

## 北宋時期大不恭罪的演變與擴張\*

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北宋時期，十惡重罪之一的大不敬罪發生不小變化。最初《宋刑統》避諱改稱「大不恭」，其餘皆同唐律。太祖、太宗時期，大不恭案例多屬「指斥乘輿」且論處不一，頗現君威難測。真、仁兩朝六十餘年，重懲案件罕有，又見君主寬容態度。神宗起案件再增，「指斥乘輿」也日趨嚴格，更隨著新舊黨爭加劇，大不恭罪範圍在高太皇太后垂簾時明顯擴張，成為官員互攻利器。徽宗朝，大不恭罪配合皇帝御筆政治遍布四方，大幅超出律典範圍，卻因執行問題不斷，飽受批評詬病。推究北宋大不恭罪最終何能如此擴張，出於君臣皆有意擴大該罪適用範圍，制度上又仿效真宗朝開始的「以違制論」簡便立法模式，讓此罪廣泛運用並以彰顯皇權，卻未能謹慎為之，反造成極大混亂與惡名。

關鍵詞：大不敬、大不恭、指斥乘輿、違制、御筆、宋代、皇權

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## The Evolution and Expansion of the Crime of Great Disrespect in the Northern Song Dynasty

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In the Northern Song Dynasty, a host of changes took place in the crime of “great disrespect” (大不恭) that was one of the Ten Abominations (十惡). During the early Song, in the *Criminal Laws of the Song Classified by Category* (宋刑統) the crime was renamed from “great irreverence” (大不敬) to “great disrespect,” as a way to avoid the taboo on imperial names (避諱), while the rest of the juridical system remained the same as in the Tang Code (唐律). When Emperors Taizu and Taizong governed the country, this crime of great disrespect was mostly imposed on officials who committed “oblique accusations” (指斥乘輿) and the punishments varied, so that the imperial mind could hardly be comprehended. In the following sixty years under the reigns of the Zhengzong (真宗) and Renzong (仁宗) emperors, the severe punishment of “great disrespect” was rarely seen, showing uncommon imperial mercy for subordinates. Nevertheless, cases of “great disrespect” swiftly increased when Emperor Shenzong (神宗) ascended to the throne. The Emperor and his officials capitalized on the “great disrespect,” with “oblique accusations,” as a tool to attack political adversaries, a situation which became even more serious in the latter term of Emperor Zhezong (哲宗). As Emperor Huizong (徽宗) took power, officials accredited by the Emperor increasingly utilized “great disrespect,” as well as the power of the Imperial Brush (御筆), to far exceed the scope of the ordinary *Criminal Laws of the Song Classified by Category*; this caused political incompetence with poor penal execution. In this essay, the author explores why the “great

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disrespect” was able to be both misused and abused in the Northern Song Dynasty. Both emperors and their officials expanded the scope of this crime on purpose to intimidate their opponents. Moreover, the convenience of the legislative model of “being regarded as a violation of the constitution” (以違制論) created under Emperor Zhengzong allowed the crime of “great disrespect” to be applied in an extensive fashion, manifesting imperial power. However, as this was not done prudently, it led to further confusion and poor reputation.

Keywords: great irreverence, great disrespect, oblique accusations, violation of the Constitution, imperial brush, Song Dynasty, imperial power