could make it possible to resist the court's authority successfully.

Men, however, had a trump card. The clearest grounds on which the court would grant a divorce over the objections of a spouse were in cases of female adultery with non-Chinese men. The judges of the Chinese court seem to have been particularly obsessed with the double transgression invoked by this act. In July 1790, a Chinese man notified the Chinese court that his unmarried sister-in-law Li Yanniang had been "abducted" (in the words of the court minutes) by a Dutch pork butcher who resided inside the city walls. "Fortunately," the Dutch *landdrost* (bailiff) was in the city, and he sent his runners to track down the couple and turn Li Yanniang over to the Chinese Council.[116] She was then married off to a Chinese-status man named Xie Daozhong. Li Yanniang

113. Gong v. Yang, 12/2/1789, GAB, 233. Yang had successfully circumvented the Chinese court through an appeal to the Dutch Landdrost.

114. Zhang v. Nyai Cai, 6/2/1790, GAB, 280; Zhang v. Nyai Cai et al., 7/21/1790, GAB, 306.

115. Zhang v. Chen, 8/4/1790, GAB, 314–15.

116. The *landdrost* was the Dutch official nominally in charge of law enforcement for the areas outside the city walls, and the VOC employee who worked most closely with the Chinese Council in judicial matters. "Wei chengnei Gu Risheng qimei Li Yanniang cunan," 7/301790, GAB, 313.

seemed to have been unsatisfied with her new husband, as he appeared before the Council in October to complain that she had eloped with a *fanren* flower-seller. Xie chased her down and brought her to court to ask for a divorce.[117]

Lieutenant Lin Chunguang, the sitting judge, was incensed with Li Yanniang's behavior and launched into a diatribe:

> This woman was previously abducted by the Dutch butcher, and luckily tracked down by the *landdrost*'s men. Then, she was paired with [Xie] Daozhong to serve as her spouse, but she refused to reform. Now, she once again runs off after a *fanren* and thus wounds and debases our customs (*shangfeng baisu*). There is nothing graver than this.

The lieutenant, backed up by Captain Wang Zhusheng, ordered that Li be beaten with a bamboo while being paraded through the streets of the Chinese district so that "her misdeeds could serve as a warning to the masses."[118] This type of spectacular physical punishment was repeated in at least one other case involving a Chinese-status wife who eloped with a non-Chinese man during the three-year period covered by the records.[119] No similar punishment was applied in cases where adultery was not alleged to have crossed ethnic or corporate boundaries, although the judges granted divorces with the wife's consent in several of these instances.[120]

These punishments, and the legal discourse surrounding them, reveal some ways in which ethnic tensions, contested understandings of gender, and the construction of a distinct Chinese community intersected in the courtroom. Lieutenant Lin Chunguang's pronouncement that Li Yanniang had gravely "wounded and debased our customs" was nearly the same language used in the Council's earlier proclamation condemning women who gambled or attended dramatic performances. Interethnic adultery and specific forms of conspicuous public female behavior were glossed as immoral, unfeminine, and ultimately, un-Chinese.

The divorce cases discussed here reveal two facets of legal practice within the Chinese community in Batavia that initially appear at odds with one another. The jurisdiction of the elite male members of the

117. Xie v. Li, 10/271790, GAB, 349.

118. Xie v. Li, 10/271790, GAB, 349.

119. Yang v. Lin et al, 10/20/1790, GAB, 346.

120. See, for example, Zhuo et al. v. Lin, 6/25/1788, GAB, 59–60.

Chinese Council was predicated on the assumption that the so-called Chinese nation shared a unified set of customary legal traditions. The VOC municipal government viewed the Chinese officers, being some of the wealthiest and supposedly most respected members of that community, as the natural bearers of those legal customs. In practice, litigants transformed the courtroom into a space where counter-hegemonic claims about the relationship between the marriage contract and personal behavior could be articulated. As a result, the divorce dramas acted out on the courtroom floor continually undermined the ideological foundations of Chinese Council's judicial authority, repeatedly demonstrating that no stable customary consensus on key issues in gender relations existed within the Chinese status group.

At the same time, the power relations produced by that judicial authority created a platform from which the elite men on the Chinese Council could intervene in the private relationships of their constituents, re-imposing their hegemonic model of the inviolable marriage contract by suppressing alternative formulations. Their monopoly on judicial violence, supported by the VOC administration, allowed them to punish litigants who refused to abide by their rulings and make examples of individuals whose behavior they claimed violated customary boundaries. Their judicial behavior was both enabled by and designed to protect their unique jurisdiction over marriage in Batavia. In many ways, the degree of control that the Council exercised over private marital relations was historically unprecedented. During the eighteenth century, state-controlled courts in both the Netherlands and China never claimed anything like the exclusive right to grant, deny, and revoke marriage licenses. Since marriage licenses were obligatory, control over the license system allowed the male Chinese oligarchs who comprised the Council to set the terms under which marital partnerships could be formed and dissolved.

## *Conclusion*

The Chinese elites who climbed to positions of authority in Batavia's colonial administration did so by presenting themselves as the natural leaders of a Chinese sub-community. The VOC expected them to put that authority to use by making that community legible (and thus governable) to Dutch administrators. Consequently, the Chinese officers managed

to seize control over two knowledge processes that occupied a central role in urban governance. First, they exercised the right to independently produce and maintain a series of population and marriage registers that mapped out a distinct Chinese community subject to their authority. The process of registration was coupled with an extensive license system, which demanded that members of the Chinese community appear before the Chinese Council to seek permission to settle in the city, to leave it, to marry, or to divorce. Second, the Chinese officers monopolized the right to represent the Chinese community's legal traditions and values to the Dutch, whether in the form of informal consultations in Dutch courtrooms, formal codification projects, or by using those traditions in their own court to adjudicate disputes among Chinese residents. Since the elite male officers of the Chinese Council controlled these administrative functions, they were able to command an outsized degree of discursive and coercive power in the struggle to define Chinese communal norms. As a result, elite representations could crowd out alternative formulations of justice and the boundaries of acceptable behavior, especially in the gendered context of marriage—although individual members of the Chinese community stubbornly resisted this encroachment.

These findings compel us to revisit some important historical questions about the Chinese diaspora in Southeast Asia. First, the evidence presented here shows that we should rethink Furnivall's concept of a "plural society" in colonial Asia. The evidence fails to reveal a unified, self-contained community holding to "its own religion, its own culture and language, its own ideas and ways."[121] In fact, the court minutes of the Chinese Council and de Klerck's commentary on the *Chinaas Recht* show that views on what constituted Chinese "ways" were highly diverse, stratified by gender, class, and ethnic ancestry, and influenced by interactions with other groups. Furnivall also argues that plural societies are natural products of "economic forces" drawing different (presumably predefined) groups together for trade; plural societies, and their problems, are preserved "because [they are] unrestrained by social will" channeled into political action. Instead, I argue that "economic forces" such as Batavia's marriage market militated against the preservation of coherent group identities: constant recruitment of non-Chinese women to the status group through marriage and

121. Furnivall, *Colonial Policy and Practice*, 311.

domestic servitude diversified the values held by members of the Chinese community. Nonetheless, pluralism was significant as a system imposed from above, emerging out of the negotiated division of administrative and legal power between Chinese and Dutch elites. These administrators envisioned a society where conflict between identity-groups could be mitigated by subdividing jurisdictions into ethnic categories. When coercive and disciplinary institutions were built around this vision, these institutions tried to maintain and police boundaries between ethnic groups, severely punishing certain types of transgressions and repressing alternative constructions of group values.

Second, a more nuanced approach to claims about a unified Chinese community in Batavia can be applied more broadly both in the reading of primary sources from the period and in the critical interpretation of more recent secondary scholarship. At a basic level, this article builds off of the conclusions of historians who have argued that what they deem a "Chinese diaspora" played a central role in the massive changes that took place in maritime Asia during the early modern period.[122] Their arguments are consistent with those advanced here, in that they make it impossible to accept previously canonical claims that the "colonial culture" or "the social world" of the port cities rimming the South China Sea can be effectively analyzed by examining interactions between European immigrants and indigenous residents alone.[123] Cities like Batavia were not only sites for social and cultural interactions between a European "early modernity" and Indonesian "tradition." On purely demographic grounds, more Indonesian people had direct interactions with Chinese immigrants than with European ones, while the institution of the Chinese Council ensured that large numbers of Indonesians had to reckon with a developing Batavian Chinese legal and governmental tradition. So far, the economic dimensions of these exchanges have attracted the most attention, but their cultural and social aspects remain largely unexplored. When thinking about cross-cultural interaction, however, it is essential to approach seemingly self-evident categories such as "the Chinese diaspora" with a high degree of caution. While much of the secondary literature repeats primary source references to a "Chinese

122. Representative works are Wang, "Merchants Without Empire"; Ng, *Trade and Society*; and Blussé, *Strange Company*.

123. Gelman-Taylor, *The Social World of Batavia*, xvii.

nation" or "Chinese customs," insufficient attention is paid to the specific historical processes that produced these categories, and the ideological and coercive work performed by appeals to Chinese identity.

Although both the category and meanings of Chineseness were historically contingent, they were also enormously powerful forces. Once the category was constructed, its inner logic drew Chinese Batavia into the intellectual and symbolic orbit of the Qing empire — even as the empire disavowed administrative responsibility for diasporic affairs. The logic of corporatism created a class of officials who inserted Qing administrative practices into Dutch colonial policy. The search for Chinese customary law pulled fragments of late imperial jurisprudence and Confucian moral orthodoxy into transoceanic circuits of exchange. The special hegemonic power of courts, combined with legal pluralism, gave powerful incentives for ordinary people to frame their own behavior in moral and legal terms that would have been recognizable in a Qing yamen.

In the past twenty years, our sense of late imperial Chinese history has been transformed by the assertion that the Qing empire is not (simply) China.[124] Attention to diaspora flips that thesis on its head: "China" is not reducible to the Qing empire. Heretofore, this discontinuity has primarily been imagined in demographic terms, with migration taking individuals already marked as "Chinese" beyond the Qing borders. This formulation is susceptible to critique on the grounds that it essentializes identities in ahistorical ways. The evidence from Batavia suggests an alternative: Chineseness was an actor's category, and its contingency and instability fueled ideological and institutional borrowing from the "homeland." These circuits of cultural and intellectual exchange and the thematic resonances they produced provide a new way of writing the maritime frontier back into Chinese history.

124. Rawski, "Presidential Address," 832.

# GLOSSARY

| | |
|---|---|
| baojia | 保甲 |
| Chen Ainiang | 陳愛娘 |
| dang | 蕩 |
| dingshui | 丁稅 |
| Duan Yayu | 緞亞裕 |
| fanren | 番人 |
| fu cong liang | 復從良 |
| gan fangming bailun | 敢方命敗倫 |
| Gao Genguan | 高根官 |
| Gaoshe | 高奢 |
| Gongguan | 公館 |
| gongsuo | 公所 |
| Guo Zhenniang | 郭貞娘 |
| haowu huixin fanyi | 毫無回心返意 |
| helan | 和蘭 |
| Huang Shilao (Shinao) | 黃鉓老(市閙) |
| Huang Yinniang | 黃蔭娘 |
| huiguan | 會館 |
| huijia hehao, wu dei fanmu | 回家和好毋得反目 |
| jia | 甲 |
| jiazhang | 甲長 |
| jiji | 寄籍 |
| Li Ruiniang | 李瑞娘 |
| Li Yanniang | 李艷娘 |
| liangren | 良人 |
| Liao Gengniang | 廖庚娘 |
| Lin Chunguang | 林春光 |
| Lin Jiezhen | 黎捷振 |
| Lin Yinguan | 林印觀 |
| lüli | 律例 |
| menpai | 門牌 |
| milian zai wuguixiang | 迷戀在烏鬼巷 |
| minzu | 民族 |
| nübi | 女婢 |
| Nyai Cai Zhuang | 雅蔡壯* |
| pai | 牌 |
| paitou | 牌頭 |

| | |
|---|---|
| ruji | 入籍 |
| shangbai fengsu | 傷敗風俗 |
| shangfeng baisu | 傷風敗俗 |
| siben | 私奔 |
| Tang Bianshe | 唐編舍 |
| tangren | 唐人 |
| Tangshan | 唐山 |
| Wang Jiguan | 王機觀 |
| Wang Zhusheng | 王珠生 |
| Xie Daozhong | 謝道忠 |
| xieyao | 邪藥 |
| Xu Xieguan | 許協觀 |
| zheng fengsu | 正風俗 |
| Zhong Chenguan | 鍾辰觀 |

*The Javanese term *nyai* appears as a neologism in the sources, created by appending a 女 radical under the character 雅. Modern character encoding sets do not contain this character, so I transcribe it with the character 雅

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