

Research on Interrogation Methods in Ancient China*

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Abstract—Interrogation is an ancient means of investigating and solving cases, which occupies an important position in the ancient Chinese judicial system. The methods of interrogation in ancient China have a long history. They mainly include the method of divine judgment, the method of “five observing”, the method of torture, the method of cross-examination, the method of “hooking on the distance”, the method of “logic and mark”, etc. These methods have their own science and shortcomings. From the barbaric belief in gods to the determination of cases to the emphasis on confessions and physical evidence, these interrogation methods are based on the historical background of the time, and also reflect the growth of civilization and rational consciousness. The interrogation methods summed up by the ancients with experience and wisdom is of great significance for improving the level of the trial work in the current judicial practice.

Keywords—interrogation method; ancient China; experience; achievement

I. INTRODUCTION

Both in modern and ancient China, interrogation are an important part of judicial practice. This means that every arrested suspect must face-to-face trial by the investigating authorities. The results of these trials are very important for conviction and sentencing. In the history of ancient China, with the development of society and the progress of science and technology, the methods of interrogation are different in different periods. Some of these interrogation methods are still useful to this day. By studying the ways in which ancient Chinese judicature pursued the truth, we can explore the advantages. Combined with today's judicial procedure, we can follow the ancient Chinese interrogation methods for contemporary reference.

This paper mainly studies several typical interrogation methods in ancient China. Then it analyzes the scientific nature and limitation of ancient interrogation methods. Finally, it abstracts the advantages of ancient Chinese interrogation methods and discusses how to improve the level and efficiency of contemporary interrogation by combining the current judicial environment and judicial system.

II. BRIEF INTRODUCTION TO INTERROGATION METHODS IN ANCIENT CHINA

The investigation activity already existed in the primitive society early. At that time the investigation activity and the trial activity are one body. In this case, interrogation becomes the preferred method of investigation and judgement. Because of the fact that human beings had a relatively limited level of knowledge at that time, they always had a sense of fear and awe about some unexplained phenomena. They often turned to the power of the gods when dealing with cases in which the truth and falsehood were inextricably divided. Then the divine judge came into being. Wang Chong, in the Eastern Han Dynasty, recorded the method of judge Gao Tao's decision in his book *ON BALANCE*: "Let the sheep touch the criminal suspect. If the sheep contacts, the man will be guilty, otherwise he will not be guilty."

During the Western Zhou Dynasty, the magistrate gradually realized that not only the penalty should be used prudently, but also the scientific method of interrogation should be paid attention to. Therefore, they adopted the "five observation" method in the trial practice. In fact, the method of “five observing” is to judge the case through observation. "Observing one's speech" is to listen carefully to the statements of the parties concerned. "Observing one's colors" is to observe the expressions of the parties in the statements. "Observing one's breath" is to grasp the breath of the person concerned. "Observing one's ear" is to pay attention to the hearing of the person concerned. "Observing one's eyesight" is to look at the eyes of the person concerned. The method of “five observing” is a great progress compared with the method of divine judgment, and it is also an early scientific interrogation method in the history of litigation in our country. Its rich connotation and strategic thought still have valuable value in today's view.

The Western Zhou Dynasty was an early period when torture was used to extract confessions in ancient China. At that time, it was possible to extract confessions by torture in other seasons except in spring. Qin law affirmed the legal status of torture, but also advocated that it is best not to use torture to obtain confessions. The rulers of the Han Dynasty not only established the legal status of torture, but also made restrictive regulations on the instruments and objects of torture. From then to the Qing Dynasty, the rulers generally recognized the legality of torture. Although the law at that time had some restrictive provisions on the methods of

*This work is supported by the Excellent Online Open Course Foundation of Chongqing Police College (Grant No. jyj201802) and the Teaching Reform Foundation of Chongqing Police College (Grant No. jyj201714).

torture, the situation of extrajudicial punishment was very common and serious in the judicial practice of each dynasty. The laws restricting torture were mostly empty, and the cases caused by misdeeds and wrongs were innumerable.

Qin Dynasty is the first feudal centralized country in the history of our country. In order to maintain the stability of the ruling order, the rulers' demand for the accurate fight against crime is getting stronger and stronger. Interrogation was the main means to find out the facts of crime at that time, so the law paid more attention to the rules of interrogation methods and principles. The method of cross-examination means: "in the trial of a case, let the person on trial make a full statement. Even if you know there is a false element in it, don't ask for it immediately. You must record the contents of the statement in the course of listening. If the question is not clear, ask again until the prisoner refuses to plead guilty". This is the earliest interrogation method that has been included in the legal documents. Compared with the "five observing" method, the method of cross-examination received considerable attention from the rulers at that time. The Qin Dynasty also used a wide range of cross-examination methods.

In the early Han Dynasty, some scholars summed up their experience by studying the death of Qin Dynasty. To some extent, they corrected the thought of heavy punishment for misdemeanors in Qin Dynasty, and put forward the idea that punishment should be lenient and light. By this time, the ancient magistrates had realized that a true confession without torture was the right method of interrogation. After that, the "hooking on the distance" method gradually formed on the basis of summing up the judicial case handling experience. The ideological basis of the "hooking on the distance" method is the strategic thought in the art of war. The "hooking on the distance" method is to use the strategy of "circuitous and gradual" in Sun Tzu's Art of War, and combine the strategy method with the practical operation.

The method of "logic and mark" was put forward by Zheng Ke who was a Judge in Southern Song Dynasty on the basis of "five observing" method. He emphasized the function of inspection and investigation while paying attention to the factors of reason and reason. This method of interrogation means that when examining a case, the case is judged by the expression of the suspect's face, either by logical theory, or by evidence. The key to finding out the truth of the case lies in two aspects. First, we infer the psychological activities of the suspects through facial expressions, and judge whether the contents of the suspects are true and reliable. Second, we judge whether the suspect is true or not based on trace evidence. The former emphasizes the psychological activities of suspects to find suspicious places, while the latter pays attention to the mutual confirmation and supplement between confessions and trace evidence. On the one hand, the material evidence has an irreplaceable auxiliary role in the interrogation of the case, and material evidence is needed to prove the facts of the case. On the other hand, the investigation of the facts of the case cannot rely solely on the material evidence. We need to combine sensibility and reason to analyze and study the facts of what a case is.

III. ANALYSIS OF INTERROGATION METHODS IN ANCIENT CHINA

The contents of the interrogation methods in ancient China are both scientific and ignorant. One or more of them was ahead of the world but bound to have historical limitations. The emergence and development of ancient interrogation methods are closely related to its litigation system, legal culture, and even political and economic backgrounds. The main interrogation methods in ancient China embodied the essence of ancient interrogation law and played an important role at that time. But on the other hand, these unscientific interrogation methods, such as torture, also have a negative impact on modern interrogation.

In the stage of human being's extremely low cognitive ability, the method of divine judgment can make use of people's adoration psychology to "find out" some disputes that can't be solved by people so as to obtain the true confession of the parties concerned, and it also enhances the authority of the judgment. However, with the progress of society, this ignorant and backward interrogation method will be replaced by more scientific interrogation method.

From the historical point of view, the "five observing" method originated in the Western Zhou period of slave society and was inherited and developed in the feudal society. In terms of performance, the "five observing" methods have developed from the original five kinds of perceptual understanding of the expressions of the parties which are made up of words, colors, smells, ears and eyes. This method of interrogation began to pay attention to the combination of sensibility, reason and field investigations. The addition of more rational factors impels the method itself to be mature and perfect. The method of "five observing" has exerted a profound influence on the history of judicial case handling in ancient China, and has important progressive significance.

Torture is an extremely cruel interrogation method. On the one hand, it causes serious injury to the suspect's body, on the other hand, it leaves a shadow on the suspect. The law of torture violates the process of human civilization and seriously hinders the construction and development of the ancient judicial system in China.

The method of interrogation has been continuously developed in the feudal society after the Qin Dynasty. It has experienced a complete process from "single content" to "diversified strategy". This has been reflected in the legislative and judicial practice. The method of questioning is to find and seize the contradictions and repeatedly ask, and finally reach the goal of the post producer. Its advantages are reflected in the following three aspects. First, it is beneficial to discover the contradiction of the confession of the suspect as soon as possible. Second, it is beneficial to paralyze the criminal suspects and make it unconsciously expose more flaws. Third, the uses of evidence and persuasion education are more conducive to the criminal suspect to be passive.

The "hooking on the distance" method was further developed in the feudal society after the Han Dynasty. On this basis, Zheng Ke put forward the deceitful technique. It means that the suspects should be interrogated with positive

and direct methods to verify the situation, and there should be the use of ingenious techniques to discover the secret situation. In fact, the “hooking on the distance” method draws lessons from the idea of circuitous and progressive strategy in the art of war. Detour is a means, advance is an end, on the surface is far away, in fact, turn into straight, faster to solve the problem. In addition to the indirect and progressive strategy, the “hooking on the distance” method gradually absorbed the strategy thought in the later development. It is impossible to succeed in interrogation only by “positive”, or by emphasizing the effect of “strange” and neglecting the basic function of “positive”. That is to say, the criminal suspect should have a direct and direct method to verify the situation, but also have a clever technique to discover the secret situation. In the process of interrogation, we need a positive routine in the process of interrogation, also need to find the right time to attack.

The method of “logic and mark” gathers the ideas of previous interrogation methods and strategies. “logic” directly inherits the rational kernel of “five observing” method, while “mark” benefits from the improvement of judicial examination and appraisal level in Song Dynasty. The method of “logic and mark” comes from the method of “five observing” and the content of “deeds”, which is very progressive under the historical conditions at that time. The “logic and mark” method not only pays attention to the function of material evidence but also does not exaggerate the function of material evidence, so that the scientific nature of the method itself is greatly enhanced. It should be said that the “logic and mark” method embodies a simple dialectical thought and recognizes the limitations of the confession in ascertaining the facts of the case. Comparatively speaking, the method of “logic and mark” has made clear the auxiliary position of material evidence in the interrogation case from the beginning, which is indeed commendable.

IV. ENLIGHTENMENT OF INTERROGATION METHODS IN ANCIENT CHINA

Interrogation activities are directly influenced and adjusted by the judicial system. When the judicial system tends to be strict and secret, the interrogation method will inevitably develop in the direction of science and rationality. On the contrary, when the judicial system is in the stage of relative leniency and sparse, interrogation methods can only linger and develop at a lower level. The increasingly complex judicial system makes criminal proceedings subject to more constraints, but also ensures the accuracy of the results of adjudication. Similarly, when the interrogation method is no longer adapted to the needs of criminal proceedings, it will inevitably be improved or optimized to ensure the implementation of the judicial system.

The improvement of confession status also makes the development space of interrogation method further developed. People began to realize that the case must be based on evidence, not just speculation and analysis. Of all the evidence, confessions are the easiest to obtain and most provable. In the Western Zhou Dynasty, the idea of “not giving evidence and not recording cases” gradually came into being. The confession was given unprecedented

attention. Under this condition, the “five observing” method began to sprout and grow. The Qin Dynasty established the system of inquisitorial litigation. This system makes clear the procedure and principle of interrogation activities and the evidentiary effect of confession. The “logic and mark” method not only pays attention to the objective facts, but also has the confession of the parties. This makes the judicial process more rigorous. The method of “logic and mark” clearly puts forward confession and material evidence should be confirmed mutually. The method of “logic and mark” is to exclude “confession supreme” and “material evidence as king”, and what it advocates is that oral confession and material evidence are used separately and complement each other. These are quite scientific ideas.

The method of interrogation was closely related to the legal thought at that time. During the Western Zhou Dynasty, the magistrate realized that the punishment should be used prudently and the scientific nature of the trial should be emphasized. Under this kind of thought, the “five observing” method which can obtain confession without cruel torture began to grow. Similarly, in the early Western Han Dynasty, magistrates realized that it was necessary to learn and master some scientific interrogation methods. Therefore, the method of hook-gap was formed after the trial and summary of the magistrates. Although the method of torture runs counter to the above scientific interrogation method, it cannot be separated from the domination of legal thought. In Qin Dynasty, the heavy punishment thought of Legalists reached a new height, and the means of torture began to gain legal status. In the long feudal society, the judicial officials, out of the need of strengthening autocratic centralization and maintaining the ruling order, sought hard, so that the wind of torture became more and more fierce and the suspect suffered a great deal of pain. Fortunately, the use of torture was a dark period, but later people gradually abandoned it.

V. CONCLUSION

Combined with the above analysis, we can find that there are various interrogation methods in ancient judicial practice, which are all in order to find out the truth of the case. In the practice of handling judicial cases in ancient times, there are many excellent law enforcers who, on the basis of summing up and accumulating interrogation experience, are good at applying targeted methods and strategies to inquiring according to the different characteristics of the persons questioned, and have achieved good results. These molding interrogation methods have condensed the wisdom of law enforcement in successive dynasties. The ancient trials relied more on the individual wisdom of the law-enforcers as a choice that had to be made under the limited level of productivity at that time. In the context of the rapid development of science and technology, today's investigators are more qualified and responsible for inheriting the achievements of some ancient civilizations and actively exerting their active role to promote their development and keep pace with the times.

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