

Cases of Adultery and Abduction in *Tan-Hsin Archives*: Re-examining Legal Traditions in Qing Taiwan

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ABSTRACT

Local legal traditions, as opposed to global trends, serve as the main reason against the decriminalization of adultery in contemporary Taiwan. To further understand the past traditions, this paper examines the legal sanction of adultery and abduction (of women) in Qing Taiwan. Related existing studies on legal history of China rely mainly on judicial documents of the central authority, such as the *Great Qing Legal Code*, also known as the *Qing Code*, or the *Penal Memorials to the Throne*. This study focuses more on the legal traditions related to such cases at the local government level. Re-examining the adultery and abduction cases recorded in the *Tan-Hsin Archives* revealed that these cases were often unresolved, and the prevailing related laws were rarely or not put into effect. Further exploring the reasons behind such situation showed that in litigations among families, chastity of female members was often called into question, and bringing a false charge of abduction was a common strategy by ex-husbands in disputes of wife-selling. When the litigants dropped the charges, the magistrates would then stop the investigation and close the cases without reservation. Even when the litigants would like to probe and pursue further, limited resources and capability of the local court made in-depth investigation difficult, and the truth behind the cases was seldom uncovered. Of the “abducted” women, most remained missing; and those brought into courts were usually arrested by their relatives, rather than the authority. Going beyond “law in book” to examine “law in action” would show that legal sanction of adultery and abduction was arguably not a tradition commonly practiced in Taiwan under Qing rule.

Keywords: Legal Tradition, Historicize, Adultery, Abduction, *Tan-Hsin Archives*, Local Government, Litigation, Action, Institution