

A Comparative Study of Revenge and Law in the Chinese and Western Cultures

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Abstract

Revenge phenomena existed as early as in the primitive society, and never fade out from human history throughout all changes. This article starts from the revenge phenomena in the eastern and western histories and cultures, studies the characteristics of revenges under different cultures and their relationships with laws, and finds that the revenges in the Chinese culture are oriented by the collective value, focusing on filial piety. Ethics and law have a long-term struggles. The revenges in the Western cultures are oriented by the individual value, focusing on personal honors. The compensation system, refuge system are closer to the modern legal spirit.

Key words: Revenge; Ethics; Law; Culture; Compensation

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INTRODUCTION

Revenge refers to a phenomenon that a victim tries to hurt the offender without considering all costs and dangers. It is an irrational behavior contrary to social norms. (Elster, 1990) The tradition of revenge originated in the primitive society, manifested as the revenges of blood relations.

When a member of a clan or tribe suffers injuries from a member of another clan or tribe, the clan or tribe of the victim considers it as the violation and damage to the whole tribe, and carry out a collective revenge to the clan or tribe of the perpetrator in order to obtain the appropriate compensation. (He, 1995)

The concepts of revenge, vendetta, punishment, and law have combined with human history throughout thousands of years, undergone all the changes, and evolved a variety of relationships. This article attempts to compare the phenomenon of revenges and laws in the Chinese and western cultures, explores their own characteristics, and tries to explain the reason of the revenge psychological differences in different nations.

1. THE REVENGES IN THE CHINESE CULTURE

1.1 The Revenges in the Culture in Different Periods

The earliest record of revenge in the Chinese history comes from the ancient myths. Though myths and legends do not have historical evidences, they've passed down throughout the long history and from generation to generation, deeply reflecting the most primary and inner value of a nation. The most famous myths about revenge are the mythical bird Jing Wei which tried to fill up the sea with pebbles and Xing Tian's revenge recorded in *Shan Hai Jing*. Jing Wei drowned in the sea and transformed to be a bird, vowing to fill the sea as a revenge. Xing Tian was chopped off his head, he then saw with nipples and kept on fighting. These two widespread myths have been universally recognized and respected, and have also reflected that primitive society had revenges.

The earliest record about revenge in the slave society is that Wang Hai, the ancestor of Yin Ren, once lived in Youyiguo. Youyiguo coveted his sheep and cattle. In order to occupy them, Mian Chen, the king of Youyiguo killed

and dismembered Wang Hai. Wei, the son of Wang Hai, was crowned as the king by Yin Ren. He went to He Bo to borrow armies to attack Youyiguo. He Bo disdained the behavior of Youyiguo and agreed to lend him armies. Wei eventually killed Mian Chen and almost destroyed Youyiguo (Zhu, 1992, p.32). This historical record reflects that revenges for one's father can obtain recognition and help and tend to be expanding.

The revenges from the Spring and Autumn Period to the Qin Dynasty were performed as the combination of wars among the vassal states and personal revenges of rangers. The most famous revenge war in vassal state wars is Qi Xianggong's war of nine generation's family feud. The representative revenge combined with a vassal state war and a ranger's personal revenge is the famous story of Jingke's attack to the Qin king. Here, in addition to avenge for the king, the avenger also revenged for justice as "a gentleman is ready to die for his bosom friends". In the Spring and Autumn Period revenges for the king or for the parents have been generally recognized. The representative of the Confucian school, Confucius, also holds that a people with a parental feud should always bear in mind the hatred. He should not live in the country where his enemy lives. When meets the enemy on the street he should not turn back to take weapons but carry weapon with him, ready to revenge at any time. When it comes to the unified period of Qin dynasty, due to the harsh laws and dominant position of legalism, private retaliations have been banned. Though retaliations during this period have been suppressed, the Qin dynasty perished after two generations, it did not have a profound impact on the inhibition of revenges in history.

Retaliations developed to a climax in the Western Han and Eastern Han Dynasties, and one in seven murders was triggered by reprisal. It can be seen that how prevalent retaliations were at the time (Li, 2012, p.2). A lot of retaliation cases have been recorded in this period, more have been described in *Han Shu* and *Hou Han Shu*, such as *Hua Yang Guo Zhi*, *Han Zhong Shi Nv*, *Han Shu*, *Zhai Fang Jin Zhuan*, *Hou Han Shu*, *Guo Fu Xu Lie Zhuan*, and *Hou Han Shu*, *Wang Chang Lie Zhuan*, etc. The main reason for the prevalence of retaliation in the Western Han and Eastern Han Dynasties is the policy of "reject all other schools of thought and respect only Confucianism" and the dominant position of Confucianism. Dong Zhongshu extremely respected "filial piety", holding that one should be loyal to the king and be filial to the parents. This Confucian thought of filial piety and ethics passed down as the main ideology of the Chinese nation in the Western Han and Eastern Han Dynasties. Until today, the thought of "filial piety is the most important of all virtues" still occupies an important position in the heart of the Chinese nation. A people "cannot live under the same sky" with his enemy in a feud of the parents or king. If he does not revenge, he will be disdained by the people and hard to

gain a foothold. This psychology of revenge influenced or coerced in a sense by the "filial piety" and "ethics" is deeply rooted in the Chinese nation, and can still be find with its trace in the subsequent thousands of years of history.

After the Western Han and Eastern Han Dynasties to Wei and Jin Dynasties and Ming and Qing Dynasties, due to the improvement of laws, there have been varying degrees of conflicts between ethics and law. The laws prohibited "private revenge", but the usual result was that laws had to make an appropriate compromise to ethics, so revenge behaviors during this period were not uncommon. Xu Yuanqin's case of killing official and revenge in the Wu Zetian Dynasty is the representative of conflict between law and ethics. Xi Yuanqin believed that his father was executed because the county magistrate had a personal grudge with his father. The sentence was unfair. He killed the county magistrate for his father and surrenders himself to the police. The public opinion at the time generally showed a sympathy to him, holding that although his behavior was contrary to the law, he was still worthy of respect. This case raised wide discussions at the time. At last the emperor Wu Zetian sentenced Xu Yuanqin to death to maintain the dignity of law, but praised his filial piety at his funeral. The sentence has been emulated by the later generations. The laws of the Song Dynasty did not make an explicit stipulation on revenges, only handed over this kind of cases to the emperor. "The laws of the Yuan Dynasty held that a son who revenged for his father was innocent. The laws of the Ming and Qing Dynasties made a slight amendment, giving a pardon or punishment as per circumstances" (Wang, 2010. p.39). In this period of prosperous feudalism, the form of retaliation developed into a diversity of rebellions against the authorities and enforcing justice on behalf of heaven, among which the *Water Margin* is the most representative. Why people agreed with and respected such retaliations against the authorities, on one hand, is because the legal system at the time was not complete. The right of discourse was controlled in elites and it's difficult to achieve fairness, justice and appeal to the office. On the other hand, the masses had a natural sympathy to the people at the bottom of society who was at a similar situation, and saw a hope brought about by the fights.

The revenges in the modern times did not change essentially compared with before, this is because the entire Chinese nation in this period was bullied by foreign powers and plagued by domestic wars and Sino-Japanese War. The characteristics of the revenges are nationality, rebellion and fusion with wars. For the traditional revenge for the family, laws were still in a position to compromise onethics, among which "Shi Jianqiao's case" is the most representative. Because of the sympathy from the public, Shi Jianqiao, who committed a murder for revenge was granted with an amnesty after eleven months' imprisonment.

1.2 The Characteristics of Retaliations in the Chinese Culture

The characteristics of retaliations in the Chinese culture can be summarized in the following six aspects.

1.2.1 Retaliation Has a Strong Ethical Sense

The most obvious feature of revenges in the Chinese culture is the strong ethical sense. From the revenges of primitive instinct in the primitive society and slave society, to “a people cannot live under the same sky with his enemy of a parents’ vengeance” led by “filial piety”, to the Tang and Song Dynasties when the thought of revenges has been evolved. Revenges for the King or father has become a responsibility as well as an obligation.

By the influences of the same ethical culture, revenges for different objects have a difference in obligation. The revenges for the monarch or parents are in the first position and are compelling. Revenge for a brother is also an obligation, but this obligation is under that for the father. Confucianism also praises revenge for friends, but this obligation is far below the revenge for the family, and revenge for friends cannot injure displaying filial piety to one’s parents. For the revenges marked by a sense of ethics, their core is “filial piety.”

1.2.2 Avengers Mostly Have a Positive Image

In many revenge cases, from Jing Wei, Xin Tian in the ancient myths, to Qi Huangong, the Yue king Gou Jian, Xu Yuanqing, then Wu Song and Lu Zhishen in the *Water Margin*, to Dou E, Lü Siniang and Shi Jianqiao in the modern times, these people have become heroes in the hearts of ordinary people or received deep sympathy. It is widely believed that retaliation is a proper act and a people who is weak but not afraid of the authorities is worthy of admiration. Indeed, the avengers who have been testified by the history can be recorded are mostly because of their great, positive impacts, and those negative revenges are not eligible for the historians to describe. However, despite of this reason, these far-spreading avengers’ stories have passed to the descendants with the information of revenge with the positive images.

1.2.3 The Conflict Between Ethics and Law in the Trials of Revenges

The conflict between ethics and law in the trials of revenges is a major feature of revenges in the Chinese culture. Before the Western Han and Eastern Han Dynasties when the legal system was not improved, people’s behaviors were more restrained by the morality and ethics, which are called by the Japanese scholar Suijichenzhong as the “period when retaliations have been generally recognized”. From the Tang Dynasty to the modern times, the legal system has become increasingly improved, the laws began to ban retaliations. However, when there were cases of revenge for one’s father, the laws had to compromise to the Confucian ethics which has won approvals from the public. This can be testified in Xu Yuanqing’s case in the Wu Zetian Dynasty and Shi

Jianqiao’s case in the modern times. It can be said that the entire ancient legal history is actually a history which struggled and compromised with the Confucian ethics.

1.2.4 The Trend of Shrinking the Range of Revenge

Throughout the retaliation phenomena in the Chinese history, there is a trend of shrinking the range of revenge. Looking from the perspective of subject, revenges developed from the primitive society and slave society when a people was attacked or killed, the whole tribe or clan would revenge for him, to the revenges based on the family in the feudal society, when the close family members became the subject to revenge. Looking from the perspective of object, in the primitive society and slave society, any member of a clan or tribe might become the object of revenge, and in the feudal society, the object of revenge became the relatives or family members of the perpetrator, except for women and children. In the modern times, the object of revenge became only the perpetrator himself. The implementation of revenges developed from the initial public revenges to be hidden private revenges. This trend of shrinking range of revenge is the result of increasing improvement of the legal system, and also reflects the progress of human civilization.

1.2.5 The Revenges Pursue a Single Result

Although retaliations in the Chinese culture have evolved, their pursuit remains unchanged as a single result of death. This is different from the retaliations in the Western culture. After the concept of property appeared in the Western cultures, property compensation is allowed as an alternative to retaliations. However, a result of property compensation as the substitute for death is never acceptable in the Chinese culture. This is closely related to the Confucian ethics, which holds that a feudal moral people should “regard money as nothing”, so how can he abandon the deadly hatred for money. Even if in order to survive, he wishes to accept the property compensation, he will be disdained by the people and not tolerated by the ethics. *Tang Law* clearly prohibits private settlements. “If one’s grandparents, parents or husband are killed, and he privately settles with the perpetrator, he will be sentenced to exile two thousand miles away, and his relatives will be put into imprisonment for two and a half years.” (Nobushige, 2013, p.9) Until today, it is still difficult for people to accept compensation as a substitute for death.

1.2.6 Retaliations Have Been Rooted in the National Psychology

It is precisely because the retaliations in the Chinese culture have a strong ethical color, marked with “filial piety” and other moral stigmas, plus that the revenge stories in the long history have all positive images, the thought of revenges is deeply rooted in the national psychology. “If one does not revenge on his enemies he cannot be regarded as a gentleman”, “10 years are not late for a gentleman to seek vengeance” have become the familiar words of people.

2. THE REVENGES IN THE WESTERN CULTURES

The Western cultures also have very common phenomenon of retaliations, which also experienced the evolution from the revenges of clan or tribe to the personal revenges. However, the Western cultures are individual-oriented, advocating individual value, honor and dignity, so there are many differences in the revenges between the Chinese and Western cultures.

2.1 The Revenge in Western Culture Regards Individual Value as Core

Homer Epic is the earliest epic of ancient Greece, in the book, *Iliad* recorded the story of Achilles's revenge. Achilles is the offspring of god and mortal, he is a brave and battlewise warrior, and once led the Greek army beat the Trojan army in the Trojan War. After a battle success, the commander Agamemnon robbed Achilles's booty, which was considered as an affront to his honor by Achilles. He refused to fight any more and the Greek army thus received huge rout, and Agamemnon sent back the female slave to beg for his return to the battlefield, but Achilles was still unimpressed. Until his best friend was killed by Hector on the battlefield, he cried and regretted, determined to revenge for him, then he returned to the battlefield, killed Hector, and nailed Hector's corpse on chariots for a parade. This revenge story fully shows that western culture regards individual honor and value as the core, Achilles refused to fight because of his own honor being insulted, even though the Greek army was defeated, he didn't fight again for his country and national honor as in eastern culture, the reason why he went back to the battlefield was to revenge for his best friend's death, he killed the enemy and even humiliated the dead body of the enemy, despite the opposition from people. Obviously, the revenge in western culture is to realize individual value and win individual honor.

2.2 The Revenge in Western Culture Usually Operate in Multi-Approaches

The revenge in Chinese culture often operates in a single approach, the content is generally revenge for monarch, for parent, for friendly revenge. And if killing the enemy complete, revenge succeed, killing uncompleted, revenge failed, but the spirit of revenge is commendable and memorable for the posterity. The revenge story in western culture often contains multiple approaches and more complex content and relationship, and it's difficult to tell who is the successful avenger in the end. In the story of Orestes in Greek mythology as example, in order to win the war, the Greek commander Agamemnon killed his daughter and sacrificed her to the goddess Artemis, when he returned with a triumph, his wife joined with his lover killed him for the loss of daughter. Agamemnon's son Orestes killed his mother to revenge for his father,

and then was pursued by Nemesis, the goddess of Furies. Finally, Orestes escaped to the court of Athena for the judgment of god, and was eventually pardoned. The revenge in this story includes Agamemnon's wife revenged for daughter and killed her husband, the son Orestes revenged for his father and killed his mother, also includes the Nemesis's revenge to Orestes. In Shakespeare's works *Hamlet*, the revenge also includes, Hamlet's uncle killed Hamlet's father and married Hamlet's mother, Hamlet revenged to his uncle, Hamlet's father killed the king of Norway, Norwegian prince revenged to Hamlet's father, Hamlet killed Polonius, and the son of Polonius revenged to Hamlet (Chen, 2011, p.17).

2.3 The Revenge in Western Culture Often Accompanies With Spiritual and Moral Struggle

Another obvious feature of the revenge in western culture is the process often companies with spiritual and moral struggle, which does not exist in Chinese culture. In Chinese culture, the revenge behavior is supported by Confucianism and the moral sense. In the mythology of Orestes, Agamemnon's wife revenging for her daughter is "justice", but killing her husband is contrary to the ethics. Orestes revenging for father is compulsory, but matricide is a flagrance. He followed the guidance of Apollo and killed his mother, but received the hunting of Nemesis, and his spirit was going to collapse. In the end, only when all these appealed to the courts and ruled by the "law", can they eventually stopped the endless revenge.

2.4 The Revenge in Western Culture Could Accept Compensation Instead of Killing

After the appearance of private property, the revenge in western culture alternative compensation. Such as in *Yak in Koran*: "O ye who believe! Retaliation is prescribed for you in the matter of the murdered; the freeman for the freeman, and the slave for the slave, and the female for the female." (Nobushige, 2013, p.8) In some laws, they made a strict division for the compensation amount in accordance to the object of infringement,

In the law of Ripuarian, they determine the compensation for murder according to different species, killing Frank people compensate for two hundred shillings, killing Burgundy people compensate for one hundred and sixty shillings, and killing Roman compensates for one hundred shillings. (Nobushige, 2013, p.9)

The revenge compensation system in western culture gradually became perfect and advanced, and was accepted by the general public. However, the revenge compensation has no place in eastern culture, in *Tang Law*, it forbade private reconciliation (Huo, 2005, p.47), and the public despised using property as death compensation. Japanese also believe that revenge compensation would disgrace the Bushido spirit. And such differences also affected the acceptance and recognition of procedural law, civil law and other laws in eastern and western culture.

2.5 The Shelter in Western Culture

The origin of shelter is associated with the religious taboo, generally speaking, temple, altar, and cathedral are sacred places, if the avenger killing people here would be irreverent to the god, and he would be severely punished by the god. So usually people escape into these sacred places for asylum. In addition, shelter city also exists in some regional cultures, the city is used as a shelter for killers, but only for the manslaughter. Once they enter the shelter city, the avenger are forbade to revenge in the city. Nevertheless, the shelter system in western culture is different from the moving system in Chinese ancient culture (e.g., in *Tang Law* "The murderers who should die yet pardoned shall move thousands of miles away." (Nobushige, 2013, p.10) The western system is more complete, and the people could be protected by religious and public power. Shelter system is beneficial for avoiding the bloodshed and death of revenge, and making reconciliation, negotiation and compensation possible, which is also the prototype of extradition system.

CONCLUSION

From the above analysis of revenge in Chinese and western cultures, it shows that because of history and culture, including the influential feudal code and religion, the revenges have huge differences. In general, the revenge in Chinese culture is collectivism-oriented, due to the influence of feudal and filial culture, the avenger has moral obligation. And on the problem of revenge, the legal and moral code confliction exists, but in most cases, the law compromised to the feudal ethic. The revenge in western culture is individual-orientated, its culture core emphasizes individual honor and value, the revenge

theme often confronts spiritual and moral struggle for the undefined evaluation standard. On the problem of revenge, there are alternative compensation and shelter system, which are more similar with modern legislative spirit. Therefore, after observing the revenge phenomenon as research object, the article finds out that the differences between east and west countries on punishment and legislative spirit acceptance lies in the profound historical and cultural reasons. The revenge thought "blood for blood" could not be improved overnight, it shall be changed from the cultural tradition of our nation, and it requires further study of the development.

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