

就地正法與清代中國法律文化

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自 18 世紀以來，清朝通過一系列的手段和法律，將原屬例外手段的「就地正法」作為掃蕩罪犯的重要工具。面對急速增加的叛亂與地方騷動，以及日益頻繁的逃兵、流犯涉入犯罪行為、和四處流竄的散兵游勇，統治者在接下來的一個半世紀裡，逐漸加重使用死刑。新的制度雖稍稍緩解深陷不穩定的清朝局勢，但也讓原先中央集權化的司法程序受到削減並遭受更多政治上的干預。不同的官僚層級間逐漸出現權力的衝突，流於權宜化的操作也使得國家的死刑體制遭受更多挑戰。最後，從清代中期到清末、乃至後來的民國時期，就地正法讓中國的死刑實踐游移於常規與例外、中央化與去中央化、以及正式實踐與非正式實踐之間。其所創造的彈性空間，也讓相互衝突與競爭的勢力不斷協商、調合，並共同塑造近代中國死刑制度的實踐與文化。

本研究通過深入和全面的考察探討清代中國就地正法的起源、演變、及歷史重要性。通過多樣的史料和檔案，本研究探索清代國家、省級官員、地方政府、以及地方上的勢力如何發展與操弄就地正法的實踐，並最終改變了中國刑事司法的運作方式。

Summary Execution and Legal Culture in Qing China

Since the eighteenth century, the Qing China embarked on an ambitious program to sweep away criminals by heavily legalizing the practice of summary execution. Facing the growth of unruly subjects, disbanded mercenaries, and wandering exiles and soldiers, the Qing rulers invested heavily in the operation of expedient death penalties. While the new and assertive program revitalized the crumbling empire amidst social and political instability, it evaded central authority over capital punishment and enhanced political intervention in the judicial process. Power conflicts emerged over the regulation of authority for punishment between various levels, those of the state, local officials, and sanctioned armed groups. In the end, the extensive use of this exceptional punishment gave rise to a

culture of rough justice and shifted the practice of Chinese death penalty toward a system where routinized and exceptional procedures, centralized and decentralized institutions, and formal and informal forces consistently negotiated judicial expediency and mutually shaped one another.

This study offers the most comprehensive study of summary execution in Qing China, examining its origins, evolution, and significance. Drawing on diverse sources, this study traces how the Qing state and regional governments, together with various actors in local society, sought to facilitate the procedure of summary execution and alter the operation of criminal justice.

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郭威廷（Weiting GUO），加拿大籍，現為加拿大西門菲沙大學（Simon Fraser University）歷史系助理教授。郭教授係加拿大英屬哥倫比亞大學亞洲研究系博士，主要研究領域為近代中國與台灣法律史、戰爭史、與社會史。本年獲得漢學中心獎助，來臺研究主題即為本次演講講題。