

清代刑部與「成案集」的整理*

李 明**

清代「以例治天下」，律例體系之下，律的穩定性是用「例」的靈活性予以調適和配合的。清代刑部官員，由於職事所繫、晉升考核所關，形成了研究律學的內推力，他們重視對「成案集」的編纂即是研律的表現之一。此外，由於刑部度藏冊檔豐富，且有較多辦理疑難案件的實踐機會，這些保證了刑部「成案集」編纂的質量及其地位。在地方任職的各級司法官員出於實際工作所需，渴慕這些「刑部資源」，刑部的各種「成案集」也藉以刑部官員的內外流動等方式而向下傳布。「成案集」在清代整個司法系統中產生了廣泛影響，這也正是例案在清代法律體系中作用的具體表現。

關鍵詞：成案、說帖、駁案、刑部律學、例案

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** 華中師範大學歷史文化學院講師

The Board of Punishments in the Qing Dynasty and the Compilation of Leading Cases

LI Ming*

Judicial cases (*li'an*) played an important guiding role in the judicial activities of the Qing Dynasty. In the Qing Code, the rules (*lü*) were stable with few changes, and they were matched with and balanced by more flexible statutes (*li*). Due to the requirements of their work and the requirements for promotion, the officials in the Board of Punishments actively engaged in legal research, of which the compilation of “leading cases” (*cheng'an*) was one type. With abundant archives in storage and highly qualified staff who had more practice in dealing with complicated cases, the Board of Punishments had obvious advantages in organizing and collating leading cases of high quality. Due to the demands of their work, judicial officials of all levels in local administration looked eagerly for resources from the Board of Punishments; its compilations of leading cases were also disseminated to the local governments via the circulation of Board of Punishment officials through the bureaucracy. The leading cases had a broad influence on the Qing judicial system as a whole. Moreover, they constitute a concrete manifestation of the actual function of judicial cases in the Qing legal system.

Keywords: Leading cases (*cheng'an*), persuasive statement (*shuotie*), rejected cases (*bo'an*), legal studies by officials in the Board of Punishments, judicial cases (*li'an*)

* Lecturer, School of History and Culture, Central China Normal University.