Between Law and Justice: Self-Defense Principle in Late Qing China Penal Cases

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Abstract
This article, through the analysis of selected judicial cases of the late Qing dynasty, explores the existence of the self-defense principle and the limits within it was considered valid or not. In the first part, through the study and the analysis of some articles contained in *The Great Qing Code*, it will be shown how the written law considered a murder specifically derived from the need to defend oneself or a relative from an external attack, how the magistrate must judge these particular cases and what were the judicial organs legally involved. In the second part, selected penal cases, included in a late Qing legal cases compendium, are presented. Through the examination of these historical documents, that concerning both men and women belonging to the same social class, it will be clear how the previously presented law, reported in the official code of the dynasty, was effectively applied and, in particular, what were the promulgated sentences. The final aim is to show the limits of the Qing code in self-defense matter. It should be borne in mind that *The Great Qing Code* thanks to the strong continuity with dynasties 'previous codes (especially of Tang and Ming dynasties) represent the final result of more than a thousand years of complex legal culture.

Keywords: Self-Defense Principle, Late Qing Dynasty, Qing Code, Magistrates, Judicial Cases, Imperial Legal System

Introduction

According to its universal definition Self-defense it's "a universally accepted principle that a person may protect themselves or others from harm under appropriate circumstances, even when that behavior would normally constitute a crime"[1].

Therefore, self-defense provide justification and excuse for any act done by the defendant. According to the general principles of international law, any state who acts for self-defense is considered absolved for any international crime[2].

In imperial China becoming a murderer most times meant having to pay for the committed crime with one's life. The law did not always consider the motives that drove a person to commit an extreme act such as murder and the penalties were very severe. However, in some cases it seems that committing murder in defense of one's own life or that of a relative could guarantee certain mitigating circumstances, thus sparing the murderer the death penalty.

Based on the definition of self-defense, a distinction between subjective rights and mere principles must be done by establishing that "rights are legal, social, or ethical principles of freedom or entitlement; that is rights are the fundamental normative rules about what is allowed of people or owed to people according to some legal system, social convention, or ethical theory[3]", whereas legal principles are more difficult to define. Considering the linguistic meaning of the world "principle" it is defined as:

> A fundamental truth; a comprehensive law or doctrine, from which others are derived, or on which others are founded; a general truth; an elementary proposition; a maxim; an axiom; a postulate; The collectivity of moral or ethical standards or judgments; A basic truth, law, or assumption; A settled rule of action; a governing law of conduct; The collectivity of moral or ethical standards or judgments.[4]

From this point of view a legal principle is defined as a prevailing standard or set of standards of behavior or judgment. Moreover, a legal principle would be understood also as basic norm from which other norms derive[5].

According to these definitions, rights must be 'respected' while principles must be 'observed'. The fundamental difference between these two categories is that principles have only limited justiciability, whereas subjective rights can be asserted directly in court.

The right of self-defense has been introduced in China in 2020 when the Supreme People's Procuratorate Ministry of Public Security enact the "The guidelines on The Application of the System of Justifiable Defense in Accordance with the Law" (*Guanyu Yifa Shiyong Zhengdang Fangwei Zhidu de Zhidao Yijian*, 关于依法适用正当防卫制度的指导意见)[6]. Considering the late introduction within the modern Chinese legal system, one may presume that the right of self-defense was non-existent in both law and judicial system of imperial China. However, the

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[1] https://www.findlaw.com/criminal/criminal-law-basics/self-defense-overview.html

[2] Naresh; 2017:17.

[3] Stanford Encyclopedia of Philosophy; https://plato.stanford.edu/entries/rights/

[4] The People's Dictionary. Available at: http://www.dictionary.co.uk/browse.aspx?word=principle

[5] Daci, 2010:109.

[6] https://www.court.gov.cn/zixun-xiangqing-251611.html

principle of self-defense seems to emerge from the sub-statutes of the articles of law and in selected cases, when recognized, succeeded in guaranteeing the murderer his life.

Furthermore, it must be said that the principle of self-defense has not been taken into account in books or articles describing *The Great Qing Code* or court cases belonging to other collections, except for Alabaster's book entitled 'Notes and Commentary on Chinese criminal law' which mention it in its section on 'excusable homicide'. Nevertheless, no reference is made in this work to the law articles or sub-statutes, but only to a few cases included in the famous *Xing An Hui Lan* (刑案匯覽) collection. So, the cases presented by the author, without supporting articles of law, at the first attempt could simply be considered as isolated cases.

***The Great Qing Code*: article and sub-statutes**

The main legal code for the Qing dynasty was known as *The Great Qing Code* (*Da Qing Lü*, 大清律例). As can also be understood from the title of the work, the code was composed of two main parts: 436 normal statutes or article (*lü* 律) and over 1,000 sub-statutes (*li* 例) that form an intricate body of rules, analogies, exceptions, annotations and cases. While *lü*s were immutable and permanent norms; *li*, on the contrary, were selected and summarized from concrete cases that must be revised regularly. Conforming to the principle established by the Qianlong Emperor, *li* should be slightly revised every 5 years and greatly revised every 10 years[7]. Therefore, while the number of *lü* is fixed, the articles of *li* increase significantly[8].

Each *lü* gave a fairly detailed description of the circumstances under which, a crime or offence was committed, which is why the judge's task was very simple, he simply had to establish the exact circumstances of the case from the data in his possession and then search within the code for the article that stated the corresponding punishment. Apart from the comments, which merely had an explanatory value, the main meaning was not expressed by the article itself but by the exception. The latter was particularly important for one reason, as the articles were copied from older codes and thus written and promulgated in completely different circumstances, the system of sub-statutes was necessary to cope with a changing society and, above all, tended to be completer and more precise than the articles to which they were attached. It was almost a regular principle in the Qing dynasty that in cases where an article and a sub-statute were both applicable to a given event, the ruling was not based on the article but on the sub-statute, even if this sometimes resulted in a partial or even total modification of the article itself. The *li* were particularly useful in situations not covered by the code. This is also clearly expressed in a section of the Qing dynastic histories known as the *Qingshigao Xingfazhi zhujie* 清史稿刑志註解, "Legal treatise of the Qing Dinasty" which gives a detailed description of the situation:

> If a sub-statute had been available, the article would no longer have been used. Articles in most cases came to be regarded as empty words, while sub-statutes became more and more numerous and fragmentary. Contradictions developed between the earlier and later ones. Sometimes, a sub-statute was used to increase the penalty in the article, or sometimes it was used precisely to annihilate the article. Sometimes an

[7] *Qingshigao Xingfazhi zhujie* 清史稿刑法志一 (Draft History of Qing, The Treatise of Punishments, part 1)
[8] Zhang, Dong, 2017:2.

> exemption was formulated in such a way that it could be used on a single occasion. That is why where one exemption was not sufficient, others were added.[9]

Consequently, in dubious court cases where both the articles of law and the sub-statutes were applicable, the latter having greater legal force and being the only ones, unlike the articles, that present principles of self-defense, it may be inferred that indeed this principle certainly had legal force and if recognized this was actually applied despite not being formally present in the articles of law of the code.

The Judicial System

Committing any kind of crime brought the offender into a series of procedures that could be short or long depending on the crime. After it was reported to the local *yamen*[10]衙門, an investigation was conducted, and the alleged perpetrator and witnesses were interrogated. The interrogation often involved the practice of torture and at the end of this, the magistrate would consult the code of law and determine a sentence; he would also refer the case to the higher courts, which would review the case and hold further trials. In criminal court cases, and thus involving murder, the process of examining the case was very long and the final judgement often deferred to the decision of the emperor himself.

The judicial system of imperial China, like the governmental system in general, was highly centralized. It was a system in which power was not subject to subdivision and in which the private practice of law was not permitted. Legal cases were examined and transmitted from the lowest to the highest level of the system; the latter operated on four macro-levels, displayed in descending order:

(a) *Xian* 縣 (districts, roughly 1300) or *zhou* 州 (departments, 150).
(b) *Fu* 府 (prefectures,180)
(c) *Sheng* 省 (provinces, 18)
(d) Beijing Central Administration.

People, in case of crimes, had to turn to the district magistrate who was in charge of acting on both civil and criminal cases. The magistrate was much more than a judge, he not only conducted hearings and made decisions, but was also in charge of conducting investigations and enquiries to find the guilty parties as well. As a judge of a lower court, however, the magistrate was only authorized to pronounce sentences in minor cases, the penalties of which amounted to flogging or the obligation to wear a yoke. Consequently, in circumstances in which the punishment did not result in simple caning but in a sentence of hard labor, the magistrate had no choice but to pronounce a temporary sentence and pass on all information in his possession to his superiors pending approval. These cases were then reported to the prefecture offices and from there they were simply forwarded to the province where they were judged by legal experts. These experts were called *ancha shi* 按察使 (judicial commissioner) and each province had one in charge of managing legal affairs. These were not only among the most powerful officials in the provinces, but enjoyed a special autonomy granted by the *Xing bu* 刑部 (Board of Punishment). At this point, after the judicial commissioner had examined the case, the defendant and witnesses were taken to the

[9] *The Ch'ing Legal Treatise* cit. in Bodde, Morris 1967: 67.
[10] Administrative office and/or residence of a local bureaucrat. A *yamen* could also mean any government office or body headed by a mandarin, at any level of government.

provincial court for trial, their presence could also be requested in Beijing for further hearings. However, the judgments issued by the *ancha shi* required confirmation by the governor or the general governor of the province. However, court cases whose conviction amounted to a punishment that was no more serious than the imposition of hard labor were collected and forwarded by the governor general or simple governor to the Ministry of Punishment in Beijing. More serious cases that included murder were sent individually to the Ministry of Justice. The *Xing bu* pronounced the final judgement of all cases except those whose outcome was the death penalty. When the circumstances were so serious as to provide for the death penalty, the final judgement was referred to the decision of a set of even higher-level offices known as the *san fa si* 三法司 (three upper courts), and from there ultimately transmitted to the emperor for final approval.

Table 1. As proposed by Bodde and Morris, here is the exemplified procedure of a court case[11]:

Administrative level	**Categories of cases (classified according to punishment)**			
	Death Penalty	**Exile or Penal Servitude (Homicide included)**	**Penal Servitude**	**Punishment of beating**
District/ Department	Investigations	Investigations	Investigations	Trial and passing of sentence
Prefecture	Transmission	Transmission	Transmission	Cases are simply reported
Provincial Court	Trial	Trial	Trial	Cases are simply reported
Simple Governor/General Governor	Approval	Approval	Approval	
Ministry of Justice	Revision	Final judgment	Cases are simply reported	
Three upper courts	Final judgment			
Emperor	Judgement approval			

[Laws Relating to] The Board of Punishments

Given that the court cases that will be considered concern murder cases arising from fights, reference will be made, in this section, to the article and sub-statutes that will be cited by the judges entrusted with the judgement of cases that will be subsequently presented. The analyzed articles of law are included into four chapters of *The Great Qing Code*: chapters IX&X: related to "Homicide" and chapters XI &XIII related to "Affrays and Blows".

On the assumption that it was almost impossible for a murderer to receive the total redemption, in penal judiciary cases it must be underlined that avoiding the death penalty was the maximum that a culprit could achieve.

The first article under consideration is included in chapter IX and it is 290.1, entitled "Engaging in an Affray [and Killing] of Intentionally killing another" that states:

[11] Bodde, Morris 1967: 116.

> 290.1: Anyone who, during an affray, strikes and kill another, regardless of whether he has stuck with the hand, or the feet, or with another object or with a metal knife, will be punished with strangulation (with delay)[12].

At the outset, it seems obvious that the law does not investigate the triggers of the fight and therefore does not examine culpability but only the overall result of the action. Anyone who reacted despite having done so in defense of his or her life will still be punished for taking a life.

But what if a person reacts in defense of a relative? And here a reference to the nineth sub-statues of the article 290 should be made:

> 290.09: If a fight breaks out between two families and ends with the death of a person, the murderer shall pay with his life [Article 290]. But if at that time the victim was beating a person who was not a relative of the murderer, the penalty is 100 strokes of a heavy bamboo cane and exile to 3000 *li*[13] away. If the victim was beating a relative of the murderer there is a further reduction of the penalty by one degree: 100 strokes of a bamboo cane and 3 years of penal servitude. The murderer's family will have to pay 20 liang of silver for burial expenses[14].

Therefore, if in a family dispute one person acts in defense of another, the culprit is subjected to mitigating circumstances, in fact the death penalty is not imposed.

In case one defends a person who is not within the mourning degrees[15] and kills the attacker the penalty is reduced by one degree and in the case one acts in defense of a person who is a relative within the mourning degrees the penalty is further reduced by two degrees.

Chapter X includes article 292 entitled "Killing in a Play, Mistaken Killing, unintentional killing or injuring of another" that states:

> 1: Everyone who, because of play kill or injures another, or, because of being in an affray, by mistakes kills or injures a bystander will, in each case, be sentenced on the basis of killing [art 290] or injuring [art.302] in an affray. If death results, he will be strangled.
> 3. Anyone who unintentionally kills or injures another will be sentenced as if it were killing or injuring in an affray [art.290]. Redemption will be received according to the law, and the money will be given to the family (of the victim)
> […] In all these cases where initially there was no intention to harm or kill another, but it happened that death or injury was inflicted on another, sentence as is it were killing or wounding in an affray [art.290]. Redemption will be received, according to the law. [This amount] is given to the household of the one who is killed or injured. [This is money for burial or medical treatment][16].

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[12] *Da Qing Lü Li*, 大清律例: https://kuscholarworks.ku.edu/bitstream/handle/1808/3635/qingcode00.pdf

[13] Traditional unit of length, equal to 150 *zhang* (市丈), and equivalent to 0.5 kilometre or 0.311 mile.

[14] *Da Qing Lü Li*, 大清律例: https://kuscholarworks.ku.edu/bitstream/handle/1808/3635/qingcode00.pdf

[15] In China, formal mourning at the death of a relative was a fundamental act of social participation, and the actions to be undertaken were prescribed by local custom. In all times and places, Chinese mourning behavior has included a formal recognition of the genealogical distance between the mourner and the deceased and has marked five or more categories of genealogical distance.

[16] Ibidem.

Here it must be considered the term "unintentionally", that means that which the ear or eye does not extend to, that which contemplation does not attain, for example when shooting wild animals, and unexpectedly killing somebody[17]. So, despite the absence of any criminal intent, the act was still considered a crime.

It seems that whatever happens the law always refers to article 290, even when the circumstances are different the result seems to be the same. In contrast to the cited article 290, however, a new clause appears in the art. 292: "redemption will be received according to the law". Since an unintentional killing was unexpected, the exact means by the victim died was irrelevant. The magistrate should always evaluate whether it was a situation of that which contemplation does not attain. In the eyes of the judicial organs, the lack of a mental element to the crime seems to be of paramount importance. As a result, monetary redemption of the prescribed punishment was available[18]. Therefore, despite the result of the action a loophole was possible, but this had to be recognized by the courts.

The principle of self-defense appears in the chapter XI. Article 302.7 entitled "Affrays and Blows" is the first one regarding affrays and blows in which the law seems to focus not only on the result of the action but on the initial causes of the action and on the course of the action itself.

Indeed, it states:

> 7. If, because of an affray, there is mutual striking and injury, then investigate the seriousness of the injuries and affix penalty. The one who strikes subsequently and has reason to [strike] will [have his penalty] reduced two degrees. If death result or in the case where someone strikes an elder brother or sister, or father's elder or younger brother the punishment will not be reduced [art.318][19]

Reference is made here to article 318 entitled "Striking superior or elder relatives of the second degree" that also states that for unintentional killing or injuring, in each case the penalty will be reduced from the penalty previously prescribed by two degrees:

> […] As for unintentional killing or injuring, in each case the penalty will be reduced from the penalty for the killing or injuring (of elder brothers and sisters, or the father's brothers and their wives, or the father's sisters and maternal grandparents) two degrees. (This case does not fall within the rule of redemption)[20].

Another article exempting the murderer from the death penalty is 323, entitled "When the father or paternal grandfather is struck [by another]":

> 1.When the Father or Paternal Grandfather are Stuck [by another] in every case in which paternal grandparents or parents are stuck by another, and a child immediately […] aids them and returns the blows (of the offender who act cruelly) […] If death result, then decide according to the ordinary law. [320][21]

[17] Neighbors, 2018: 26.
[18] The fee to redeem the punishment was set at 12.42 taels of silver.
[19] Da Qing Lü Li, 大清律例: https://kuscholarworks.ku.edu/bitstream/handle/1808/3635/qingcode00.pdf
[20] Ibidem.
[21] Ibidem.

The main article states that in this case, a son or a nephew who intervene in the fight and kill the offender will not be condemned to death.

As the Sub-statutes 323.01 also clarifies even a woman that acts in defense of her husband's in-laws or grandparents who intervenes in a life-threatening situation and kills the offender, will not be sentenced to death and a request for a reduced sentence will be made directly to the emperor and higher courts:

> In cases of murder, if one's grandparents or parents of one's husband are beaten by another and are in serious danger of their lives and the wives of their children or grandchildren rescue them and beat the offender to death, in a memorial to the emperor one will state the facts, ask for a reduction and await a response from the imperial court, which will make the final decision. If one's husband's grandparents or parents have a quarrel with another and the wives of their children or grandchildren beat and kill the offender, or if one's husband's grandparents or parents start a fight with a person and the wives of their children or grandchildren arrive immediately after [the start of the quarrel], support them and beat and kill a person, although in accordance with the law, [the woman] is guilty of a crime, having helped or assisted [the husband's relatives] who were in a critical situation will receive a penalty reduction[22].

From the examples listed above, we can therefore infer that those who in defense and have reason to strike back are in some way considered by the law. In any case, even if initially it seems that anyone who even accidentally kills will have to pay with his life, this is not always true, because of two reasons, the first can be found in the sub-statutes which excludes the death sentence in the case of killing in defense of a person or relative and the second comprehend that clause that states "according to the law redemption will be received" that somehow represents a way out.

Two Jiaqing era Penal Cases: The promulgated sentences & the applied articles

All the penal cases presented took place in the Jiaqing era (1st of January 1796 - 18th of July 1820) and are included in a compendium entitled: *Qing Jiaqing Chao Xing Ke Ti Ben Shehui Shiliao Ji Kan* 清嘉慶朝刑科題本社會史料輯刊 (Jiaqing era Compendium of historical judiciary cases). The document report 1662 penal cases divided in 13 sections and four of them will be analyzed in this paper.

It should be emphasized that although the period of interest of the analyzed court cases is the Jiaqing period, *The Great Qing Code* remained in force until the collapse of the dynasty, so the researched phenomenon related to the principle of self-defense will certainly be present in court cases from later periods, up to 1911.

Case A: Sichuan province, Anyue district, Mrs. Li Hu, in order to protect her mother-in-law, mortally wounds her husband's cousin

The first case is related to the murder of Mr. Li Zhikui. It is reported that on 12th day of the seventh month of 1802, Li Zhikui, without permission, felled a cypress tree on his brother Li Zhiguang's land. Then, a relative of the man, Mrs. Qiu intervened to stop him and was pushed

[22] Ibidem.

and beaten by him. Finding herself in difficulty, she called for help and Mrs. Li Hu, her daughter-in-law, intervened for fear that the woman would be injured due to her advanced age. At that point, Li Zhikui punched Mrs. Li Hu in the face to persuade her and continued to beat Mrs. Qiu. Then Mrs. Li Hu grabbed a wooden gavel and hit the man in the back; however, in the confusion of the moment she struck him in the nape causing injuries that killed him four days later. Mrs. Li Hu claims that she only intervened to rescue the woman and that it was not her intention to kill the victim.

The sentence issued by the judge in charge of the case, Minister Dong Gao, is very significant for our purpose: in the first line of the sentence, he already shows himself in favour of leniency by calling Mrs. Li Hu "a woman with a compassionate spirit".

> This minister and others, in agreement with the judicial commissioner and the imperial court of justice, met and examined the case of the Anyue district whereby Mrs. Li Hu, with a compassionate spirit, to rescue her mother-in-law injured Mr. Li Zhikui who at the end died.
>
> On the basis of what has been previously reported and in consultation with the superintendence bodies, Ms. Li Hu in accordance with the law [for those who] in a fight beat and kill a man, disregarding accomplices, motive and the murder weapon, has to be condemned to death by strangulation with delay, [however,] having examined the sub-statues of the law relating to murder cases, for relatives who are beaten and injured and in actual fact are involved in circumstances that are dangerous [to their own safety], the children or grandchildren of these who intervene in their rescue and beat and kill a person [for these reasons], according to imperial decree, and in accordance with the sub-statutes of law describing two [similar] circumstances, [are remanded] to trial and must await the decision of the imperial court[23].

Although the sentence in its first part refers to the Article 290 by stating that "in accordance with the law [those who] in a fight beat and kill a man, has to be condemned to death by strangulation"; the minister goes on stating that in accordance with some sub-statutes, the sentence will be submitted to the higher courts for a review of the case and a confirmation of the sentence as provided in the sub-statute 323.1 concerning those who intervene in a fight and kill the one who is beating their relatives.

As also ascribed to the sub-statute itself, Minister Dong Gao also present an official document that was later be submitted to the high courts of justice, in which he proposed reducing the punishment to one hundred strokes of a heavy bamboo cane and exile to 3,000 *li* of distance; however, according to the law, married women can obtain redemption behind the payment of a sum.

A note at the end of the document states the final conclusion of Minister Dong Gao, pending further confirmation by the higher courts of justice. Although there is no official confirmation at the end of the document, the sentence is likely to stand and Ms. Li Hu therefore pardoned and obliged to pay a sum of money for redemption.

[23] *Qing Jiaqing Chao Xingke Tiben Shihui Shiliao Jikan*, 清嘉庆朝刑科题本社会史料辑刊: 33.

Case B: Guangdong Province, Qujiang District, Lady Zhu Jiang mortally wounds her husband Zhu Jianke

The third case concerns the murder of Zhu Jianke who was assassinated by his wife, Mrs. Zhu Jiang, who fatally wounded him in defense of his mother. According to the witnesses' testimonies we know that in the year 1809 Mrs. Zhu Jiang's husband, Mr. Zhu Jianke, is out of money and asks his wife to return to her mother's home to beg for a loan of twenty-seven garments to pawn, with the promise that he would redeem and return them right after the first rice harvest of the season. Despite the promise, the man spends all the money on wine and does not redeem the clothes from the pawnshop. Sometime later his mother-in-law demands the return of the clothes and when her daughter goes to her husband to make the request, he strikes her drunk in response. Mrs. Zhu Jiang then goes back to her mother's, explains what happened and fearing to return home and be beaten again, stays overnight. The mother, Mrs. Jiang Xie, calms her daughter down by saying that she will talk to her husband the next day. The next day then Mrs. Jiang Xie goes to her son-in-law to get back what was due to her but is blocked and beaten by the man. At this moment Mrs. Zhu Jiang arrives and tries to release her mother but is beaten herself. Desperate and thinking that her mother might somehow be mortally wounded she grabs an axe in an attempt to frighten her husband and stop him, but this does not happen and the man undaunted continues to fight and beat both women. At this point Mrs. Zhu Jiang throws one last gash and hits her husband in the wrist, severely injuring him and preventing him from continuing the fight. The injuries are so serious that the man dies soon afterwards.

Minister Han Feng, in charge of the case, in his final review states:

> According to the law, if a wife beats her husband and causes his death, she must be beheaded with immediate effect. […] Mrs Jiang Xie being the mother-in-law of Zhu Jiangke, is considered to be a relative of the fifth degree of mourning, the lady therefore in accordance with the law concerning elders or superiors outside the marriage who beat a young man or inferior and injure him, [is judged according to the common penalty, but since the degree of kinship is so slight] the said young man is considered a common person and the penalty is reduced by one degree, for injuring a person there are 80 strokes of heavy bamboo cane and two years of hard labor, reduced by one degree there are 70 strokes of heavy bamboo cane and one and a half years of hard labour, but a married woman according to the law receives redemption. […][24]

In this case the judge does not consider the self-defense of a relative at all, and in relation to Mrs. Zhu Jiang he applies article 315[25], sentencing her to death by beheading with immediate effect.

Whereas in respect of Mrs. Jiang Xie he applies Article 290 by initially sentencing her to flogging with a heavy bamboo cane. Even though the circumstances are similar to those of the first case presented and despite the fact that Mrs. Zhu Jiang acts solely and exclusively to save her mother, that is elderly and in difficulty, the judge does not consider in anyway the extenuating circumstances or other articles of law and convicted the two women.

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[24] Ivi, 1065.
[25] Entitled: A Wife or Concubine Striking a Husband.

Therefore, despite the nature of the events the final judgement was unequivocally linked to the judgement of the minister in charge of the examination, who had the freedom to apply any article of the code, sometimes disregarding certain complex aspects of the events presented. In both court cases, some intervened in defense of a relative but not everyone received fair and balanced treatment.

Conclusion

As mentioned at the beginning of this paper, there is no right of self-defense, but its principles can be found in various sub-statutes of the articles of the code. These principles had to be recognized by the court in order to be taken into account, and this could depend on a series of factors, such as the presence of witnesses or the willingness and competence of the minister in charge of the case. Thus, considering the cases in which corruption obstructs justice and those in which the examination of cases is entrusted to less experienced or precise magistrates, it is evident that even in similar trials (A-B), the principle of self-defense is not always recognized and the perpetrator, despite having acted for a right purpose, is still sentenced to death. Therefore, although there are traces of a law on self-defense that will only see its official recognition in the modern era, it is evident that in late imperial China, citizens acting in self-defense, due to the lack of clarity of the code, are suspended between law and justice.

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