

The field of “Yu-Cheng”: Confession and Witness of others on criminal procedure in late Qing Dynasty

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Abstract

The aim of this paper is to study about the function of confession or witness of others as a substitute for confession on criminal procedure in late Qing Dynasty through analyzing the process of “Yu-Cheng” that means a stabilization of acknowledgment of guilt on the case without confession.

As the standards for the case without confession in late Qing Dynasty, it was provided that officials obtain witness of others on trial, and then need the sanction of Board of Punishment for “Chi-Zhang” cases; need the sanction of the Emperor for over “Tu” cases. And for capital cases, even though officials obtained witness of others, Board of Punishment demanded offender’s confession from officials.

Although these standards exist, officials made a decision on punishment without the sanction of Board of Punishment or Emperor. In such cases, one is to identify guilt by witness of others, the other is to connect a wrong estimation of offender’s character with criminal act that he didn’t admit. The former used witness of others in consideration for statute law. The latter made a proof of guilt of an estimation of his character or punished by an estimation of his character around a more essential penal idea that “evil deed must be punished”.

On the basis of understanding about such process of “Yu-Cheng”, at the stage of “Yu-Cheng”, confession is to make sure

finally, witness of others is to prove his crime that confession was not obtained. Functionally, these are merely one of evidence at this stage. At the stage after “Yu-Cheng”, confession has a function to realize the stability of criminal procedure through restraining offender from appeal and changing statement, witness of others doesn't have this function through restraining offender from changing statement.

Keywords: Yu-Cheng, confession, witness of others, statute law, estimation of offender's character, evidence, criminal procedure, stability