

Some Remarks on the reading of several essential legal text sources

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Abstract

Exact reading of text sources is premise to any historical account. This paper takes some doubts expressed by Ms Liu Xinning against the author's recent book as a chance to discuss the reading of some legal text sources which are essential to the research of the penal system of the Qin and the Han. The first section focuses on the meaning of "tattooing the cheeks and degrading to Liqie (黥顏頰為隸妾)" in strip 174 of "Legal Questions and Answers (法律答問)". In this source we find the exceptional combination of the two punishments of "tattooing" and "Liqie". Comprehension of this combination is a key in analyzing the structure of the compound punishments which, for long time, had been an obstacle to the correct reconstruction of the penal scale. The second section discusses the deep gap between "redemption of head shaving (贖耐)" and "redemption of mutilating punishment (贖刑)" which divides the group of redemptory fines into monetary fines and fixed-term labor. The discussion is mainly based on a new decoding of strip 185 of "Legal Questions and Answers (法律答問)". The third section picks up the concept of "definite death penalty (殊死)". A deep look into the changes of meaning of this concept during time sheds new light on the transformation of the penal system during the Western Han including the interchanging institutions of "redemption of death penalty (贖死)", "castration (宮刑)", "reduction of death penalty (減死)" and "deportation to frontier (徙邊)".

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Keywords: penal system, compound punishments, cheek tattooing, redemption of death penalty, redemption of mutilating punish