

Why and How *jijian* Became a Sex Crime under the Qing: The Particularity of Its Criminalization and Sexualization in the Legislation (1740-1911)

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Abstract

Numerous studies have shown that China is a country with a long tradition of documenting male homosexual relationships. Some research also posited that after the Han dynasty traditional Chinese society was more or less tolerant with homosexuality as long as men performed their duty of lineage perpetuation. In fact, China did not have any specific law addressing “homosexual relations” until the Qing Dynasty where a provision was promulgated to punish anal intercourse (*jijian*) essentially committed between males. Such a law has been understood as a legal stigmatization of “homosexuality” by most scholars who studied the subject. In this paper, the author argues that the real issue was not homosexuality but the punishment of offenses and crimes related to anal intercourse. The argument is unpacked in three sections. The first part attempts to describe the logic underlying sex crimes legislation before the Qing in order to highlight that, legally, male intercourses had never been considered illicit or sexual. The second part analyzes the contingency and paradoxes of the assimilation of anal intercourses to the category of sex crimes under the Qianlong reign. Finally, the third section focuses on specific cases and discusses major legislative flaws of the law as well as its problematic impact. The argument is based on the existence of a large

number of homicide cases linked to self-defense against anal rape and on the quasi-absence of consented *jijian* cases.

Keywords: Qing legislation on *jijian* crime, *jijian*, sex crime, body assault, sexual offense