

阿禮國服裝規定 與英籍華人治外法權認定

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十九世紀正值帝國主義向殖民主義的在地化過渡。在英帝國通過條約制度逐步確立華治外法權的背景下，華人通過出生地原則、歸化或者被殖民的方式成為英政府認可的英國臣民。然而清政府依據本身的法律習慣仍將華裔英國臣民視為大清子民。因此華裔英國臣民在華司法管轄權歸治外法權認定成為十九世紀中英政府糾紛的來源之一。為解決該問題，中英政府在1868年達成了《阿禮國服裝規定》，以穿著服裝的款式作為華裔英國臣民治外法權的認定依據。但在1892年王如玉一案中，英政府卻選擇無視《阿禮國服裝規定》，以王如玉依據英國法律是英國臣民為理由，在此案中堅持其在華的治外法權。而清政府亦選擇清朝法律習慣作為理由，堅持王如玉是清朝子民。這實質是兩個帝國在臣民身分界定上的法律碰撞，外在表現為治外法權與《阿禮國服裝規定》之效用問題。在這個案例中，亦可看出英政府以治外法權為基本實踐手段，試圖使清政府接受西方通行的法律秩序與觀念。

關鍵詞：英國、清朝、治外法權、司法管轄權、阿禮國服裝規定

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The Alcock Dress Regulation and Extraterritoriality for Ethnic Chinese with British Citizenship

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The long 19th century marks the British Empire's transition from a mentality of imperialism to the local application of colonialism. Once it had confirmed its extraterritoriality through a series of Sino-British treaties, the British Empire had to apply this extraterritoriality to its subjects in China. Among the different types of such subjects, the most controversial one was ethnic Chinese with British citizenship as the Qing Empire also considered them to be its subjects. In order to reconcile this judicial and diplomatic dispute, Rutherford Alcock issued a provisional solution, i.e. the "Alcock Dress Regulation" for confirming whether or not ethnic Chinese were British subjects. However, in the case of Wang Ju-yü of 1892, the British government ignored the "Alcock Dress Regulation" and insisted on Wang's British citizenship so that Wang was protected by the extraterritoriality. The Qing Empire likewise cited Qing law and custom in maintaining that he was a Qing subject. The British and Qing Empires then put aside the provisional solution and discussed the core of this judicial and legal debate. This was a representative case in the Qing Empire's gradual adaptation to the western legal system governing nationality.

Keywords: British Empire, Qing Empire, extraterritoriality, jurisdiction, Alcock Dress Regulation

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