

# Study on the Criminal System in Qin and Han Dynasties and Its Historical Influence

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**Abstract:** In the Western Han Dynasty, Emperor Wen's penal reform mainly included the abolition of the child-bearing system, the abolition of corporal punishment, and the fixed sentence. These reforms changed the prison system of the Qin Dynasty, which were mainly manifested in the order of prisoners, family structure and property. The Wei, Jin, Southern and Northern Dynasties continued to reform penalties, with increasingly lenient penalties, the abolition of imperial punishment, and the reduction in the scope of confinement. The prisoners were free from physical punishment in the true sense and the probability of family members being implicated was reduced. The reform of the prison system in the Qin and Han Dynasties had a positive historical impact.

## 1. Introduction

The Qin and Han Dynasties were the initial development stage of Chinese law in the imperial era, and Emperor Wen's penalty reform was an important turning point in the history of Chinese legal system. The two reforms of removing corporal punishment and "exempt for years" freed prisoners from corporal punishment, fixed the sentence, and changed the order of prisoners accordingly. The abolition of the system of childbirth led to certain changes in the family structure and property of prisoners.

### 1.1 Changes in the Sequence of Prisoners

In the Qin and Han dynasties, the prisoner was the subject of the penalty, and the penalty corresponds to the name of the prisoner, and the name of the penalty was also the name of the prisoner. The classification of punishment was an important reference for investigating the classification of prisoners. In the Qin and early Han dynasties, the order of the labor sentence was Chengdan chute for tattoo, Chengdan chuck for the end, resistance to concubine, and resistance to Sikou. In the labor sentence sequence, according to the research results of Mr. Han Shufeng, Chengdanzhong and Guixinbaican belong to the same rank, and the concubines and Sikou are the same. In this way, the level of punishment is: death penalty-Cheng Dan Zhong, Gui Xing Bai Can-Li Chen concubine, Si Kou. Signs of Emperor Wen's reform can be seen in the laws of the Qin and early Han dynasties, showing that corporal punishment is gradually narrowing its scope of application. Corporal punishment is only combined with the punishment of Chengdan in labor and servitude, which laid the foundation for the abolition of corporal punishment. During this period, corporal punishment was mainly used as the criterion for the distinction between the seriousness and the seriousness of Chengdanzong. In the thirteenth year of Emperor Wen's reform, the tattooing, smashing, and beheading punishments combined with Chengdan Zhong were abolished. After the reform, corporal punishment was abolished, and instruments of torture and flogging became the standard of distinction. According to the "Han Shu" record: the gauntlet has played a role in adding punishment, that is, the Tingcheng Danfang evolved into a tongchengdan tong, and the Fucheng Danfang evolved into a tongchengdan tong three hundred, and the left toe Chengdan was cut. The pound evolved into a five-hundred pound. In the period of Emperor Jing, the gauntlet was reduced from 300 to 200, and from 500 to 300. According to Xuanquan's simplified Han Jianwen, the gangsters in Chengdan were divided into four classes, and the instruments of torture were used as

additional punishment methods, namely: tongchengdan tong, tongchengdan tong titanium left toe, and tongchengchengdan tong titanium Right toe, tongs Chengdan and left and right toes. The grades of Xingcheng Danchong were changed to all grades of Nianqicheng Danchong. The Japanese scholar Mr. Miyazaka Kita believes that the ghost pay penalty is generally applicable to those with noble status and those with special status, and the ghost pay penalty is a criminal with a special status. Mr. Zhang Jianguo believed that in the Emperor Wu's period, in order to reduce the highest sentence of the concubine Chengdan to five years, the concubines were excluded from the labor sentence, and the concubines gradually disappeared. Due to limited materials, the reason for the disappearance of "hou" cannot be determined, but based on the unseen records in the Han bamboo slips, it is roughly speculated that it has disappeared in the early Han Dynasty. The above is the change in the order of prisoners before and after Emperor Wen's reform. After the reform, these names such as Chengdanzhong no longer represent the identity of prisoners, labor sentence and other content, but "exempted for years" represent different sentences. The sentence for Chengdan tong was changed from six years to five years, the sentence of Wanchengdan tong was changed from five years to four years, and the period for Guixian Baichan was changed from four years to three years, gradually becoming a formal sentence. Sikou remained unchanged for two years. Penalties are divided by the term of imprisonment. After Emperor Wu's reign, a new sequence of prisoners was formed by Nianchuangcheng Danchong, Wancheng Danchong, Guixin Baican, and Si Kou. This is corroborated by the punishment sequence recorded in the Eastern Han Bamboo Slips 212 and 254 on Shangde Street, Changsha: "half cut, abandoned market, tongs (right stop), tongs, Wanchengdan tong, Guixin Baiyun, Sikou".

## 1.2 Changes in Criminal Family Structure and Property

The abolition of the system of childbirth allowed the prisoners' family structure and property to be preserved. Before the reform of Emperor Wen, criminals would not only be sentenced to themselves, but also harm their families. "Zhangjiashan Han Bamboo Slips · Two Years Laws and Decree" 174-175 records: "Sinners who have spent their lives in the city, those who have paid more than a ghost, and those who sit in rape and rot will receive their wives, sons, wealth, and fields. Their sons have wives and husbands. , If you are a household, have a nobleman, and are over seventeen years old, if you are a wife and abandon or widowed, they are not accepted." According to this, in Qin and early Han, wives and sons of Wanchengdan and above became incomes, and they were confiscated by the government. This family structure is destroyed. "Sleeping Tiger Land Qin Bamboo Slips · Questions and Answers on the Law" bamboo slip 116: "The official minister will take Chengdan, and he will be Chengdan, and he will accept his wife and son. If the child is not to be parted, the mother will receive it." The minister committed another crime and was finished as Chengdan, and his wife and son were admitted to the government. It shows that prisoners above Chengdanzhong will implicate their family members. The abolition of the system of childbirth reflects the trend that the scope of punishment has been reduced from the family to the prisoner himself. Of course, the entire family is still implicated for serious crimes. A Japanese scholar, Mr. Totani, believes that the relationship between tyrannical rebellion and clan punishment in the Han Dynasty can be established...The scope of the family punishment is parents, wives, and brothers. In other words, clan punishment is applicable to vicious crimes of injustice, and the scope of the application of clan punishment has been different from that of the Qin Dynasty, which is beyond the scope of the application of the admission system in the Qin Dynasty.

Before the reform of Emperor Wen, the property of prisoners above Wanchengdan and Guixian had to be confiscated. "Sleeping Tiger Land Qin Bamboo Slips · Sealed Diagnosis · Sealed Shou" is a record of the family property of Shiwujia. According to the document, the family, wives, sons, concubines, clothes, and livestock of a certain Lishi five (fifth) who have a scorpion are sealed. In addition, relevant information is recorded in detail, such as the layout of the real estate, materials, furniture, and the belongings of the door, including family members and the specific circumstances of each member. The ministers, concubines, and the number and species of livestock must be strictly recorded. But after Emperor Wen abolished the system of accepting children, his wife and

son were no longer included in the government, and family property was immediately retained. The fact that wives and sons are not confiscated means that wives and sons will not become incomes, their identity will not be affected by the crimes of their husbands, and the family structure is preserved. As the basis of family daily life, family property provides protection for wives, sons, and prisoners after they have served their sentences, making it easier to integrate into normal social life. The abolition of the system of accepting children has saved the wives and sons of a large number of prisoners from being degraded, and this group controlled by the government no longer exists.

## 2. The Development of Prisoners during the Wei, Jin, Southern and Northern Dynasties

The Wei, Jin, Southern and Northern Dynasties period was an important transitional period from the initial period of the Qin and Han Dynasties to the mature period of the Sui and Tang Dynasties. This period was characterized by the split of the country and the change of regime, which affected the law, that is, frequent legislative activities. The important codes promulgated were the “New Law”, “Taishi Law”, “Later Wei Law” and “Qi Law”. The maturity of legislative technology, the improvement of legal forms, and the perfection of the penalty system. Penalties are imposed on prisoners. The development of the penalty system is closely related to the prisoners. The reform of the penalty system has affected the changes in the prison system.

### 2.1 Looking At the Development of the Prisoner System from Changes in Penalties

As a period of great turmoil in Chinese history, the legal system of Wei, Jin, Southern and Northern Dynasties has the characteristics of repetition and summary in the history of Chinese legal system. “Book of Jin·Criminal Law” contains: “Those who did not change the old law of the Han Dynasty that did not work in the Wei Dynasty will be eliminated, and the five punishments are based on the ancient justice system. There are three death sentences, four punishments, three punishments for completion and three punishments for punishment. Eleven, six fines, seven miscellaneous crimes, and thirty-seven people are considered to be the first of the law.” Putting forward a statement different from the old five penalties is actually a reform of the penal system. The Jin Dynasty took over Cao Wei and replaced them, achieving a short-term unity, and the rulers chose to guide the reform of the legal system with the idea of “punishment, lenient, forbidden and simplified”. “The Six Codes of Tang Dynasty” records: “Dapi's penalties are third class, guilty punishment is fourth class, redemption and fine are five class each, and miscellaneous crimes are several.” These are essentially the continuation of Wei and Jin's penal reform of Emperor Wen. The Northern Zhou Dynasty followed the principle of severe punishment, but this could not change the overall process of light punishment in the Wei, Jin, Southern and Northern Dynasties. In the thirteenth year of Emperor Wen of the Han Dynasty, the removal of physical punishment and a fixed period of imprisonment laid the foundation for the reform of the penal system in the Wei, Jin, Southern and Northern Dynasties. Specifically, the Wei, Jin, Southern and Northern Dynasties have made progress in simplifying and improving penalties.

Table 1 the Names List of Cao Wei and Jin

	Wei Jin	
Penal system	Death penalty three, stubborn penalty four, completion penalty three, penalty three, redemption eleven, fine six, miscellaneous crime seven	Three large-scale penalties, four penalties, five penalties, five fines, and miscellaneous crimes
TTL	37	Above 17

It can be seen from the table that the Jin's penalty system, the types of fines and ransoms have been reduced, and the completion of the penalty and the execution of the penalty have been merged into the gang penalty. Mr. Zhang Jianguo believes that, first, although the Han tongchengdanqi was a five-year-old punishment, it was divided into four classes, and it was directly inherited by Wei Lu's punishment. In the Jin Dynasty, the four grades of Xuan Xing in the Han and Wei Dynasties were combined into one, and the Xuan Xing was pushed to four, three, and two years old. Second, Wei Lu generally follows the Han system, but the difference is that the name of the sentence is directly linked to the sentence. The level of punishment corresponds to the level of prisoners, and

changes in the penalty system cause changes in the structure of prisoners' hierarchy. After the reform of Emperor Wen, the basic sequence of punishment was the punishment of tongchengdan pounding, the punishment of wanchengdan pounding, the punishment of ghost salary and the punishment of pirates. The Han tong Chengdan tongs were divided into four grades, namely the left and right toes of the tongchengdan tong, the right toes of the tongchengdan tong, the left toe of the tongchengdan tong, and the left toe of the tongchengdan tong. These four levels evolved into the four levels of Wei Lu's punishment, and the Han Dynasty Wancheng Danzhong, Guixin Baican, and Si Kou evolved into three levels of execution. The names of penalties changed during the Han and Wei Dynasties, but the sentence served remained unchanged. Wei Lu's penalty was four-year-old, three-year-old, and two-year-old, combining the three levels of the Han Dynasty into a third-class penalty.

In the Western Han Dynasty, the first-class death reduction was 雞 plied Cheng Danzhong, and the first-class death reduction in the Eastern Han Dynasty was migration punishment, and he was relocated to remote places. Mr. Han Shufeng regards Xue Kuang's "reduction of death penalty first, moving to Dunhuang" as the seed of the transition from "imprisonment→death penalty" to "exile→death penalty" in the late Western Han Dynasty. The penal system in the Eastern Han Dynasty has begun to change, and the reduction of deaths from prisoners has changed from "imprisonment" to "immigrant penalty." So for criminals, what is the difference between the tongchengdanqi and migration punishment? Perhaps we can find clues from the Qin Dynasty's transfer of punishment. "Sleeping Tiger Land Qin Bamboo Slips · Closing Diagnosis Style" The "Migration" book records Shi Wu Jia's request to have his biological son Shi Wu Bing severed and exiled to Shu, "to make lifelong not have to go to Chu (moving) as discussed", or It is permissible to think that the term of imprisonment is different for the prisoners.

Regarding the penal system of the Wei, Jin, Southern and Northern Dynasties, Mr. Xue Jing believes that it is showing an increasingly lenient situation, which mainly reflects: first, the continuous range of sitting is continuously reduced; second, the palace punishment is finally abolished; third, the new five punishments have initially formed. The scope of continuous sitting has been reduced, reducing the chance that relatives or other persons unrelated to the crime will be implicated, and reducing the number of people punished due to clan punishment. The abolition of palace punishment means that corporal punishment has been basically abolished in the history of Chinese punishment, and prisoners will be free from corporal punishment in the true sense. The Wei, Jin, Southern and Northern Dynasties were an important period for the transition from the old five penalties to the new five penalties. The Northern Wei Dynasty included the death penalty as a normal penalty, which formed a transition between the death penalty and the imprisonment, solved the problem of severe death penalty and lighter death penalty, and mediated the death penalty. The degree of penalties between the punishment and the punishment. The Eastern Jin and Southern Dynasties roughly cited Wei and Jin criminal names. The Northern Dynasties were dominated by ethnic minority regimes, and the sinicization process including the penalty system began. Taking the Northern Wei Dynasty as an example, Mr. Xue Jing believes that the penalty reform during Emperor Xiaowen's period abolished the "disappearing naked" method of execution; restricting the use of big shackles. The execution of penalties tends to be humane, and penal reforms preserve the face of the inmates and reduce the burden of prisoners on wearing torture instruments.

## **2.2 Inheritance of the Source of Criminals in the Qin and Han Dynasties**

The author believes that the sources of prisoners in the Qin and Han dynasties were mainly those with nobles, those without nobles, prisoners, and slaves. In the Qin and Han dynasties, the twentieth-class nobility system was the most important indicator of social status. In the Qin Dynasty, the nobility obtained by military service was used to determine its status and status in the Western Han Dynasty. Mr. Yan Buke believes that the reforms in the late Western Han Dynasty seem to have an attempt to include all bureaucrats in the Han Dynasty into the Western Zhou hierarchy contained in it. The promotion of the princes in West Friday reached its peak during the Wang Mang period, and the Wang Mang regime died shortly. Although the twentieth-class noble system

continued to be implemented in the Eastern Han Dynasty, the noble system had begun to lose its original function. During the Wei and Jin Dynasties, the five-class noble system of the Western Zhou Dynasty was restored again. The difference is that when the Western Jin Dynasty implemented the fifth-class noble system, the Han Dynasty noble titles such as the princes and the princes, the Guanwei marquis, etc. were retained, forming a “king-fifth-class noble-lie princes-inside and outside the Guan” “Hou” the new noble system. At the same time, the Western Jin Dynasty maintained the principle of “no kings with different surnames” during the Han and Wei dynasties and restricted the kings to clan families with the same surname to ensure the stability of the royal family's power. It can be said that the twentieth-class noble system in the Wei, Jin, Southern and Northern Dynasties has gradually lost its independence. The status of social members is not only judged by noble rank. For example, the rank privileges embodied in the penalty in this period are the “eight controversies” and “official duties.” That is to say, reduce and exempt punishment based on “friendship, old age, talent, ability, merit, nobility, diligence, and guest”, as well as the official position and quality of the official to offset the crime. In the Qin and Han dynasties, penalties were reduced and exempted mainly by knighthood. In the Wei, Jin, Southern and Northern Dynasties, penalties were reduced or exempted by status and official position. Although the standards were different, the essence was the same. From this point of view, the Wei, Jin, Southern and Northern Dynasties inherited the source of prisoners in the Qin and Han Dynasties.

### 3. Conclusion

After Emperor Wen's reform, corporal punishment was abolished, the sentence was fixed, and the system of childbirth was abolished. The various levels of Xingcheng Danfang changed to the various grades of Xingcheng Danfang, and the instruments of torture and gauntlet became the distinguishing standard. The ghosts and white cans seen in the bamboo slips of the Han Dynasty are already criminals who tend to be ordinary. The concubines of Hou and the lieutenants gradually disappeared. After the Emperor Wu's reign, a new sequence of prisoners was formed by tong tong cheng dan chung, wan cheng dan chung, gui xin bai chan, and Si Kou. The abolition of the system of accepting children reflects the trend that the scope of punishment has been reduced from the family to the prisoner itself. Family members will not be confiscated into the government for a crime committed by one person. This ensures the integrity of the family structure and the preservation of family property.

Penalties in the Wei, Jin, Southern and Northern Dynasties showed a lenient trend, inheriting the Qin and Han prison system. In the Wei, Jin, Southern and Northern Dynasties, the range of confinement was reduced, the imperial punishment was abolished, and the prisoners were truly exempt from physical punishment. The execution of the penalty shows a humane side. In the Wei, Jin, Southern and Northern Dynasties, the twentieth-class noble system has gradually lost its independence, and the status of social members is not only judged by noble rank. Although the standards are different, they are essentially the same.

Old font style. Initial letters of every word are capitalized, words like “is”, “or”, “then”, etc. should not be capitalized unless they are the first word of the title. No formulas or special characters of any form or language are allowed in the title.

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