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Ancient china laws or moral codes

Government & Law Qin Shi Huang Throughout the 5000 years of history, China has been ruled by many Dynasties and Emperors. The governments were ruled by Dynasties ruled by Caesar. The Emperors ruthlessly enforced laws and had massive armies and workforces. The first emperor was Qin Shi Huang. He ruled from 231-219 b.C. at the age of 12 until his death at the age of 49. During the time, he dominated and united all of China. He burned books and burned or buried scholars to destroy the evidence of the past Dynasties and preserve his people of knowledge. He also created the Great Wall of China and the Terracotta Warriors. The Great Wall of China is built entirely by hand and although difficult conditions. The men died by the thousands. During his own death, Qin Shi Huang ordered his men to build the Terracotta Warriors that would accompany him in his after after. It is estimated that there are more than 8,000 soldiers, 130 carriages with 520 horses and 150 cavalry horses, although most have yet to be unearthed. 1. Every person must perform most carefully all the duties required by dirty piety (respect for parents) and in accordance with the deference (obedience) due by the younger brother to the elder... 2. One must always keep the family ancestors in greatest respect... 3. ... strife and legal action should be avoided as far as possible. 4. Care should be given to the effective management of the public schools. 5. The people often need to be reminded of the criminal laws... 6. Bursts of anger must be kept under control to avoid greater dangers that follow. In Ancient China, a light punishment involved a beating with a bamboo stick or a whip. Crimes like stalking led to a brand on the arm or face. more erven punishments involved the peat of the skin or pulled apart by 5 horses each attached to a limb and the last one attached around the neck. Now, because of Qin Shi Huang's creations, the Great Wall of China in Beijing and the Terracotta Warriors in Xiann are the top two major tourist attractions in China. it also lets us know more about our past and what the beliefs are like during the time. Laws of Imperial China This article includes a list of common references, but it remains largely unverified because it does not have sufficient corresponding inline quotes. Please help improve this article by introducing more precise quotes. (February 2016) (Learn how and when to remove this template message) Traditional Chinese laws refer to the laws, regulations and rules used in China until 1911, when the last imperial dynasty fell. It has undergone continuous development since at least the 11th century .C. This legal tradition is distinct from common law and Legal traditions of the West – as well as Islamic law and classic Hindu law Hindu law and to a large extent, is contrary to the concepts of contemporary Chinese law. These include elements of both Legal and Confuriancen traditions of social order and governance. For Westerners, perhaps the most striking feature of the traditional Chinese criminal procedure is that it was a curious system where the judge, usually the district magistrate, conducts a public inquiry into a crime, rather than an adversarial system where the judge decides between lawyers representing the prosecution and defense. The Chinese have traditionally desped the role of advocate and seen such people as parasites who sought to take advantage of the problems of others. The magistrate saw himself as someone seeking the truth, not a partisan for either side. [1] Two traditional Chinese terms approach law in the modern Western sense. The first, fǎ (法), primarily means norm or model. The second, lǜ (律), is usually rendered statute. History Early development laws were developed by government officials to regulate ancient Chinese society. The laws of the aristocratic societies of early China placed considerable emphasis on maintaining clear ranks and orders among the nobles, in addition to controlling the population. Consequently, lǐ (禮), which means ritual or etiquette, controlled the behavior of the nobles, while xíng (刑), controlled the rules of punishment, the commoners and slaves. The early rulers of the Zhou dynasty issued or enforced laws that had already exchanged the values of a primogeniture regime, the main subsidiaries of which are piety. The earliest document on the law in China generally considered authentic is the Kang Gao (康誥), a set of instructions issued by King Wu van Zhou to a younger prince for the government of a fief. The Kang Gao is a chapter of the Book of Documents. During the 6th century .C. several of the independent states in which the Zhou kingdom fragmented their criminal laws codified their criminal laws and wrote them on bronze cauldrons. For example, at least two codifications of the state of Zheng survive, from 536 BC and 504 BC - the first on cauldrons and the second on bamboo. In addition, other eye-catching codes include the codes of Wei, which were set up by Li Kui. Such codification was part of the process by which rulers sought to make the central administration of the state more effective. However, they attracted criticism from orthodox statesmen, including Confucius, on the grounds that they weathered the distinction between the noble and the base. The Five Penalties date from this time. Legalism and Qin In 221 v.C. eventually gained the state of Qin supremacy over its competitors and thus the Qin dynasty was established. One of the reasons for his success was the on the advice of Lord Shang Yang, of far-reaching criminal and administrative codes in the 4th century .C. The laws imposed severe penalties for to comply with duties imposed by the state and, on the whole, all equal punished. During this stage, the law was characterized by a purely Legalistic spirit, hostile to the moral values advocated by the Confucian school of thought. The Law School, as represented by such thinkers as Han Fei Zi, insisted that the ruler should always rely on criminal law and the imposition of heavy punishments as the main tool of government. At the same time, moral considerations and social standing should be strictly excluded. Another feature of Legal Thinking was that equality should be before the law. On the issue of legislative technique, the Actists emphasized that the rules enacted by the ruler for the punishment of offences should be clear and intelligent to the ordinary people, and they must be properly communicated to the population. Multiple corporal punishment has been implemented by the Qin, such as death by cooking, carriages, beating and permanent mutilation in the form of tattooing and castration. [3] People who committed crimes were also sentenced to hard labor for the state. [5] Legalism survived in a diluted form after the Han dynasty succeeded the Qin. It was acknowledged that there was a need for complex punishment and administrative codes that enabled the emperor to rule the country through a hierarchy of ministers and officials, all ultimately responsible for him. Imperial justice systems have all retained the original Legalistic insistence that the powers of officials be defined in detail and that punishments are prescribed for violations, whether unintentional or not. Han lawmakers took confucian values into account and introduced rules designed to implement them. By 167 v.C. the law had changed so that castration itself was not used to punish, instead, it had become an optional replacement for execution. [6] Tang Code This process continued throughout the Han and later dynasties, which sprouted on the Tang dynasty. Ch'ü T'ung-tsu showed that the Confucianisation of Chinese law was a slow process and that the merging of the Confucian views of society with the law codes was completed only in the vast Tang Code of AD 624. The code is considered a model of precision and clarity in terms of setup and structure. The original Tang Code was promulgated in 624, by the founding emperor (Gaozu) of the Tang Dynasty. It would become in modern times the earliest fully preserved legal code in the history of Chinese law. It was equipped with a commentary, known as Tanglu Shuyi, recorded in 653, the fourth year of reign of Eternal Splendour, as part of the Tang Code of Perpetual Splendour. The Tang Code is based on the Code of North Zhou (Bei Zhou Lu, 557-581), promulgated 89 years earlier in 564, which was based on the earlier, less comprehensive and less expansive Code of Cao Wei (Cao Wei Lu, 220-265) and the code of West Jin (Xi Jin Lu, Xi Jin Jin promulgated nearly four centuries earlier in 268. Confucian attitudes place low reliance on law and punishment for maintaining social order. Evidence of this can be found in the Aspirational Section (Zhi) of the 200-volume Old Book on Tang (Jiu Tang Shu), a magnum opus of Tang historiography. The history classic was compiled under official supervision in 945 during the late Jin Dynasty (Hou Jin, 936-946) of the era of Five Generations (Wudai, 907-960), some three centuries after the actual events. A single chapter on Punishment and Law (Xingfa) is placed last after seven chapters on Rites (Liyi), after which four chapters on Music (Yinyue), three chapters on the Calendar (Li), two on Astronomy and Astrology (Tianwen), one on Physics (Wuheng), four on Geography (Dili), three on Hierarchy of Office (Zhiguan), one on Carriages and Costume (Yufu), two on Sutras and Books (Jingji) , two on Commodities (Chihuo) and finally one single chapter on Punishment and Law, in that order. The Confucian Code of Rites (Liji), not law, is expected to be the controlling document on civilized behavior. In the Confucian worldview, rule of law is applied only to those who have fallen beyond the limits of civilized behavior. Civilized people are expected to observe proper rites. Only social outcasts are expected to be controlled by the law. Thus, the rule of law is considered a state of barbaric primitiveness, before reaching the civilized state of voluntary observation of proper rites. What is legal is not necessarily moral or fair. Under the supervision of Tang Confucian minister Fang Xuanling, 500 sections of ancient laws were compiled into 12 volumes in the Tang Code, Titled: Vol 1: Term and es (Mingle) Vol 2: Security and Prohibition (Weijin) Vol 3: Office and Hierarchy (Zhizhi) Vol 4: Domestic Affairs and Marriage (Huhun) Vol 5: Stables and Storage (Jiuku) Vol 6: Impeachment and Promotion (Shanxing) Vol 7 : Thievery and Robbery (Zeidao) Vol 8: Match and Litigation (Dousong) Vol 9: Fraud and Falsehood (Zhawei) Vol 10: Miscellaneous Regulation (Zalu) Vol 11: Arrest and Escape (Bu Vol 12: Judgment and imprisonment (Duanyu) The Tang Code lists the five forms of corporal punishment for serfs as: Swing (Chinese: 笞; pinyin: chish) Caning (Chinese: 杖; pinyin: zhàng) Imprisonment (Chinese: 徒; pinyin: tú) Exile (Chinese : 流; pinyin: liú) Death (Chinese: 死; Pinyin: sǐ) Loan is applied according to the Eight Deliberations: Blood Relations Motive for the Crimean Virtue of the Guilty Past Merits Nobility Status Friendship Diligent Character Confucianism in Its Revised Form (Neo-Confucianism) has continued to be the state orthodoxy among the Song, Ming and Qing dynasties. This ensured that the Confucian foundations of the Tang code were retained, and in some they are even strengthened. By the time of the Qing Qing However, the mass legislation escalated to such an extent that it doubted whether even officials could adequately master the complex distinctions it came. Varieties of law Traditional Chinese law can be divided into official law and unofficial law. The official law emanates from the authority of the emperor. The doctrine of the separation of forces was unknown in China until the 20th century. In particular, judicial and administrative functions were performed by magistrates rather than by separate persons. The emperor delegated many of his administrative and judicial powers to his officials while maintaining for himself the legislative function. Official legislation can be divided into two main components themselves: criminal law and administrative law. The former prescribed punishments for certain behavior, and the latter defined the duties of the officials. In contrast, unofficial law was the customary law of the people, rules that evolved into locality or in merchant disputes for dealing with matters of common concern. None of the standard words for the law — fa (法) or lü (律) — were ever applied to rules of this kind. Of these varieties, only criminal law was systematically studied by Western scholars. The complexity of the Chinese administrative system has made it difficult for Western students to acquire a general familiarity with the legal principles it governs. The study of unofficial law is also limited in part due to the fact that the data is contained in such a variety of source materials, most extremely difficult to access. The lack of access to source material had earlier scholars, both Chinese and Western, the wrong impression that Imperial China did not have a system of civil law. Criminal Law The center of criminal law is the code of punishments issued by each dynasty at its inception. Although fragments of laws of the Qin and Han survived, the first surviving complete code was the Kaihuang code developed during the Sui dynasty and adopted by later dynasties, including the Tang in 653. This code provided the model for all the later traditional penal codes by its definition of the Five Penalties and Ten Horrors. Only the Mongol Yuan dynasty failed to issue a penal code, but the collections of legal material from that dynasty still show the strong influence of the Tang code. The penal codes contain only rules that prescribe punishments for specific violations, rules that generally define the allocation of punishment, or those that establish principles of interpretation. Each offence was awarded a specific penalty. The task of the magistrate was to identify the right name of the offence disclosed by the facts. Determination of the correct penalty followed automatically. The penal code was seen as indispensable part of government rules, but punishments still had to The mutilated punishments that earlier characterized the law were no longer used by the 8th century. The five regular punishments established by the Tang Code were in descending order of seriousness: death, lives exile, penal servitude (forced labor), beaten with a heavy stick, or beaten with a light stick. They remained the regular punishments until the closing years of the Qing. The penalty codes are divided into a General Principles and a Specific Violations section. Each dynasty retained the same basic content, although the Ming and Qing codes introduced some variation in the classification of violations. The Tang and Song Codes consisted of a number of articles (律), many of which were adopted, sometimes without change, by the Ming and Qing codes. Once the articles of the code were established at the beginning of the dynasty, there was a reluctance on the part of the founding referee or its successors to change it. Consequently, in dealing with the problem of changing circumstances, the Ming began the practice of adding substates (例) to the code. The practice grew extensive under the Qing, with the result that the penal code lost something of its internal coherence by the end of the 19th century and became an unwavering instrument. Substuates tended to be more specific and detailed than articles. Excertive commenters were added to the penal codes. The most authoritative were those approved by the throne for inclusion in the code. This often itself contains rules not found in the articles or substuates. In cases where no ambiguous article or substate can be invoked, previous decisions may operate as precedents by the Board of Penalties. Some rules in the penal codes, especially those related to civil cases, have been obsolete or not enforced. Jean Escarra, suggested the criminal law as a whole was intended to operate as a guide to model behavior and not as a set of enforceable rules. While this view has largely been rejected, it is clear that many of the enforced rules on family relationships have been retained because of their symbolic value. After the Han period, all rules of a code that is not lü are called ling (ordinances) and ge (rulings), sometimes shi (models), and often zhi (commands). Administrative legal administrative law was developed very early in China; most of its basic framework is laid by the Zhou Dynasty. In the administrative structure, the emperor was supreme and therefore above the law. He could make the law, override existing laws and upset administrative decisions made in his name. Yet although autocratic, the existence of the complex bureaucratic machinery has a check on its arbitrary exercise of power. On occasion, he can change a capital sentence passed by the central judicial agencies to referred for his approval, but he always made it in reference to facts of the specific case and explained in his edict the reasons for the change he made. Sometimes he would even accept a remonstration by his officials that the change was not proper and assume he had to act in accordance with the existing law. Civil law Customary legislation dealt with what is mentioned in the West private law or civil law. In particular, it consists of rules governing matters of contract and property. Unlike Western systems in which civil law preceded criminal law, in traditional Chinese law, the reverse was true. From the provisions of the penal code, magistrates could either conclude principles of civil law or directly, if a matter in the penal code such as matters concerning those concerning debt and inclusion, acts with land, the loan and pledge of property, and the sale of goods in markets, or indirectly read in a criminal statute. Although the stereotypical view of Chinese magistrates was that they were reluctant to intervene as arbiters in any kind of civil dispute, more recent studies have argued that most of a magistrate's work involved the settlement of civil disputes. In this respect, the reluctance of magistrates to take on casework had to do largely with the fact that the Chinese civil administration was small, and that the workload on magistrates was very large. Moreover, scholars in the early 21st century, such as Philip Huang (黃宗智), argued that the traditional Chinese system of justice was fair, efficient, and often used in the establishment of disputes. Use of property is divided into upper (tianpi) and undercover (tiangu) rights. Landlords with subsoil rights had a permanent claim to the property if they paid taxes and received official stamps from the government but did not have rights to actively use the land. Instead, those with topsoil rights paid the subsoil land landlord a fixed rent (or part of the proceeds of what was produced on the land) for not only the right to and dwell on the land, but the right to sell or lease the topsoil rights independently to another party. As long as another party held topsoil rights, the party holding underground did not have the right to actively use the land or evict the upper land owner. Land, like other forms of property, was seen as being held jointly by the family and not individuals within the family. Another concept in imperial Chinese property rights was dianmai (典賣/典卖), more commonly known as huomai (活賣/活卖), or conditional sales of property[7] that allowed the seller (i.e. his family) to buy back the land at the original price (without interest). The assumption was that land, having been held by a family for generations, should be with the same family From the Sui dynasty, women couldn't directly hold property and for land to stay in the same family, it has it to pass between male heirs following the rule of primogeniture. [8] Procedure suspects and criminals were arrested by county police or the postal house chiefs subordinate to the county chief of police. One important principle of traditional Chinese legislation was that a person could not be convicted of a crime without a confession. Because a confession was necessary for a conviction and sentence, the use of torture was often used to elude such a confession. A common tool was the bastinado, applied to the buttocks and thighs. During the Qin and Han, local magistrates were fully authorized to apply the full scale of punishments, including the death penalty. In principle, all criminal cases, whatever their gravity, were first heard in the court of the district in which the facts occurred. The magistrate examined the facts, determined guilt or innocence, and then proposed the sentence for the offence as prescribed by the code. When a sentence of greater seriousness than a beating applies, it was necessary to send the case to the next superior court in the hierarchy, that of the prefect, to rehear. The prefect's decision was only final in cases of penal servitude. Cases of exile or death were automatically reviewed by the provincial governor. All murder cases and all cases attracting the death sentence were sent to the capital by the highest judicial tribunal, the Council of Punishments, for review. No death sentence could be implemented except in extreme circumstances, without express approval from the emperor himself. Moral values and the law Contrary to the Legal Experts, the Confucian view of law was always centered on morality. Xun Zi, an early Confucian thinker, saw the need for legislation, but also emphasized the importance of virtue on the part of the legislature and judiciary. There was a belief that the maintenance of the Confucian moral directives by the apparatus of the state was essential to preserving a civilized society. Encouraging the virtue of subsidiaries piety has helped strengthen the related duty of respect and submission to imperial authority. The codes indicate their moral orientation by right at the beginning of the General Principles section a description of the offences known as the Ten Horrors. These violations were considered the most heinous. As the official comments of the Qing code determine: persons guilty of any of the Ten Horrors destroy human ties (倫), rebel against Heaven (天), go against reason (理), and violate justice (義). Law enforcement and legal reasoning Where a new piece of legislation has been considered, care will be taken to assess its relationship with the existing law. Laws have been passed by the government officials and then showed the emperor to get laws changed and made for people to obey. Common Characteristics Equality Before the Law Was officially accepted as a legal principle and as a legal practice. For example, the system of exemption from eight categories or persons of criminal prosecution (ba yi) and the system of exemption from punishment by giving up official positions (guandang) is formally recognised legal device. Unlike in the West, where secular and religious forces co-exist and have promoted a tradition of pluralism, the traditional Chinese justice system, as a tool of the sovereign, has never encountered strong peers, and thus never tolerated the existence of any alien forces and legal rules other than those of the emperor. From a socio-cultural standpoint, in the West, individuals were typically intrinsically seen as linked to a single religious tradition (that is, a strong division that traditionally exists between competing denominations, or between Christianity and Judaism), in Chinese culture, people were able to simultaneously fans of Buddhism, Taoism and Confucianism, or Unlike many other people, the Chinese never attributed their laws to a divine legalator. The same applies to the rule that ruled all life, and which can therefore be legally called laws; no divine origin is also found for li (rules of correct behavior). 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