

Amnesty and the Death Penalty under the Qing Dynasty: Between the Legal System and Political Practice of “Benevolence outside of the law”

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Abstract

This paper intends to study the relationship between the death penalty and the practice of amnesty under the Qing dynasty. There is a tendency to believe that the ten traditional unforgivable Abominations were all crimes liable of capital punishment, that all crimes of homicide liable of the death penalty were unforgivable and that all unforgivable crimes were liable of capital punishment. This study attempts to clarify possible misunderstandings regarding these three aspects, relying on available Qing archives.

The paper is divided into three parts. Firstly, three historical features of the death penalty under the Qing dynasty are highlighted and discussed: the particularly high number of legal capital offenses, the systematized distinction of three types of such offenses and the fully institutionalized practice of the Assizes. The second part focuses on the characteristics of amnesty under the same dynasty in general and its multiple relationships with the death penalty in particular. Finally, a comparative study is presented based on data concerning the condemned criminals of 1736 (a year of general amnesty granted by Qianlong on the occasion of ascending the throne) and 1738 (an ordinary year with Assizes being held), in order to observe in a concrete way the effective impact of amnesty on death-row

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inmates.

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