

The Chinese Repository and Chinese Criminal Law in the Minds of Westerners of the 19th Century

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Abstract

The Chinese Repository was the first well-established comprehensive English Journal in China. Based on the exploration of The Chinese Repository, the article gives a general view and an analysis of the contents concerning the Chinese criminal law and other relevant information published thereon, summarizing the views of Chinese criminal law held by the Westerners of the 19th Century and elaborating on the accountability and causes of the final consequence. Typical Westerners' views of Chinese criminal law are as follows. There are too many provisions on violent crimes, especially those on homicides, and as for homicides, whether murders or manslaughters, life for life is always a principle to be followed and the perpetrator must be executed. Because the purpose of criminal punishments is to penalize rather than to correct or reform the criminals, the punishments are severe and of them the capital punishment is widely employed in a cruel way. The abuse of extortion is widespread and unlawful extortion or torture is common though prohibited. Laws in China, including criminal laws, are lack of certainty and so arbitrary in law-making and law-amending; local government officers are conferred on an excessive degree of discretion and practice of implication (zhu lian) reveals the backwardness and cruelty. These nearly "backward and barbarian" or "bloody and cruel" views of Chinese criminal law, though somewhat correct are partial and incomplete to certain extent. These views rooted in the minds of Westerners at that time partly owe to the language obstacles, partly to the influences of West-centerism, the ideology of racial superiority,

and conflicts or different ideas between the Chinese and Western traditional or historical legal systems. The Chinese Repository was the main, though not the only, widespread media between China and the West, through which the Westerners' views of Chinese criminal law undoubtedly spread far and wide.

Keywords: The Chinese Repository, the 19th Century, Westerners, views of Chinese criminal law