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Do All Roads Lead to Rome?
**Exploring the Underlying Logics of Similar Policies and Practices of Recruiting
 Barbarian Soldiers in Roman and Early Chinese Empires**

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Introduction

There are many similarities between various aspects of the Roman and early Chinese empires, which have been the focus of much academic discussion.¹ A wide range of comparative studies have been carried out and resulted in the publication of numerous research papers.² Scholars have been using different approaches focusing upon different areas to address this very broad comparative topic.³ Detailed analyses were made to compare the two empires in respect to their coinage and monetary systems,⁴ state revenue and expenditures,⁵ elite formation and social class advancement,⁶ and executive decision-making processes,⁷ just to mention a few. In a broader context, the state formation processes of these two empires have been analyzed and compared in light of their parallel movements.⁸

¹ For an overview of academic publications in this aspect, see Walter Scheidel, *The Stanford Ancient Chinese and Mediterranean Empires Comparative History Project*, <https://web.stanford.edu/~scheidel/acme.htm> (last visited July 1, 2020, 9:00 pm).

² For collections of the papers presented at such conferences, see e.g. Fritz-Heiner Mutschler and Achim Mittag (eds), *Conceiving the Empire, Rome and China Compared* (Oxford University Press, 2008); Walter Scheidel (eds), *Rome and China, Comparative Perspectives on Ancient World Empires* (Oxford University Press, 2009).

³ See Johann Arnason, *Introduction*, in *The Roman Empire In Context – Historical and Comparative Perspectives* (Wiley-Blackwell, 2011), at 14.

⁴ Walter Scheidel, *Rome and China, Comparative Perspectives on Ancient World Empires* (Oxford University Press, 2009), at 137.

⁵ Walter Scheidel, *State Power In Ancient China And Rome* (Oxford University Press, 2015), at 150

⁶ Peter Fibiger Bang and Karen Turner, *State Power In Ancient China And Rome* (Walter Scheidel eds) (Oxford University Press, 2015), at 11.

⁷ T. Corey Brennan, *State Power In Ancient China And Rome* (Walter Scheidel eds) (Oxford University Press, 2015), at 39.

⁸ Christian Gizewski, *Römische und alte chinesische Geschichte im Vergleich: Zur Möglichkeit eines gemeinsamen Altertumsbegriffs*, *Klio* 76: 271-302 (1994).

Insightful research, for instance, has been done to compare these two empires with respect to their military mobilization policies and to the relationships between their military and civil leadership.⁹

Both of the demises of the classical empires on the two ends of the Eurasian continent in the early first millennium AD were related to the fact that members of non-citizen or non-subject barbarian¹⁰ tribes/polities performed military services in these empires and then mutinied against them. From the previous centuries onwards, both Roman and Chinese empires recruited into their armies tribal or frontier subjects or foreign subjects who had recently migrated into the empires, and the performances of these soldiers were consistently given positive comments by the host empires. During the late Roman Empire, persons of barbarian origin were recruited into the Roman army in increasingly larger numbers and played vital roles in guarding the imperial territories. Eventually it was a group of Germanic military captains who terminated the regime of the Western Roman Empire in 476 AD.

A similar process took place in China during the several centuries before the collapse of the Jin (晋) Empire in north China in 317 AD. From the first century AD onwards, the classical Chinese empire increasingly recruited into its army tribesmen of barbarian origin, who played crucial roles in guarding the Chinese territories. This sort of recruitment resumed on a more profound basis during the first decades of Jin Dynasty (from 280 AD onwards). For example, Liu Yuan (刘渊), a Hun¹¹ tribal leader, used to be a military general and commanded Hun soldiers for a powerful Chinese prince before he mutinied against the empire.¹² A good understanding may be gained of the decline and fall of these two classical empires by tracing the origins and developments of their policies on recruiting barbarians, non-subjects or non-citizens into their armies.

⁹ See Nathan Rosenstein, *War, State Formation, and the Evolution of Military Institutions in Ancient China and Rome, in Rome and China, Comparative Perspectives on Ancient World Empires*, at 24 (Oxford University Press, 2009).

¹⁰ Throughout this paper, the term “barbarian” only means belonging to a community that was not directly ruled by one of the classical civilizations (e.g. Roman Republic or Empire, or ancient Chinese empires), but the term does not in any sense carry any meaning of being inferior, uncivilized, backward or violent. Modern scholarship has convincingly proved that many such reputedly “barbarian” peoples created brilliant achievements in institutional, cultural, technological and other aspects. The uses of the term “barbarian” in this paper are only for purpose of convenient reference to various ancient peoples who were so referred to in ancient texts.

¹¹ Also spelled as “Xiongnu” (匈奴).

¹² Liu Yuan’s early career as a Chinese military officer was in parallel to various invading Germanic tribal leaders who once served as Roman military officers.

Before we examine why an ancient empire's policy on recruiting soldiers from tribal subjects underwent fundamental changes, we need to first understand its military recruitment rules in general, because an ancient empire's practice in recruiting barbarians or tribal subjects closely followed its overall rationale regarding enlisting soldiers from the society at large.

This paper is organized in the following structure:

Part I argues that a seven-phase evolutionary trajectory of ancient Rome and early Chinese empire in military recruitment policy bore strong resemblances to each other. An analysis of such seven-phase policy transformations indicates that the two empires at their early stages were similar to each other in recruiting mainly from their geographical central regions and their political core elements. The emergence of a professional standing army would naturally come as the next stage for both states. However, the mass conscription system existed for a longer period in China than in Rome due to fierce competitions among the Sinic states during the Warring States period. After universal empires were established in Rome and China, they both resorted to massive recruitment of barbarian tribal soldiers to maintain their military strength.

Although soldiers from various tribal groups were enlisted into the troops of the early Chinese empire to defend its many thousands of miles of northern borderline facing the Eurasian steppe,¹³ tribal soldiers were recruited not only from the nomadic communities on its *northern* border but also from the sub-tropical regions in the *south*.

Part II will discuss the military service obligations required by the early Chinese empires of some indigenous tribes living in the middle range of the Yangtze River Valley. The special legal treatment (including exemptions) these barbarian tribes received from the early Chinese states regarding military service obligations will be investigated in the first case study of Part II.

The second case study in Part II concerns an early Han dynasty death penalty appellate case in which the pre-existing exemption was surprisingly disregarded against a barbarian adult male who had dodged military service, and the case epitomizes a turning-point in the early Chinese empire's policy on its military recruitment of barbarians.

¹³ For example, in the 2nd century, soldiers recruited from Wuhuan (乌桓) and Xianbei (鲜卑) tribes were defending the Han Empire's northeastern frontier, soldiers from tribes of southern Huns were defending its due north frontier, while soldiers from Qiang (羌) tribes were defending its northwestern territories.

The third case study describes resistance incidents launched by Bانشun tribesmen in the second century against excessive corvee and military service obligations, although they had previously played an indispensable role in supporting the Han Empire's military actions. Two comparable resistance events in contemporary Roman Empire were described: *Bellum Batonianum* and the Revolt of the Batavi.

Part III summarizes a series of common patterns in the evolution of the two empires' policies on recruiting tribal subjects. For example, the standing of both empires' military recruits gradually changed from the society's politically-franchised classes to its powerless domestic subjects, and then onto its politically-remote frontier subjects; the geographical origins of the military recruits gradually changed from the national's central regions to its peripherals. Part III explores broader implications of the two empires' parallel transformations in military recruitment policies, and it is posited that the deeper mechanism of convergent evolution was at work in driving such similar policy transformations in both empires. When the trajectories of the evolutions of various circumstantial social factors were similar in these two classical empires, it naturally followed that their rules and practices on military recruitment would evolve in the same directions.

Part I: Similar Evolutionary Phases in Military Recruitment Policies

Generally speaking, the Roman policy on recruitment of soldiers underwent the following stages of transitions, and each of such stages is coded in chronological order from R(1) to R(7):

Stage	Military Recruitment Policy in Rome
R1	A citizen militia, meeting applicable property qualifications.
R2	In the later periods of R(1), military recruitment expanded to include able-bodied men from annexed territories in Italy, plus occasional levy of a universally conscripted mass army.
R3	A nascent professional standing army, with no need for meeting property qualifications
R4	A professional standing army, divided into units of legions and auxiliaries: legionaries were recruited mainly from Roman citizens in Italy, and auxiliary soldiers were recruited primarily from non-citizens in the provinces.
R5	Increasingly, legionaries were recruited from non-Italian citizens and non-citizens.
R6	The overwhelming majority of Roman soldiers were recruited from non-citizen provincials and sometimes from barbarians.
R7	A substantial proportion of Roman soldiers were recruited from external barbarians who had recently migrated into Roman territories. Then came the end of the Western Roman Empire.

In the above transformative processes that played out during a period of approximately one millennium (i.e. from Servius Tullius' reign in the mid-sixth century BC until the demise of the Western Roman Empire in 476 AD), we may observe a trend in which the main sources of Roman military recruits moved step by step (i) from Rome's political power center to its powerless peripherals and (ii) from Rome's geographical center to its territorial peripherals.

The above seven-phase model should be distinguished from the nine-phase model posited by Christian Gizewski in his paper published in 1994.¹⁴ First, while Gizewski's paper discusses the broad theme of state formation in general, this paper addresses the specific topic of military recruitment policy, especially the application of such rules to barbarian tribesmen. Second, territorial annexation/fragmentation is an overarching topic in Gizewski's paper, while this paper focuses on the analysis of policies that evolved in disregard of territorial status.

Third, in Gizewski's model, the statuses of Chinese and Roman states evolved in a close parallel in time, while this paper shows there was a longer time difference between each step of their policy transformations.

Similarly, during the early Chinese civilization from the Spring & Autumn period to Han Dynasties, military recruitment underwent the following stages of transitions, with each of such stages being coded in chronological order from C(1) to C(7) :

Stage	Military Recruitment Policy in Early China
C1	An aristocratic militia, meeting hereditary ranking qualifications.
C2	In the later periods of C(1), military recruitment expanded to include commoners in the vast rural territories, with no need for meeting hereditary ranking qualification.
C3	A nascent professional army, whose soldiers were recruited from the society at large on selective criteria.
C4	Universally conscripted mass army.
C5	The army of the empire was comprised of both conscripted subjects and professional soldiers.
C6	The army of the empire was comprised mainly of professional soldiers, many of whom came from low-class provincial backgrounds or frontier barbarian tribes.
C7	A substantial number of the Chinese empire's soldiers were recruited from external barbarians who recently migrated into the territories of the empire. Then came the end of the classical Chinese empire in northern China.

¹⁴ See Christian Gizewski, "Römische und alte chinesische Geschichte im Vergleich: Zur Möglichkeit eines gemeinsamen Altertumsbegriffs", *Klio* 76: 287 - 288 (1994).

In the above evolutionary processes that lasted nearly one millennium (770 BC – 317 AD), we can observe a trend in which the main sources of military recruits in early China moved step by step (i) from the Sinic states' political power center to their powerless peripherals and (ii) from a Sinic state's geographical center to its territorial peripherals. The basic patterns in the transformation of military recruitment policies in early Chinese states were quite similar to the journey of contemporary Rome. The only key difference seemed to be that early Chinese states each maintained a universally-conscripted mass army (at least in theory) for several centuries while the levy of a universally-conscripted mass army was an ephemeral phenomenon in Rome.

In below sub-sections I.A – I.H of Part I, we will compare each of the seven similar transformational phases that occurred in Rome and early China. I propose that there was always a time difference of two to three centuries between each step of the policy transformations in the two empires. We will see that their transformations were often (although not always) prompted by similar social trends and followed similar logic:

I. A: Comparing Rome's stage R(1) with China's stage C(1)

After the military reform of Servius Tullius, the army of early Rome was largely a citizen militia, which was assembled from Roman citizens who had met certain property ownership standards and would be disbanded at the end of each war. The Roman Republic periodically held censuses that registered the property ownership status of their citizens and divided them into six different classes, and members of each of the first five classes were required to serve different military roles with different armaments.¹⁵ Roman citizens who did not meet minimum property qualifications (i.e. *proletarii*) were not allowed to join the Roman army, while the other classes of citizens were eligible for military service.¹⁶ Eligibility for military services enabled Roman citizens to vote (with different weights) in the Roman legislative assembly *comitia centuriata*, which decided on issues of war and peace, enacted legislation, elected consuls and praetors, and considered capital punishment appeals.

Young Roman aristocrats with public service aspirations had to complete at least ten years of military services before becoming eligible for public offices.¹⁷ Most politicians of the Roman Republic (including famous orators such as Cicero) had many years of military service or command experiences. In short, it was the active voters and political participants of the early Roman Republic that were serving in the Roman army and fighting its wars, and it was the members of its innermost circle of political elite who were physically commanding the same army in the battlefield.

¹⁵ Livy 1.42.5 – 43.10.

¹⁶ For the applicable minimum property qualifications, see Pierre Cagniard, *The Late Republican Army (146 – 30 BC)*, in *A Companion to the Roman Army* (Blackwell Publishing Ltd, 2007), at 81.

¹⁷ Polybius, 6.19.5.

The armies of Western Zhou dynasty and the early Spring & Autumn Sinic states were largely aristocratic militias, which were assembled primarily from the male members of the ruling ethnic groups in a polity (such members were called “国人” or “*guoren*”, meaning “countrymen”), who had been accorded certain official ranks in that polity’s political hierarchical system. Except for direct retainers of the aristocrats, local commoners (who were mostly of different ancestral origins from the ruling groups) did not join the army or participate in any military campaign.

The “countrymen” who were eligible for military services were supposed to be consulted by the body politic at countrymen’s assemblies on issues of national emergency, relocation of state capital, appointment of new rulers, and significant judicial cases.¹⁸ In the standard curriculum for the education that should be received by young aristocratic males, skills in military formations, archery and chariot-driving, which were crucial for military actions of that era, were taught as compulsory courses.¹⁹ Most aristocrats who were active during the Spring & Autumn period seemed to have some military service or command experiences. In short, at this stage it was the direct participants in a Sinic polity’s political life who were serving in the army of that polity and fighting its wars, and it was the members of its innermost circle of political elite who were physically commanding the same army in the battlefield.

I. B: Comparing Rome’s stage R(2) with China’s stage C(2)

During the later periods of R(1), after Rome defeated and conquered adjacent polities in central and southern Italy, Rome expanded the scope of its military recruitment to able-bodied men from the newly-acquired alliance territories (*socii*), and soldiers from such alliance territories formed their own independent units (*alae*) while fighting battles on the Roman side.²⁰

As a result of the integration with its annexed territories, the Roman Republic kept a huge reservoir of military manpower which none of the neighboring polities could compete against. For example, in 225 BC, based upon the figures provided by Polybius, it was estimated that Rome had a maximum military reserve of 900,000 men, of whom more than a third were Romans (325,000) and the rest were men from the consolidated Roman *socii* in Italy.²¹

¹⁸ Zhouli, *Qiuguan Sikou Fifth* (《周礼·秋官司寇第五》), Beijing Normal University Publishing House (北京师范大学出版社) 2019, at p.293.

¹⁹ Zhouli, *Diguan Situ Second* (《周礼·地官司徒第二》), Beijing Normal University Publishing House (北京师范大学出版社) 2019, at p.118.

²⁰ Michael Sage, *The Republican Roman Army – A Sourcebook* (Routledge, 2008), at 127.

²¹ Klaus Bringmann, *A History of the Roman Republic*, at 34.

Major Sinic states had previously acquired many territorial areas around their capital cities either during the early Zhou period (after the establishment of these states) or during the early Spring & Autumn period, without systematically recruiting military personnel from such annexed territories. From the mid-seventh century BC onwards, however, some of these states (e.g. states of Qi (齐), Chu (楚) and Jin (晋)) began to expand the scope of their military recruitments to men living in such acquired territories and rural hinterlands.

As a result of their integration with the annexed territories, some Sinic polities began to have a huge reservoir of military resources and manpower whose order of magnitude had been unthinkable during a previous era. For example, in 530 BC, the king of the state of Chu claimed that from each of the 4 smaller polities that Chu had acquired in the Central Plains region, he could levy 1,000 chariots.²² Given that the state of Chu acquired a total of approximately 48 lesser states during this period, the scale of its expansion of military resources was huge.

The above expansions were the very first step in a long journey of transformation, in which the main sources of military recruitments in Rome and early Sinic states gradually shifted away from their capital cities and geographical centers and moved step by step onto the relatively peripheral regions.

I. C: Comparing Rome's stage R(3) with China's stage C(3)

By the late second century BC, it became difficult for the Roman Republic to recruit soldiers from its wealthier propertied citizens, whose enthusiasm in military services had begun to decline. In 107 BC, Gaius Marius reformed the military recruitment system by abolishing the property qualification so that lower-class plebian and proletarians became eligible for enlistment,²³ and ad-hoc service in the Roman army was replaced with 16 years of continuous service. His reform effectively improved the quantity and quality of Roman military personnel and paved the road for a series of Roman military triumphs in the next stage. In particular, his reform initiated the formation of a professional standing army which engaged in rigorous systematic training and drilling all the year round even in times of peace.

His soldiers should be able to march long distances in a day, and in marches they were required to personally carry various heavy weapons, tools, supplies and provisions for many days' needs.²⁴ They won the nickname of "Marius' mules" (*muli mariani*) due to their reputation for strong physique and stamina.

²² *Zuozhuan*, Duke of Zhao 12th Year; James Legge, *The Chinese Classics*, vol. 5, p. 641.

²³ Sallust, *The War Against Jugurtha* 86.1-4.

²⁴ Pierre Cagniard, *The Late Republican Army (146 – 30 BC)*, in *A Companion to the Roman Army* (Blackwell Publishing Ltd, 2007), at 87.

The early Warring States period witnessed a similar transformation that occurred in China towards the establishment of a professional army whose soldiers were selected from the society at large on strict criteria.

During this period, the state of Qi selected and recruited men who possessed impressive martial arts and soldiers so recruited were rewarded with handsome pay. When enlisting its elite infantry soldiers, the state of Wei required that an applicant should be able to exercise while wearing helmet and three layers of armor and draw a bow with a force of 360 kilograms; he was required to be able to march as long as 40 kilometers within a period of daybreak till midday while carrying a halberd (i.e. an axe combined into a spear), a sword on the waist, 50 arrows with a quiver on the back, and food that could provide for three days' needs.²⁵ It seemed as if the state of Wei was unconsciously selecting infantry soldiers on criteria that were similar to those for "Marius' mules". Besides, both Marius and the state of Wei endowed land estates to their soldiers who had passed such strict recruitment tests and fulfilled the service tenure.²⁶

At this stage both Roman and Chinese states took a crucial step towards instituting military systems that were based on professional standing armies. In both Rome and China, the sources for recruiting soldiers were moving further towards the entire domestic population, regardless of wealth, political power or hereditary status.

I. D: Comparing Rome's Universal Conscription with China's stage C(4)

Despite the same type of development as described in above sub-section C, the evolutionary paths of Roman and early Chinese recruitment then temporarily parted ways, in that the latter soon adopted a universal conscription system while Rome resorted to it only on a very occasional basis.

Only in time of military crises did Rome conduct general levies of able-bodied male citizens (sometimes even slaves) on a compulsory basis.

For example, the Roman Republic launched compulsory levies of soldiers in 193 BC (for a campaign against Ligurian mountaineers) and in 171 BC (against an offensive from the kingdom of Macedon).²⁷ In the Pannonian Revolt that lasted between 6 AD and 9 AD, Augustus not only launched a general levy of free citizens but also ordered emancipation and compulsory conscription of thousands of slaves in order to raise an army. However, such instances of general levies never became the norm in Rome.

²⁵ Xunzi, Eric L. Hutton trans., at 149 (Princeton University Press, 2014).

²⁶ See *ibid.* See also *supra* note 20, at 241.

²⁷ Dexter Hoyos, *The Age of Overseas Expansion (264 – 146 BC)*, in *A Companion to the Roman Army* (Blackwell Publishing Ltd, 2007), at 63 – 64.

In contrast, during the mid and late Warring States period when the seven Sinic states engaged in total warfare against each other, they resorted to universal levies of their able-bodied males to build mass armies. According to the remarks of the famous diplomat Su Qin (苏秦), during this period, from its capital region of the state of Qi 200,000 soldiers could be levied; the states of Zhao, Han and Yan could each enlist several hundred thousand soldiers; the state of Wei kept 200,000 regular soldiers and 300,000 auxiliary soldiers; the states of Chu and Qin each maintained an army of about 1 million men.²⁸ Each state was able to maintain such huge numbers of soldiers only if it made military service a universal obligation for its able-bodied men. For example, in the crucial war between the states of Qin and Zhao in the Changping (长平) region in 260 BC, the king of Qin ordered that all males aged above 15 in the region near the battlefield should be conscripted into Qin's army, so that the opponent army of about 400,000 soldiers could be thoroughly encircled.²⁹ As another example, when the state of Qin launched a decisive war against the state of Chu in 224 BC, Qin's commanding general made it an imperative requirement that troops of 600,000 men must be mobilized before any attack was launched.³⁰

The above difference between Rome and China in relation to universal conscription arose from the fact that except for a few isolated wars such as Hannibal's invasion of Italy during the Second Punic War, Rome of this era seldom needed to engage in any life-and-death fights with its enemies. After the Roman Republic consolidated its rule over central and southern Italy, it was separated from most of its military opponents by the Mediterranean and other forms of natural barriers. Based upon its sufficient recruitment of citizen soldiers and wise alignment of alliance forces, the Roman Republic maintained a huge reserve of manpower available for military services.

Most of Rome's neighboring polities lacked any equally systematic mobilization mechanism, and the post-Alexander Hellenistic states frequently relied upon costly services of mercenaries whose number could never afford to be massive. In contrast, due to the peculiar geographical circumstances of China's central heartland (especially the extreme compactness of the layout of the early Sinic states), the polities of the Warring States were in constant fierce geopolitical competition with their neighboring polities, and the wars of elimination among them worked in a very crude form of "survival of the fittest". Each polity of the Warring States always had to fight endlessly for its very survival, and many of their peer polities who had failed to mobilize for total wars had been annihilated.

²⁸ Sima Qian (司马迁), *Records of the Historian*, Vol. 69, *Biography of Su Qin* (《史记卷六十九·苏秦列传》), Zhonghua Publishing House (中华书局) 2006, at p.423 – 427.

²⁹ Sima Qian (司马迁), *Records of the Historian*, Vol. 73, *Biography of Bai Qi and Wang Jian* (《史记卷七十三·白起王翦列传》), Zhonghua Publishing House (中华书局) 2006, at p.453.

³⁰ *Ibid* at 452.

Despite the prevalence of universal conscription in China during this period, we should deem it as a deviation from the inevitable evolutionary path towards the establishment of a professional standing army. Once the fierce competition for the Holy Grail of national unification began to subside, the nation would feel a strong push for reverting to the regular path of military professionalization.

I. E: Comparing Rome's stage R(4) with China's Transition from stage C(4) to C(5)

Rome's stage R(4) came naturally as part of Augustus' political settlement for the Roman army at the end of the Roman civil war. After defeating Marcus Antonius at the Battle of Actium and conquering Egypt, Augustus wanted to prevent rampant wars from erupting again and to demand allegiance from his soldiers. Rome was not facing any strong enemy on its borders, and it was relatively easy for Augustus to demobilize his massive army by allocating land or granting cash to the soldiers.³¹ He professionalized and standardized the Roman army within a matter of several years without meeting strong resistance.

In contrast, professional standing armies emerged in China fairly early but took a very long time to become the prevalent system. This transformation took several centuries to complete, and was interrupted in the middle by a universal conscription system that was in active practice for about two centuries. A profound divergence appeared here between the evolutionary paths taken by the early Roman and Sinic states: the Roman state first expanded and *consolidated* its territories before it evolved into an *absolutist* Principate, while multiple Sinic states first turned *absolutist* before they eventually *consolidated* into a unified empire. Early consolidation of vast territories meant that once civil wars were over, Rome did not have to maintain a universally-conscripted mass army to fight for its own survival and a professional army became the logical choice for Roman military institutions.

Early transformation into absolutist states in China meant that each state had the administrative power to levy a huge number of soldiers and to mobilize enormous resources for fighting heated total wars against each other. As the consolidation of the early Sinic states took place relatively late, the task of building a professional standing army was delayed in China again and again: late Warring states kingdoms would not consider this choice, considering the tremendous military pressures they faced from their peer states; the short-lived Qin empire actively pursued military campaigns on its northern borders against the Huns and marched into the Pearl River Delta to conquer vast areas of territories in southern China; and an enormous amount of manpower was mobilized by the Qin regime into its military system. After the death of Qin emperor Shihuangdi, fierce uprisings broke out against the Qin regime all over the country, which was followed by seven years of civil wars.

³¹ See *supra* note 20, at 249.

Even after the Han Empire was established, there existed a high level of tension between the imperial central government and the vassal states in the eastern half of the empire. In the civil war of 154 BC between the imperial government and certain vassal states, the rebelling king of the state of Wu ordered the conscription of all males in his state aged between 14 (which was the age of his junior son) and 62 (which was the age of the king himself) and mobilized an army of over 300,000 men.³² The quick defeat of the rebellion army within three months at the hand of the smaller number of troops of the central government signified the end of the age of fully-mobilized total wars in classical China.

After domestic territorial consolidation ceased to pose a major threat to the imperial central government, the military recruitment system in China started to converge upon the same trajectory as that of Rome, and some other channels began to play significant roles in military recruitment. Although during much of the Western Han Dynasty the government maintained the universal conscription system, the long pent-up pressure for recruiting soldiers on a professional basis soon started to assert itself, and from emperor Wudi (武帝) onwards the empire heavily utilized troops that were recruited from volunteers. At this stage, the soldiers utilized by the Chinese empire in its military campaigns came from the following channels:

(1) Universal conscription

This system was a remnant from the previous total war era, and was kept alive in theory throughout the Western Han Dynasty (202 BC – 8 AD). The general trend during this period, however, was that the proportion of conscripted soldiers declined over time, while volunteers and tribal soldiers became increasingly important sources of military recruitment. Compared with the subjects of the Qin state of the late Warring States era, common peasants of the Han Empire showed much less enthusiasm for participation in military services. Able-bodied commoners who were subject to military service obligations were able to be exempted from a draft after paying a special tribute called “*gengfu*” (更賦), whose revenues could help the imperial government pay for the services of soldiers who were recruited from other sources.

During much of the golden age of the Roman Empire, military service was voluntary and was generally regarded as an attractive career that provided commoners with prospects for social mobility. During the late empire, however, military service seemed to become much less popular and the empire had to issue legislations to enforce conscription.

³² Sima Qian, *Records of the Historian, Biography of Liu Bi King of Wu*, Yang Hsien-yi & Gladys Yang trans., at p. 300 (The Commercial Press Limited, Hong Kong 1975).

The same practice of tribute payment in lieu of service also was adopted in Rome, albeit at a much later time: after Ostrogoth tribes crossed the Danube in 376 AD into Roman territory and provided ample sources for military services, it became possible for able-bodied men who would otherwise be drafted into the Roman army to avoid such drafts after making a cash payment (*adaeratio*) to the Roman government.³³

(2) Volunteer elite guards

Into the elite troops (called the Northern Army and the Southern Army) that guarded the Han Empire's capital region, emperor Wudi recruited able-bodied men from farmer families living in the six frontier prefectures to the north and west of the imperial capital region, whose residents had traditionally been known for their valor and hunting skills. These recruits served in the capital region as professional soldiers in imperial guard sections called Yulin (羽林) and Qimen (期门) and, after leaving military services, were able to take important posts in the government. Some of them could be expected to have career paths that were somewhat comparable to those of Praetorian Guards of the Roman Empire.

(3) Volunteer convicts and vagabonds

Among the 25 wars the Western Han emperor launched against the Huns, in at least six wars the Han soldiers were primarily recruited from convicts and volunteers who had been vagabonds or jobless young villains.³⁴

(4) Recruits from domestic tribes

Prior to the issuance of Caracalla's Edict in 212 AD, soldiers of the Roman *legions* were recruited from Roman citizens, while soldiers of its *auxiliary* troops were normally non-citizens (with auxiliary troops often being identified by their tribal or provincial origins) and their soldiers gained citizenship only at the end of their 25 years of service.

In contrast, the early Chinese empire did not create any specific legal terminology to distinguish between (i) its troops whose soldiers were recruited from the subjects under the empire's household registration system and (ii) the troops who were recruited from tribal entities outside the household registration system.

³³ Gabriela Wesch-Klein, *Recruits and Veterans*, in *A Companion to the Roman Army* (Blackwell Publishing Ltd, 2007), at 437.

³⁴ Lei Haizong (雷海宗), *Zhongguo Wenhua Yu Zhongguo de Bing (中国文化与中国的兵)* (Yuelu Publishing House, 2010), at 38 – 39.

Meanwhile, tribe-based troops often fought as separate units and frequently won accolades from the imperial government due to their bravery and military achievements.

(5) Barbarians that migrated into the territories of Han Empire

Inclusion of external barbarian soldiers showed that the sources of the Han Empire's military recruitment were moving further away from its political center and deeper into its geographical peripherals.

With the passage of time, channel (1) would disappear, channel (2) would remain but play a less significant role, channel (3) would flourish for some time, the next to flourish would be channel (4), which would be followed by channel (5).

I. F: Comparing Rome's stage R(5) with China's stage C(5)

Around its foundation, the legionaries of the Roman Empire came primarily from Italian rural background. After that, the legions increasingly recruited from non-Italian citizens of the provinces. It is estimated that during the reign of Augustus, 68% of legionaries were of Italian origin; by the middle of the first century AD, 48% of legionaries were of Italian origin, and by the end of the first century AD, this proportion had fallen to 22%; in the second century AD, only 2% of citizen soldiers were of Italian origin.³⁵

In parallel, when the Han Empire loosened the system of universal conscription from subjects living in Chinese heartland under the household registration system, it began to recruit soldiers from tribes living in remote peripheral regions of the empire.

For example, into the Southern Army that guarded the imperial capital region, emperor Wudi instituted eight different sections, three of which were staffed by soldiers who had been recruited from indigenous Yue (越) tribes from southern China and Hun horsemen that had defected to the empire, i.e. the Yue Cavalry Commandant (越骑校尉), Changshui Commandant (长水校尉) and Hunnish Cavalry Commandant (胡骑校尉). Soldiers in these three sections were part of the major elite troops that closely guarded the imperial central government. The role these tribal soldiers played was comparable to those of the Roman guard units *Custodes Germanica*, which were recruited from Germanic tribes living on Roman frontier territories and participated in the guarding of the emperors of the Julio-Claudian dynasty.³⁶

³⁵ Keith Hopkins, *The Political Economy of Roman Empire*, in *The Dynamics of Ancient Empires* (Oxford University Press, 2009), at 194.

³⁶ Suetonius, *Vita Divus Augustus*, ch.49.

I. G: Comparing Rome's stage R(6) with China's stage C(6)

In both empires of this stage, young men of elite political backgrounds seldom regarded military service as an attractive path for upward mobility, and military services increasingly became the tasks of social groups that were socially unprivileged and geographically peripheral.

In the second century, Roman citizens of Italian origin, who had been the traditional source for recruitment of Roman legionaries, increasingly refrained from serving in the Roman legions, and the Roman Empire had to recruit more and more soldiers from Roman citizens living in the provinces and from non-citizen residents (*peregrini*) in the vast territories of the empire. For many non-citizen soldiers, obtaining Roman citizenship upon retirement from military service (together with receiving a large amount of retirement payment) was one of their key incentives for joining the Roman army.

For example, due to the rampant epidemic that dealt a heavy blow to some of the Roman territories during the reign of emperor Marcus Aurelius, Rome suffered a tremendous loss of population, as a result of which Marcus Aurelius had to recruit into the Roman army not only emancipated slaves but also Germanic tribesmen who had settled in Roman territory.³⁷

After Caracalla's Decree in 212 AD abolished the legal distinction between Rome's citizens and non-citizens, Rome recruited its soldiers without regard to citizen status, so long as a recruited man was a free-born non-slave. By this stage, Italians seldom served in the Roman army, which recruited primarily from low-class provincials.

A similar process slowly unfolded also in the Chinese empire. The Eastern Han Dynasty (founded in 25 AD) abolished the outdated universal conscription system and recruited professional soldiers mainly from low-class provincials and remote indigenous tribes. In 30 AD, various categories of local armies that were previously required to be maintained during the Western Han Dynasty were demobilized. Around 110 AD, the imperial government abolished the longstanding practice of an annual military inspection ceremony presided over by the emperor.³⁸ The prevalent opinion among the literati officials during this period was that the empire should exalt civic virtues and restrain military endeavors. Under normal circumstances, the central government of the Eastern Han Dynasty kept a professional army whose size was drastically smaller than those of the previous dynasty.

³⁷ Karl Strobel, *Strategy and Army Structure between Septimius Severus and Constantine the Great*, in *A Companion to the Roman Army* (Blackwell Publishing Ltd, 2007), at p. 278.

³⁸ Fan Ye (范曄), *Houhanshu, Vol. 60, Biography of Ma Rong* (《后汉书卷六十·马融传》), Zhonghua Publishing House(中华书局) 2000, at p.1319.

Typical recruits during this period were vagabonds from urban tradesman families, the procedures for selecting recruits were normally lax, and many soldiers so recruited did not receive adequate training.

Slots for military service positions were often filled by auction and sale to the highest bidders.³⁹ When the imperial treasury met with fiscal difficulty due to incessant natural disasters and epidemics throughout the country, military expenses and provisions for the central armies had to be cut down accordingly, which further aggravated the decline in the quality of the imperial military system. For example, in the fall of 162 AD, the government announced that only half of the regular pay would be made to the many soldiers in the once-elite central armies who had then become too weak to participate in combat and that such soldiers would be denied the provision of winter-time uniforms.⁴⁰

Given the mounting fiscal pressure and the deteriorating quality of soldiers recruited from within the household registration system, it followed naturally that the East Han Empire resorted to massively recruiting soldiers from frontier barbarians that had migrated and settled in the empire's territory. Such recruitment would not only substantially lessen the fiscal burden of the government and but also enlist soldiers who possessed horsemanship and fighting skills that were not easily available from recruits from Chinese heartlands.

For example, in the military campaign the Han government launched against the northern Huns in 73 AD, the imperial expedition army included 22,000 cavalry soldiers from Qiang tribes, nearly 10,000 soldiers from Southern Hun tribes, and 11,000 cavalry soldiers from the tribes of nomadic Wuhuan and Xianbei peoples.⁴¹ In the empire's decisive military victory over northern Huns in 89 AD, the troops that played crucial roles were about 30,000 cavalry soldiers from Southern Hun tribes and 8,000 cavalry soldiers from Qiang tribes.⁴²

Closely associated with such heavy reliance upon barbarian soldiers was the Eastern Han Empire's serious deficiency in domestic defense and its inability to recruit enough capable soldiers from its own heartland.

³⁹ Fan Ye (范曄), *Houhanshu*, Vol. 7, *Annals of Emperor Xiao Huan* (《后汉书卷七·孝桓帝纪》), Zhonghua Publishing House(中华书局) 1999, at p.204.

⁴⁰ Ibid at p.205.

⁴¹ Fan Ye (范曄), *Houhanshu*, Vol. 23, *Biography of Dou Gu* (《后汉书卷二十三·窦固传》), Zhonghua Publishing House(中华书局) 1999, at 541.

⁴² Ibid at 543.

For example, when the Qiang tribes rebelled against the empire on many occasions in the second century, the empire was totally incapable of staging effective defenses, and its local governors would promptly escape from their fortresses soon after meeting any military defeat. The Qiang tribes' invasion army penetrated deeply into the western frontiers of the empire and committed much pillaging.

This exposed the inherent weakness of the East Han Empire's military system and could be regarded as an omen of the barbarian conquest of northern China that would unfold nearly two centuries later.

I. H: Comparing Rome's stage R(7) with China's stage C(7)

At this last phase, a substantial portion of the soldiers in both empires were recruited from barbarians who had recently migrated into that empire's territories, and both empires seemed to have largely "outsourced" their defense tasks to outsiders.

After Caracalla's Decree declared all free-born subjects in the Roman territory as Roman citizens, a key incentive for non-citizen Romans to join the Roman army (i.e., winning Roman citizenship) was lost. The Late Roman Empire experienced serious difficulty in recruiting soldiers from its normal citizens. Numerous legal rules enacted during this period showed that Roman citizens resorted to various methods (even self-mutilation) to escape military service.⁴³ The empire had to adopt novel methods to meet the shortage of military recruits.

From the third century onwards, barbarian troops keeping their pre-existing tribal organizations (called "*foederati*") were widely incorporated into the Roman army and largely took over the roles previously played by the Roman *auxilia*. For example, Caracalla formed cavalry troops composed of Scythians and German tribesmen; he added forces of Germanic people from north of Danube (including Gothic tribesmen) to his field army on the Danube and brought them to Asia for campaigns with Parthians; Valerian brought Germanic forces to Asia in 258 AD; and in the Germanic campaigns of Severus Alexander, Parthian mercenaries fought for Rome as heavy armor horsemen.⁴⁴ After the Roman army became deeply barbarized, contemporary Roman authors sometimes used the terms *barbarus* (barbarian) and *miles* (soldier) as synonymous.⁴⁵

⁴³ See Michael Whitby, *Army and Society in the Late Roman World: A Context for Decline*, in *A Companion to the Roman Army* (Blackwell Publishing Ltd, 2007), at 518; see also Gabriela Wesch-Klein, *Recruits and Veterans*, in *A Companion to the Roman Army* (Blackwell Publishing Ltd, 2007), at 437.

⁴⁴ See *supra* note 37, at 279.

⁴⁵ Vedran Bileta, *The last legions: The "barbarization" of military identity in the Late Roman West*, *Tabula*, br. 14 (2016), 22-42

After barbarian soldiers began to revolt against the Roman Empire in the late fourth century, Roman legions had a hard time suppressing such rebellions. After the Roman Empire suffered from a disastrous defeat at the battle of Adrianople, in 382 AD the Roman Empire and the Visigoths entered into a treaty under which the Visigoths were allowed to migrate and settle in Roman territories as an autonomous community while they became obligated to serve in the Roman army in times of war.⁴⁶ However, soon after the death in 395 AD of emperor Theodosius I who had negotiated the treaty, the same Visigoth tribes rebelled, and the only Roman general who could stage effective defense was Flavius Stilico, who was of half Vandal blood. Most of the soldiers that Stilico commanded were of barbarian origin. After Stilico was wrongfully executed in 408 AD, the family members of his barbarian *foederati* soldiers throughout Italy were murdered by local Romans, and consequently at least 30,000 of Stilico's barbarian soldiers mutinied and defected to the side of the rebelling Visigoth tribal leader Alaric.⁴⁷ Deprived of the protection by its *foederati* soldiers, the city of Rome was unable to defend itself, and it fell to the sack of Visigoth invaders in 410 AD. The countdown to the last days of the Western Roman Empire had begun.

Similar events also occurred in China in the late second century, when the "barbarization" of the Chinese empire's military force proceeded to a new height and was exemplified in the career of the warlord Dong Zhuo (董卓). As a general of the empire, he spent several decades on its western frontier regions, where he recruited tens of thousands of soldiers from the Qiang barbarian tribes and cultivated close relationships with them. On grounds of such rapprochement, he declined the central government's attempt to dispatch him to commanding posts in other regions.

After civil war broke out in the empire's heartland, Dong Zhuo launched his barbarian soldiers to invade its capital regions and committed rampant ransacking and pillaging. Cai Wenji (蔡文姬), a contemporary female poet who lived in the Chinese capital, witnessed and personally suffered from such ransacking, later wrote the following lines:

To the eastern territory Dong Zhuo's soldiers are marching down,
with metal armors glittering in the sunshine.
Fragile are the folks living on flat plains,
whilst all invading soldiers are barbarians.
Ransacking the countryside and sieging the towns,
They are destroying and killing wherever they advance...⁴⁸

⁴⁶ Tom Stickler, *The Foederati*, in *A Companion to the Roman Army* (Blackwell Publishing Ltd, 2007), at 505.

⁴⁷ See *ibid*, at 507; see also Zosimus 5.35.5f.

⁴⁸ Fan Ye (范曄), *Houhanshu, Vol. 84, Biographies of Ladies* (《后汉书卷八十四·列女传》), Zhonghua Publishing House (中华书局) 2000, at 1892.

If the barbarized troops commanded by Dong Zhuo could be deemed a tool for the barbarian tribes' invasion into Sinic heartland, then the vandalization committed by his army in the Chinese empire's capital regions in 190 – 191 AD was comparable to the barbarian sack of the city of Rome in the fifth century. When we extrapolate the above barbarian invasions that were going on in China, we could even infer that the Chinese empire would soon experience the same type of barbarian conquest that the Western Roman Empire experienced in the fifth century. It was largely thanks to the efforts of various Chinese princes that rose to power around 200 AD that the country was saved from the fate of imminent conquest. Just as the Roman Tetrarchy performed fairly well in protecting the Roman border against barbarian invasions, when the Chinese princes established the Three Kingdoms of Wei (魏), Shu (蜀) and Wu (吳) that succeeded the Han Empire, they each took a series of military and political measures aiming at pacifying the barbarian tribes that were previously encroaching upon the territories of the Chinese empire. Unlike the inertia and ineptitude shown by the late Han Empire in dealing with border crises, a much higher level of vigor seemed to be released in each of the three kingdoms in tactically handling the challenges posed by the internal and external barbarians.

For example, after defeating Hun forces in major battles, Cao Cao (曹操), founder of the kingdom of Wei, induced numerous Hunnish tribesmen to migrate into Chinese territory proper, put them under the supervision of Chinese governors but largely retained the autonomy of Hunnish tribes. He also recruited numerous soldiers from the barbarian tribes of Wuhuan and used them for defending his kingdom's northeastern territory against potential invaders from further north.

It was through a combination of peculiar geopolitical situations and political capabilities that the Chinese empire escaped the fate of barbarian conquest in the early third century and obtained a limited lease of life.

However, it was unable to solve the inherent structural issues that nearly overwhelmed the late East Han Empire: dwindling military effectiveness of the central government, sub-standard qualities of military recruits, combined with large waves of barbarians migrating into the empire's borders, eager to join the Chinese army or seeking other opportunities. When the same crises emerged again in the early fourth century due to a new wave of barbarian invasion, the rulers of the Jin dynasty would not be as lucky as its predecessors. Soldiers of barbarian origins who served in the imperial army were widely involved in the civil war fought among the eight contending princes in the early fourth century, and in this process they increased their political influence in northern China. Led by a tribal leader named Liu Yuan who previously served as an officer of the imperial army but subsequently mutinied, Hun barbarians marched into the capital city of Jin in 317 AD and ended its rule in north China. This scene would be a rehearsal of what would unfold in the Western Roman Empire in the next century.

In both empires, when the key sources for recruiting soldiers had moved from the empire's "internal" barbarians to the "external" barbarians who had recently migrated into the empire's peripheral regions and had barely assimilated into the empire's mainstream cultural traditions, the life of the aging empire entered its final stage.

Part II: Case Studies in Indigenous Tribesmen's Military Service Obligations in Early China and Rome

II. A: Two Tribes Exempted from Military Services

As we can see above, both Rome at stages R(1) - R(3) and early Sinic states at stages C(1) - C(4) relied on their own citizens and subjects as principal sources for recruiting soldiers. Soldiers of the early Roman Republic were recruited from Roman citizens who had met certain property requirements and from allied polities (*socii*) in Italy that had treaty-based obligations to send troops to fight together with Rome. The key obligation of the subjects in the newly-conquered provinces was to pay requisite types of taxes or tributes.

At comparable stages in China were indigenous tribes which under the control of an early Sinic polity were often given legal exemption from military services.

The discussion in this section will focus on the military service obligations of two indigenous tribes who resided near the Three Gorges region in the middle range of the Yangtze River Valley.

Although this region is located not far from the Sinic heartland of the Central Plains, during the early Sinic dynasties it was home to various barbarian ethnic groups which had kept distinct cultural traits of their own and maintained their own tribal organizations. For example, for many centuries an ancient polity called Ba (巴) resided in the mountainous regions to both sides of the Three Gorges. After the Ba people were conquered in 316 BC, the victorious ruler of the state of Qin kept intact the pre-existing tribal organization of this region; one branch of the Ba people migrated several hundred miles east to Hubei province, and one branch migrated west to Jialing (嘉陵江) Valley and was called Banshun Barbarians (板楯蛮) or Cong (賁) people.

During the Warring States period, although the territory of Banshun tribesmen was put under the control of the Qin kingdom, which was engaged in continuous warfare, Qin rulers did not impose any military service obligations on the members of this tribe. According to ancient historical records, in the early third century BC, in the vast mountainous regions near the homeland of Banshun tribes, a white tiger was reputed to be dangerous and killed or wounded a huge number of humans.

The king of Qin made a public offer that anyone who could kill the tiger would be rewarded with an extremely valuable grant of vassal subjects and money. In response to the offer, a brave man of the Banshun tribe shot dead the white tiger with a strong bow.

However, the initial promise of reward posted by the king was intended for rewarding a regular Qin subject within the Qin's household registration system and did not contemplate the possibility that the winner would be a tribesman. In order to deliver some reward at all, the king entered with the Banshun tribes into a treaty stipulating, among others: (i) any land owned by Banshun tribesmen should be exempted from tax or tribute, and (ii) a Banshun household should be free from any tax-related governmental survey regardless of however big its size was. The treaty was observed by both parties throughout the period thereafter when the region was ruled by the Qin regime.⁴⁹

The treaty did not make any requirement on the tribesmen's obligation for military service and essentially granted them exemption in this respect. As the Qin regime conscripted soldiers from those subjects that were registered in its 20-level official ranking system, it did not enlist Banshun tribesmen who were outside this system.

After the founding of the Han Empire, the new government exempted Banshun's seven clans from military service obligations, and each household of Banshun commoners was required to only pay 40 cashes of "cong" (貢) tribute in respect of each subject each year.⁵⁰ This was a quite light burden, given that during most of Han Dynasty, each normal adult subject was required to pay a poll tax of 120 cashes each year.

A similar example was the Ba Barbarians whose homeland was close to Banshun tribes. After conquering the Ba region in 316 BC, the kingdom of Qin retained the pre-existing tribal organizations of Ba Barbarians and set forth preferential policies under which (i) each of their tribal chieftains should pay to the Qin state a tribute of 2,016 cashes each year and an extra tribute of 1,800 cashes every 3 years; and (ii) each common tribesman should each year contribute to the Qin state cloth of about 19 meters long and 30 feathered arrows.⁵¹ In return, each Ba tribesman would receive the official ranking of "bugeng" (不更), which was a rather generous grant, given that "bugeng" was the fourth rank from the bottom in Qin's ranking system and that a normal Qin subject (under the household registration system) had to make substantial military achievements at war in order to win this ranking. What was more important, the grant of this title would exempt Ba tribesmen from the obligation of serving in the Qin's military forces.

⁴⁹ Fan Ye (范晔), *Houhanshu*, Vol. 86, *Biographies of Southern & Southwestern Barbarians* (《后汉书卷八十六·南蛮西南夷列传》), Zhonghua Publishing House (中华书局) 2000, at 1920.

⁵⁰ *Ibid.*

⁵¹ *Ibid.*, at 1919.

After the founding of the Han Empire, at the request of the local governor, the above pre-existing exemption was officially retained by the new government.⁵² Therefore, the death penalty imposed a few years later upon an adult male of another tribe in the same region seemed to be rather controversial.

II. B: Death Penalty Case Relating to Conscription of a Tribesman

The appellate cases that were recorded in bamboo slips and excavated in Zhangjiashan (张家山) in 1983 provided a good snapshot of the judicial cases being handled by the central government of Han Empire during its very first years.⁵³ Among them, the following case raised the issue of military service obligation for tribesmen outside the empire's household registration system.

In 196 BC, a defendant named Wuyou (毋忧) was arrested and indicted by the local government on the following grounds: he was conscripted by the local government for military service at a certain military camp, for which an official order had been issued, but Wuyou deserted on route and escaped before he arrived at the destination camp to which he had been dispatched. Wuyou defended himself on the legal ground that as he was an adult male of a barbarian tribe, he should be exempted from military service obligation after paying a tribute of 56 cashes to the local government each year, and therefore there was no ground for him to be conscripted.

The magistrate hearing this case stated to the defendant:

“The law stipulates that barbarian adult men can be exempted from corvee-based military services and tax obligations after paying certain amount of tribute money every year. But it does not state that they are exempted from garrison-based military services. Even if the law does stipulate that they are exempted from garrison-based military service after paying the tribute, you became a soldier anyway after you were conscripted. What is your explanation for your absconding without authorization?”⁵⁴

The defendant replied to the magistrate:

“I belong to a barbarian tribe whose members, after paying a special category of tribute in lieu of services each year, are exempted from corvee, taxes and military services. Please consider this and I can explain no more.”⁵⁵

⁵² *Ibid.*

⁵³ Zhangjiashan Er Si Qi Hao Hanmu Zhujian Zhengli Xiaozu (张家山二四七号汉墓竹简整理小组), *Zhangjiashan Hanmu Zhujian (er si qi hao mu)* (张家山汉墓竹简 (二四七号墓))(Beijing Wenwu Publishing House, 2006), at p. 91, strips 1 - 7.

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

There were different opinions among the local magistrates who heard the case. Some opined that the defendant was guilty and should be executed, while others opined that he was innocent. Therefore, this case was submitted to the Court Commandant of the imperial central government to seek final judgment. The final judgment issued by the Court Commandant was that the defendant was guilty and shall be executed.⁵⁶

There was an element of surprise in the final judgment issued by the central government, given that the local magistrate did acknowledge that according to the Han Empire's *Law on Barbarians*, after paying a special type of tribute (which was only a fraction of the prevalent tax burden for regular subjects of the empire), barbarian adult men could be exempted from taxes and *corvee*-based military services (i.e.徭). At the level of legal technique, it was difficult for us to give a conclusive opinion on whether the final judgment was totally fair for the defendant, since we do not have on hand the texts of the effective laws or statutes that governed this case, said the court. It was possible that one factor might have contributed to the Commandant of Court's decision: the above-mentioned law might have only exempted barbarian tribesmen from *corvee*-based military services (i.e.徭), without exempting them from *garrison*-based military services (屯), and the unlucky defendant did not have enough legal knowledge to distinguish the niceties of these concepts and their applications.

Meanwhile, in examining this case we need to take into consideration a deep undercurrent that foreboded a shift in the Chinese empire's policy in the direction of conscription/recruitment of tribal members into the imperial army.

After its re-unification of the country, while the Han Empire was in need of high-quality military recruits, it had to consider a new set of social factors that were unfavorable for recruiting soldiers from regular domestic subjects under the household registration system. In this newly established empire, a huge number of domestic subjects had been exempted from military services. According to the rules set forth by the first emperor Liu Bang, numerous categories of individual subjects did not have to serve military duties.⁵⁷

⁵⁶ *Ibid.*

⁵⁷ These categories include, among others:

- the dozens of thousands of soldiers who had followed emperor Liu Bang in his battle against the Huns in the winter of 200 BC;
- grassroots bureaucrats in charge of moral education;
- subjects who had received official honors for filial piety or diligent farming;
- disciples of officially-appointed Confucian scholars, and experts in Confucian classics; and
- subjects whose body height did not reach the minimum requisite for military service

See Guo Jian (郭建), *Jin Ge Tie Ma* (金戈铁马) (Changchun Publishing House, 2008), at 10 – 11.

All family members of certain categories were exempted from military service duties as well.⁵⁸

Due to such a broad scope of exemptions, a substantial portion of the empire's population (together with their family members) did not have to perform military services. As each of the above-listed categories covered a huge number of subjects, the total number of the subjects required to perform military services was hugely curtailed, and military duties were expected to be shouldered primarily by peasants of middling or lower social status who were inside the empire's household registration system. However, unlike the preceding Warring States and civil war periods when military feats provided numerous soldiers of humble origins with opportunities for generous rewards and for quick elevation in political status, such shortcuts to social mobility hardly existed in the new empire which had largely pacified its domestic territories. In a changed society where social mobility could be realized from other channels (e.g. expertise in Confucian classics, or training as governmental clerks), military service no longer looked like a highly attractive career, as it once had, for aspiring men within the household registration system. It would be desirable for the empire to find new alternative sources for military recruitment, and enlisting soldiers from tribesmen outside the household registration system emerged as a logical choice.

The big-picture background to this death penalty case was that the Chinese empire had just started to feel the need for recruiting soldiers from barbarian tribes to meet its military needs.

⁵⁸ These categories include, among others:

- Relatives of the royal family;
- offspring of high-ranking officials who had played crucial roles in establishing the Han empire;
- officers who were above the 9th rank from the bottom in the empire's 20-level ranking system;
- subjects of the home towns of the empire's founding emperor;
- prefectural governor-level officials who had loyally followed Liu Bang to central Sichuan region in 206 BC;
- households which herded horses for the government;
- households which were ordered to migrate from the Sinic heartland to settle in the frontier regions;
- descendants of subjects who were above 90 years of age;
- subjects who had donated horses, chariots, slaves or substantial amounts of grain to the government;
- subjects who had purchased senior official ranking status from the government;
- subjects which were in the customary mourning period after bereavement of senior family members.

For policy statements relating to some of the above exemptions, see Ban Gu (班固), *Hanshu, Gaodi Annals, Vol. 1* (《汉书·高帝纪第一下》), Zhonghua Publishing House(中华书局) 2000, at 40. See also Guo Jian (郭建), *Jin Ge Tie Ma* (金戈铁马) (Changchun Publishing House, 2008), at 11.

After Rome entered its stage R(4) and the Sinic state entered its stage C(5), each empire often enlisted soldiers from its provincial and tribal regions. The military systems of both empires each underwent a transition into a professional standing army, and both empires regarded tribal members as good materials for military professionals while the mainstream members of both empires had lost their previous zeal for military services.

It was under the above new social circumstances that the senior judicial officials deliberated upon this defendant's case, and they came up with a final judgment that would not have been made in the previous era. This was an early sign of a looming future trend for recruiting soldiers from tribal entities, and such trend gradually gained momentum during the following decades. Unfortunately, the defendant in this case had only had a narrow literal understanding of the pre-existing legal rule and was unable to foresee a subtle policy shift to which he would fall victim.

The logic that drove the judicial judgment in Wuyou's case reasserted itself in the drastic shift in military recruitment policy that would unfold in the mid- and late 2nd century BC.

As the Chinese empire's war efforts against the Huns intensified, more and more common subjects secured exemptions from military services by either paying special tributes or purchasing official rankings higher than the 9th rank, and increasingly fewer subjects were available for military drafts.⁵⁹ With the deterioration in the enforcement of the universal conscription system, an acute question arose: from where should the empire recruit numerous high-quality soldiers for its external wars? The answer was provided in a memorial submitted by Chao Cuo (晁错), a senior policy adviser in the imperial central government, to emperor Wendi (reigning during 180 BC – 157 BC):

Barbarians such as Yiqu (义渠) people have now defected to our empire to become naturalized, and their tribes amount to thousands of people. Their diet and skills were the same as those of the Huns. It will be desirable to grant to them hard armor, padded clothes, strong bows and sharp arrows, together with good horses from our frontier prefectures. Through Your Majesty's clear rules, they will be commanded by wise generals who know their customs and build rapport with their minds. Situations of dangers and barriers will be handled by these barbarians, and situations on passages on flat plains will be handled by our [... domestically-recruited troops].

⁵⁹ Ban Gu (班固), *Hanshu*, Vol. 24, *Shi Huo Zhi* (《汉书卷二十四下·食货志第四下》), Zhonghua Publishing House(中华书局) 2000, at 972.

These two armies will cooperate on external and internal sides, each will apply their own superior skills and will impose their forces collectively in a balanced manner, which will make an ideal strategy.⁶⁰

Judging from the defense policies that the Chinese empire pursued afterwards, we find that Chao Cuo's advice was adopted and implemented on a massive scale during the following centuries. The adoption of such policy resulted from the working of multiple factors, including: (i) the empire's acute need for high-quality soldiers in face of growing menace from nomadic invaders from the steppes, (ii) military actions against such nomadic invaders required a new set of skills that often were not possessed by sedentary peasants who lived in the Chinese heartland under the household registration system, (iii) the Han Empire did not have much incentive to nurture and promote a militaristic culture among its own domestic subjects, (iv) military services ceased to be a highly attractive avenue for social mobility for commoners, and (v) it would be more cost-efficient for the imperial government to enlist tribesman shock troops than to maintain and pay for a large standing army recruited from domestic peasants.

These factors would continue to be at work in the classical Chinese empire until the end of its era in the early fourth century.

II. C: Tribal Insurgences Arising From Military Service Obligations at Stage C(6)

From stage R(5) onwards, the Roman Empire recruited into its supporting troops (*auxilia*) large numbers of non-citizen subjects (*peregrini*) who lived in its outer provinces.

Similarly, at stage C(6), the East Han Empire relied heavily upon the fighting power of barbarian or tribal soldiers in putting down domestic rebellions and defending against external invasion. The experience of Banshun tribe was a good case in point.

With the founding of the Eastern Han Dynasty in 25 AD came the final abolition of the universal conscription system, the full establishment of a professional standing army, and increasing use of military recruits from tribal entities. It naturally followed that at this stage there arose a major demand for soldiers recruited from the Banshun tribesmen, who had gained good reputation as valiant warriors. The superior military qualities of Banshun soldiers were tested and acknowledged in a series of minor wars that broke out between the Han regime and its external invaders:

⁶⁰ Ban Gu (班固), *Hanshu*, Vol. 49, *Biography of Chao Cuo* (《汉书卷四十九·晁错传》), Zhonghua Publishing House(中华书局) 2000, at 1751.

- During the years 107 –113 AD, Qiang barbarian tribes invaded deep into the Han River Valley in central China and pillaged numerous cities. Han troops recruited from Banshun tribes defeated them and annihilated most of the invaders, who felt so awed with Banshun soldiers' military power and started to call them "divine soldiers". Due to their fear of the Banshun's warring power, the defeated Qiang tribes warned their fellow tribesmen not to invade southward again in the direction of Banshun regions.⁶¹
- In 148 BC, when some Qiang tribes launched another major invasion of Han territories, it was the troops recruited from Banshun barbarians who defeated invaders in a series of battles and protected the Han Empire again.⁶²
- In 164 AD, when the barbarians living in Wuling (武陵) Prefecture to the south launched a rebellion, the task of suppressing the rebellion was delegated by the imperial government to General Feng Gun (冯纁), who grew up in the region neighboring Banshun barbarians.

General Feng enlisted from his home region many Banshun soldiers, who, together with the elite troops recruited from another group of barbarians from southeastern China, played instrumental roles in defeating the rebels.⁶³

However, in 179 AD, the Banshun tribes themselves began to rebel against Han government. After Han troops fought the Banshun rebels for several years to no avail, the emperor solicited opinions from a wide range of officials on how to tackle this rebellion. Cheng Bao (程包), a local official whose jurisdiction was near the Banshun homeland, submitted to the emperor a memorandum stating, *inter alia*:

Although Banshun tribesmen used to be effectively loyal and had no intention to rebel, the magistrates and petty officials governing their counties and villages levied on them excessive tributes in lieu of corvee and military services. The compulsory burdens imposed upon them have been worse than those for serfs, and the floggings they received were heavier than those for prisoners of war. Consequently, some barbarians had to sell away their wives and children, and some even committed suicide. Although they complained to the prefectural officials about their grievances, the prefectural magistrates refused to accept or hear their cases. The emperor was so too far away to hear their complaints. They beat their bosoms in distant valleys with grudge, calling out for Providence. They are saddened by corvee levies and harassed by harsh punishments.

⁶¹ See *supra* note 49, at 1920.

⁶² *Ibid.*

⁶³ *Ibid.*

Therefore, these barbarians gathered in their towns and villages, resulting in a rebellion. Those who have masterminded the event neither harbor sophisticated stratagem nor try to pretend to the throne of the emperor. Now as long as wise governors are dispatched to their region, they will naturally stabilize and there will be no need to send troops to attack them.⁶⁴

Following Cheng Bao's counsel, the emperor sent an emissary who announced a declaration of pardon to all the Banshun tribal rebels, and the rebellion quickly subsided.

Heavy use of tribal or barbarian soldiers proved to be a double-edge sword: it could effectively meet a classical empire's military needs but could also stir up domestic insurgences. Such insurrections could pose serious security threats to the empire because these tribal entities, as vital sources of military recruits, had already possessed military skills that could be as good as other units of the empire's military forces. However, such clashes with the tribal entities were difficult to avoid, when an empire's administrative machine took on signs of ineptitude at its declining stage and failed to notice that the tribal entities should be treated in different manners from the purely domestic regions.

Generally speaking, the tribal entities tended to be more sensitive in maintaining their communal pride and were at least one step slower than an empire's domestic subjects in acquiescing to the more centralized governance methods used by a classical empire.

Due to backgrounds that were comparable to the causes for the Banshun uprising, a number of barbarian rebellions arose in the Roman Empire. For example, *Bellum Batonianum* or the Pannonian Revolt took place in 6 – 9 AD in the western Balkans, and it was caused by Rome's excessive levy of taxes and forced draft of soldiers for its war efforts in Germania. The tribal leader of this revolt claimed that the revolt was caused by the Roman rulers: they were wolves who ravaged their subject peoples, not shepherds who cared for them.⁶⁵ A more fundamental reason for this revolt was that by this stage many Italians had lost zeal in military service and Rome had no choice but to resort to forced levies of soldiers from its newly-acquired provincial territories.

Another comparable incident was the Batavian Revolt that took place during 69 – 70 AD in the Roman province of *Germania Inferior* (in today's southern Netherlands). Batavians of this period were reputed to be good horsemen, boatmen and swimmers and were heavily recruited into Roman auxiliary troops in return for the tribe's exemption from Roman tax otherwise applicable to *peregrini*.

⁶⁴ *Ibid*, at 1920 – 1921.

⁶⁵ Dio 56.16.3

With a population of only 35,000, normally about 5,000 Batavians were in active service in the Roman army during this period, which means Batavians bore a very disproportionately heavy burden of military service on a per capita basis. The triggering points of this revolt were the harsh treatment that the Batavian commander Gaius Julius Civilis received from the Roman judicial system and the chaotic situation of the Roman civil war at the end of the Julio-Claudian Dynasty. Its real cause was very similar to that of the Pannonian Revolt, according to Tacitus:

The young Batavians were being conscripted, which was a heavy enough burden on its own, but it was exacerbated by the greed and depravity of the recruiting officers, who called up the old and unfit in order to exact a bribe for their release, while young, good-looking lads – for children are normally quite tall among the Batavians - were dragged off [to gratify the lust of the recruiting officers]. This caused bitter resentment, and the ringleaders of the revolt assembled and got their countrymen to refuse service.⁶⁶

Despite the initial progress made in the uprising, the Batavian Revolt was eventually suppressed, as a result of which the Batavian were still required to send recruits to eight auxiliary units of Rome. This Roman decision after the revolt showed that by this time it had become impossible for the empire to get away from its heavy dependence upon military recruits from the non-citizens (*peregrini*).

The situation was quite similar to the Eastern Han Empire, which, despite the revolts by the barbarian tribes against the heavy levies of the imperial government, stuck with a vengeance to its dependence on the barbarian tribes as a vital source of military recruits, until one such source of recruits – Qiang tribesmen on the western frontier – disastrously ransacked the Chinese capital regions under the command of Generalissimo Dong Zhuo.

Part III: Commonality of Convergent Evolution in Policies for Recruiting Barbarian Soldiers

We need to seriously consider the histories of ancient empires from the perspective of evolutionary theory, not as a metaphor for progressive social metamorphosis, but as a pertinent methodology for describing the diversity of social phenomena resulting from a series of unpredictable, highly diverse, many-branched pathways of change and developments.⁶⁷ Putting on evolutionary spectacles could open us to brand-new perspectives when examining ancient societal changes that unfolded in different continents over very long time spans.

⁶⁶ Tacitus, *The Histories*, 4.14; trans. Kenneth Wellesley (Penguin Books Ltd, 2009), at 188.

⁶⁷ *The Dynamics of Ancient Empires* (Oxford University Press, 2009), at 26.

In particular, the similar evolutions in ancient Chinese and Roman military recruitment systems (including their gradual shifts towards recruitment of non-subject barbarians) bore resemblance to the biological phenomenon of “*convergent evolution*”, i.e. mutually-independent development of similar features or functions by species from different lineages (often in different geographical regions).⁶⁸

Convergent phenomena in societal evolution tend to display themselves on an abstract level and can be more easily discernible when the observer steps back to make a wider observation of the totality of the evolving patterns. A Roman-style pathway in military recruitment was trodden more than once in ancient history. Through the facts as described in this paper, we can discover parallel evolution in Roman and early Chinese empires regarding the relationship between each state and its military recruitment system. In the life-cycle of each empire:

- A citizen/aristocratic militia helped to establish its paternal predecessor state
- A broadly-recruited mass army acted as the mid-wife at its birth
- A professional standing army helped to expand its youthful stature to its most robust shape
- Troops recruited from domestic barbarian tribes served as health-improving supplements for its middle age
- Troops recruited from external barbarian tribes served first as its life-sustaining medicine on deathbed, and then as its gravedigger.

After examining the above overall patterns of evolution, we could discover two other common features in the two empires: (i) over many centuries, the standing of the military recruits gradually changed from the society’s politically-franchised classes to its politically-disfranchised domestic subjects, and then onto its politically-remote frontier subjects; and (ii) the geographical origins of the military recruits gradually changed from the national’s central regions to its external peripherals.

Such convergent evolutions were rooted in similar social forces at work in both empires. At each turning point in the above evolutionary path, the policy makers of both empires seemed to be acting on a rational basis when they revised the empire’s pre-existing military recruitment policy. For example, in each empire, the recruiting of massive amounts of barbarian soldiers was prompted by the following similar changes in its social circumstances:

⁶⁸ For the basic paradigm of convergent evolution, see George McGhee, *Convergent Evolution: Limited Forms Most Beautiful*, at 2 - 3 (the MIT Press, 2011).

- (1) As each empire's frontiers expanded, its soldiers had to endure greater hardships on their expeditions (caused by more hostile natural environment of the locations of services and greater distances between the battlegrounds and the homelands), and were faced with increasingly less opportunities for winning booty and/or materialistic privileges from military services.
- (2) As external conquest/annexation of territories became less important in imperial politics, a military career no longer provided the empire's normal subjects with an attractive route for social advancement.
- (3) At the superstructure level, it became more and more cost-inefficient to maintain hundreds of thousands of domestically-recruited soldiers who demanded regular pay and provisions and whose services constituted major disruptions to the empire's labor-intensive agriculture-based economy.
- (4) Troops recruited from barbarian tribesmen tended to possess superior military skills, and the maintenance of such troops put smaller fiscal strain on the empire's dwindling treasury.

In hindsight, we notice that after the territorial size of a colossal classical empire reached a critical stage, a negative feedback loop would emerge between its territorial expansion and its domestic recruitment of soldiers, and wide use of tribal and barbarian soldiers would be adopted as a logical and convenient solution to break such a negative feedback loop. While such policy of massive recruitment of barbarian tribal members into the imperial military systems served short-term interests well, in the long run it would unconsciously help to dig the graves of the two senile empires on both ends of the Eurasian continent.

Apart from the phenomenon that the patterns of the evolutionary trends in military recruitment policies of both empires were very similar to each other, the timing of the comparable evolutionary patterns in both empires should be examined.

Although the military recruitment system largely evolved in the two empires along the same trajectory and at roughly the same speed, there consistently existed a time lag between their comparable military recruitment practices, and the Chinese evolutionary phases seemed to precede the counterpart's evolutions in Rome by a period of two to three centuries. For example, the recruitment of standing armies started in China in the late fifth century BC, and the same development began in Rome near the end of the second century BC (i.e. the Marian reforms). Barbarian tribal soldiers became the backbone of the imperial military system in China by the late first century AD, and the same development took place in Rome in the fourth century AD. Barbarian soldiers ransacked the capital regions of the Chinese empire at the end of the second century and again in the early fourth century AD, and the same incidents occurred to the city of Rome in the fifth century AD.

Conclusion

Generally speaking, these two classical empires of Rome and early China, situated on the two ends of the Eurasian continent, having populations of similar numbers and occupying land areas of similar sizes, seemed to evolve in similar directions in various institutional aspects over many centuries. The military recruitment policies (including its application to barbarian or tribal soldiers) can be regarded as a typical example of the two empires' convergent evolution in numerous institutional aspects.

Despite differences between their institutions at the technical level, striking similarities in their evolutionary trajectories existed at many junctures. There existed an element of symmetry between the evolutionary paths of these two empires. Why such a symmetrical pattern existed at all in the evolutions of the institutions of ancient Roman and Chinese empires could be studied in future research.