

Moral Ethics, Agreements, and Subsistence: An Essay on Equitable Principles in Civil Justice during the Ming-Qing Period

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Abstract

Scholars have long been arguing over the main basis of magistrates' judgements in civil justice of Ming-Qing China. This article analyzes Ming-Qing officials' way of thinking focusing on the three elements that guided their consideration---that is, "*lijiao* (moral ethics)", "*qiyue* (agreements)", and "*shengcun* (subsistence)"---, instead of long discussed "*qing* (human considerations), *li* (moral principles), *fa* (laws)". Chapter 3 and 4 of this article respectively deal with lawsuits concerning land disputes and wife-selling. Through the analysis of these cases, this article argues that the relative importance of these three elements were different according to the kinds of disputes. In the land disputes, the *qiyue* element had priority, while in the wife-selling cases, the *lijiao* element was more emphasized. In any case, however, Ming-Qing officials used to take these three elements into consideration in order to pass the judgements that they thought equitable.

Keywords: civil justice, moral ethics, agreement, subsistence, equity

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