

Discussion on Differences and Connection between Article “Disobedience of Parental Teaching and Order by Descendants” and Offense of Ill-Piety in the Tang Code

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Abstract

As a typical article in Chinese ancient code, the adoption or abolishment of the “Disobedience of parental teaching and orders by descendants” had caused fierce arguments on the legal reform period in the late Qing Dynasty. It’s found through investigation that, on the long-term evolution process of legal history, this article was often connected with the offense of ill-piety. Based on the inheriting of past laws, the Tang Code classified the “offense of ill-piety” as the “Top Ten Evils” Articles, and listed the “absence of maintenance for one’s parents and grandparents” into it, and also included the article of “Disobedience of parental teaching and orders by descendants” under Dou Song, which laid the legal arrangement of co-existence of the two. Under this arrangement, “ill-piety” became a collection of offenses, and didn’t directly involve specific sentences; the “Disobedience of parental teaching and order by descendants” (including the “Absence of maintenance for one’s parents and grandparents”) was listed in criminal law, which was closely connected with the former, however, there was indeed differences among the two. In judicial practices, though there wasn’t any special statement on the subtle differences of the enacted laws, both moral and legal levels were considered, as familial ethical orders were maintained and kept steady with legal measures, and at

the same time the immoral and illegal order-taking and parental raising conducts were differentiated from the flawed ones to be given corresponding legal sanctions, so as to pursue the essential justice of specific cases. Or to be exact, the conservatives on the late Qing Dynasty's confidence on Chinese familial ethical orders (morality) and their insistence on the essential judicial justice on specific cases, were united together, to form a deeply-rooted thought that believed the legal contents on familial ethical relations could still be partially retained on the period of society's transition from the old to the new, and hoped the empire's glory could be thus irradiated.

Keywords: The Tang Code, Disobedience of parental teaching and orders by descendants, the absence of maintenance for one's parents and grandparents, Offense of ill-piety, arguments on law and etiquette