

“Fu” in “Yi Ching” and Contemporary “Evidence”

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Abstract: The remarks of hexagram lines in the Yi Ching record numerous legal phenomena. The author explores abstruse and covert meanings and exposes subtleties of the expression “being conducive to the handling of criminal trials” in the remarks of lines attached to Song, Guai etc. During the process, the author applies Chinese exegetics, double-evidence and other methods, finding out that the “Fu” of Yi Ching implying evidence. The conclusions are the philosophy of the evidence-based judgment germinated during the Western Zhou period.

1. Introduction

“Yi Ching” is the oldest and most prominent classic in history, and it can be called the source of my country's classic culture. At the same time, “Yi Ching” is also a masterpiece, involving military, mathematics, medicine and other fields. Compared with other disciplines, there are not many interpretations of “Yi Ching” from a legal perspective, but it is extremely necessary.

There are many hexagrams in “Yi Ching” that “use prison”, which explains what should happen in criminal trials and punishments. There are also many hexagrams that are records of people's daily life, among which are the settlement and prevention of some civil disputes. Regardless of whether it is the settlement of criminal trials or civil disputes, at this time, it is no longer dependent on divine judgments, but more on evidence. After textual research, the word “Fu” in the Xingyu hexagram implies the contemporary meaning of “evidence”.

2. The Original Meaning of “Fu” in “Yi Ching”

“Fu” appears many times in “Yi Ching” with different meanings. Looking up the word source of “Fu”, there are also many interpretations. One is the meaning of faithfulness and honesty. This is the most commonly used interpretation, and it is also the most commonly used interpretation in Yi Ching. Fu's original meaning is “incubate”. “Shuowen”: “Fu, egg Fu also. From the claw, from the son. One is the letter.” “Erya·Shiguo”: “Fu, the letter.” Xu Kai's biography: “Fu, the letter. Bird of Fu's eggs are as expected, and faith is not broken.” Duan Yucai's note: “This is the extended meaning of 'egg is Fu'. A chicken's egg must be a chicken, an egg must be a chicken, and the faith of people's words is true.”

From the textual research of the first Confucianism, we can see that Fu,, oracle bone inscriptions from the claw, from the child, the meaning of holding a child to breastfeed or a bird incubating an egg. Since both children and birds incubate their eggs on a regular basis without breaking their trust, it is extended to the meaning of “honesty, credibility”, such as “Shangshu·Lu Xing”: “Five Ci Jian Fu.”; “Poetry·Daya·Xia Wu”: “ Yongyan is worthy of his destiny, and he becomes the king's Fu.” Zheng Xuanjian: “Fu, faith is also.” Cheng Wang's Fu is Cheng Wang's credibility.

This “Fu” is also extended to the meaning of “trust and convince people”, such as “Poetry·Daya·Wen Wang”: “The king of ceremonies and punishments, and all nations are Fu.” Mao Chuan: “Fu, Xin Ye.” Zheng Xuanjian: “ The things of the king of rituals, the world's prestige and obedience.”; “Zuo Zhuan·Zhuangong Ten Years”: “Little faith is not good, God is Fu Fu.” It means that little credit has not been convinced, and God is not. Will bless.

Most of the commentary texts of “Yi Ching” interpret “Fu” as the meaning of honesty and

faithfulness. The meaning of “convinced” in the word “Fu” is still used today, such as “Shenfu Zhongwang” and so on. In addition to “fu” communicates with “incubation”, which is interpreted as honesty, “fu” also communicates with “floating”, “pain”, and “capture”.

“Fu” means “floating”: it means floating on the surface, impetuous, as in “Sixth day of the 姤”, “there is a longing, see the fierce, and the stubbornness is swaying”, Wang Bi's note: “Fu, still be impatient. “, “The husband's yin and irritable people are very irritating, and they use the yin of infidelity to lose their lead. It is ugly and ugly, and if the sow is impulsive.” Because of the impulsiveness of the sow. Worst of all, so this is a metaphor for the feminine way of losing ties.

“Fu” means “leaf”: it means the outer skin of the seed. Qing·Zhu Junsheng “Shuowen Tongxun Dingsheng·Fubu”: “Fu, borrowed as a bara.” “Poetry, Xiaoya, Datian” “no 稂, no 莠”. Han Zheng Xuan Jian: “It is said that Fu Jia was born but not in time.” Kong Yingda Shu: “The Fu is the skin of the millet outside the rice.”

“Fu” means “capture”: meaning capture. Wang Guowei's “Ghost Fang Kunyi Yaoxie”: “Fu is the original word for prisoners”. “Xiaoyu Ding”: “Fu people are three thousand and eighty-one people.”.

The “Chinese Character Origin Dictionary” believes that in order to differentiate the meaning of the word, Fu is used to express the meaning of good faith, and the meaning of hatching eggs is added with the meaning of “egg” and written “incubating”; the meaning of floating on the surface is also added with the meaning of “Water” is written as “floating” to express, the meaning of the seed's skin is expressed as “Fu” in addition to the meaning of the word, and the meaning of capture is expressed as “capture” in addition to the meaning of “person”.

It can be seen from the above that both the original meaning of Fu and the dedicated meaning of differentiation, faithfulness, honesty, and convincing have occupied a relatively dominant position.

3. The Meaning of “Fu” in “Yi Ching”

Since “Fu” has a convincing extension, how can people be convinced by further expansion? Speaking must have something to say, and doing things must be well-founded. Together, you must have evidence to speak and do things in order to make people convinced. Therefore, when “Fu” uses the meaning of “convincing”, it also implies the meaning of “evidence”. Especially in the hexagrams and lines involving litigation and prison, it is more appropriate to interpret the word “Fu” as evidence. According to the author’s research, these hexagrams mainly include “Zhi”, “Ge”, “Feng”, “Xiao Hu”, “Xi Kan”, “Jing”, “Zhong Fu” and so on. Limit, choose “Litigation”, “夬” to demonstrate.

“There is no good faith”, the usual explanation is “good faith is suffocated and the heart is wary”. This is the description and interpretation of “litigation” by most Confucian scholars. Just imagine, because of the lack of good faith, litigation will definitely occur. ? In other words, in the process of litigation, is it because “good faith” is blocked, and the heart is guarded and fearful, which finally leads to the final murder? Obviously, no matter what the situation is, “good faith” cannot justify itself in litigation. In daily social life, honesty is needed, but what is needed in litigation is evidence. The lack of “honesty” alone may not trigger litigation. Similarly, “honesty” alone cannot resolve litigation. On the other hand, if both parties are honest, will there be no litigation? Not necessarily. As long as there are interests, there will be competition for interests. As long as the positions of interests are different, “litigation” will inevitably occur. There is a saying in “Preface to Gua”: “There must be litigation in diet, so it is also necessary to receive litigation.” The 64 hexagrams of Zhouyi, the hexagram of “Litigation” is placed after the hexagram of “Need” because people have needs and needs. Desire will inevitably lead to contention, and contention will inevitably lead to litigation, just as “heaven and water go against each other”, this is the way of human nature. Therefore, litigation arises not because “good faith” is suffocated, but because people have needs and desires.

Since “good faith” does not make sense in litigation, let's suppose whether the most important key word in litigation, “evidence”, can be justified here. “There is suffocation, vigilance. Zhongji,

ultimately fierce.” This sentence can be interpreted as: In the lawsuit, if there is evidence that is choked, that is, if you can't produce enough evidence, you must be vigilant. Even if there is no problem in the middle of the lawsuit, the lawsuit will be lost in the end. “It is good to see adults, but it is not to involve Dachuan”: My lord, refers to the upright and honest judicial officer. Da Chuan was in a dangerous situation in the eyes of the ancients. Lai Zhide has said: “Whoever sees the adults, sees the Ninth Five-Year Plan to decide the lawsuit. It is not good for those involved in the big river, and it is not good for those who take the risk of litigation.” The above sentence can be interpreted as: In the case of insufficient evidence, if you can meet Qingzheng Honest judges (Ninth Five-Year Plan) are still auspicious, but if they are still in danger (including all unfavorable factors such as the judge's favoritism and the loss of evidence), they will be extremely disadvantaged.

“Xiang” said: “Heaven and water violate the law, and the gentleman starts by doing things.” Litigation is like the sky from east to west, and water from west to east, the two go against each other. This is immutable, so a gentleman must plan before he does something. Confucius said in “The Analects of Confucius: Yan Yuan”: “Hearing a lawsuit, I am still a person, and I must also make no lawsuit.” Many scholars combined this sentence to interpret the lawsuit hexagram to warn people to stop the lawsuit. In fact, judging from the “dietary lawsuits” in The Biography of Xiang and the Preface, the saint believes that litigation is inevitable, and there must be litigation when necessary. It is like the violation of heaven and water, which is inevitable. changing. It is precisely because this is human nature, like the immutable nature of heaven, that the gentleman is reminded to start things. As for the phrase “must also cause no litigation”, it is actually a rhetorical question, meaning: Hearing a lawsuit, I am just like an ordinary person, how can I avoid litigation inevitably? Implied meaning is impossible. This is consistent with the Xiang Zhuan and Preface Gua Zhuan made for Zhouyi.

In addition, judging from the hexagrams of the litigation hexagram, in the hexagrams, the hexagrams are “the end of good luck” and “the good sees the lord”; the sixth day “ends good luck”; the 92nd “no 咎”; the sixth third “ends good luck”; the ninety fourth” An Zhenji”; Ninth Five-Year “Lawsuit, Yuanji”. A hexagram has a total of six lines, symbolizing the different development stages of things. Four lines are good fortune and one line is innocent. Only the last line seems dangerous, but it is not clearly indicated as “bad”. Only in the whole hexagrams is it mentioned that “Zhongji is always evil”. Obviously, the original intent of the hexagram “Law” is not to ban litigation. Judging from the instructions of good and bad remorse, it means that it can be litigated-”Zhongji”, but it is not suitable to be litigated for a long time-”the end is bad”. From the perspective of the hexagram “Adults”, “It shows that in some cases it is beneficial to see officials, that is, it is beneficial to litigation. This also shows that the hexagram of “Litigation” is not what most scholars think is the closing of litigation.

To sum up, the whole litigation hexagram does not emphasize the closing of litigation, but it warns that if the “evidence” is choked, it will end up violent, and it will not be involved in the big river. Therefore, a gentleman must learn to work and plan, that is, pay attention to preservation from the beginning. Evidence to prevent danger and disputes. When disputes cannot be avoided and litigation, if you know that the other party has conclusive evidence, and your own evidence is insufficient, the lawsuit may be disadvantageous to you. At this time, you should stop the litigation. If you continue to argue, you will eventually lose the lawsuit. It can be seen from this that when people predict the good or bad of the lawsuit, they will use “fushou” as the standard, that is to say, they will refer to whether the evidence is indeed sufficient. If one's own evidence is suffocated, it should be terminated as auspicious. The hexagrams of the hexagram “Zhi” and the hexagrams such as “Bibi” and “Zhou Li” are mutually corroborating each other, indicating that the Western Zhou Dynasty has begun to attach importance to evidence.

4. The Tracing Meaning of “Fu” to Contemporary Evidence

Since the extended meaning of “Fu” is “evidence”, what exactly is “evidence”? What is the difference between this definition and the general definition of contemporary evidence? What is the

practical or theoretical significance of the extended interpretation of “Fu” for contemporary evidence?

Certificate is a simplified word for “zheng”. Proof, “Shuwen•Yanbu”: “Proof, sue. Congyan, Dengsheng.” Deng, knowing the word. (Collection 4646) Under the oracle bone inscriptions are holding beans with both hands (ritual vessels), and on the upper side is the two-legged upwards, which means to advance to the deity; some save hands. Bronze script inherits traditional oracle bone script, with similarities and minor differences. The original meaning of evidence is to inform and use reliable evidence to show or judge. The original meaning of the “boarding” component is promotion and advancement, indicating that this report must be carried out to a person or field higher than oneself, which is a bottom-up behavior. For example, “Ming Yi•Shang Liu”: “Deng” in “First ascend to the sky, later to the earth” means to ascend.

At the same time, Deng also has the meaning of stepping into the lobby. “Book of Rites•Yueling”: “Mengxia's moon, the farmer is to climb the wheat.” Zheng Xuan's note: “Deng, Jinye.”; “Huainanzi•Miao Chengxun”: “Splendid climbs to the temple, you are also expensive; Guizhang In the front, the quality is still present.” Gao You's note: “Deng, you still enter.” According to the meaning of “entering, entering” of “proof”, the original meaning of “proof” of evidence should contain “in-court nature”. Meaning.

According to “Zhengxiu Mutual Notes and Ritual Rhymes”, “Zheng and Zhengtong” (the abbreviated word). Syndrome and levy are cognate characters. “Zheng”, “Shuowen•Renbu”: “Zheng, Zhaoye. From the micro-province, Ren is the levy, and the one who walks in the micro and the literary (heard) reaches it.” The original meaning is a sign, and things will start The meaning of signs. According to the “Chinese Character Origin Dictionary”, levy can also be extended to the meaning of “verification, proof”. “Walking in the micro” shows that the fact is subtle and difficult to be discovered. “Informed” refers to signs that can be recognized and grasped by others. The general idea is that although some facts are hidden and insignificant, they are not easy to be discovered, but because they already exist objectively, they will inevitably leave signs of being recognized and grasped by others.

According to, is a simplified word for “according to”. “According to”, a pictophonetic character. From the hand. “Shuowen•Hand”: “According, holding the stick.” Duan Yucai's note: “It means relying on the arm and holding it. The person who holds the stick is called the stick.” “Guangya•Interpretation “: “According, stick also.” “Guangyun•Yuyun”: “According, Yiye.” Refers to Yizhan, relying on. The stick is held by the person who holds the stick, and the stick is held for the person. It is extended to mean relying, relying on, and credential. Jin Guo Pu's “Er Ya Preface”: “There is a lag in the matter, and you can rely on it.” According to this, placed in the context of “evidence”, “according to” means that the facts of a case need to be recognized by digging out hidden objective existence and relying on relevant facts.

Therefore, the so-called evidence is an objective existence, no matter how concealed, no matter how tiny, whether it is a fact, a material, or a kind of information, as long as it can prove the facts of the case and can be known by others. The cognition is the evidence. In short, evidence is an objective existence that can prove the facts of the case and can be recognized by people.

The key difference between this concept and the contemporary general concept of evidence lies in the word “existence”. The advantage of using the word “existence” to replace the words “material” and “information” is that it expands the extension of evidence. The word “existence” has a richer, broader and more straightforward connotation than words such as “materials”, “facts” and “information”. It can include more forms of evidence and is easier to understand and use. There is a saying in “Xi Ci Xia”: “The Tao also changes repeatedly, the change does not live, the cycle flows and the six emptiness. Up and down are impermanent, rigid and flexible, can not be used as a code, only suitable for changes.” In order to ensure an open evidence system to adapt to the development and changes of society at any time, the concept of evidence should be an open and flexible definition to adapt to a changing society.

Both the extended meaning of “Fu” in “Yi Ching” and the expansion of the concept of “evidence” have promoted the origin of “evidence” from the historical context.

At present, the authoritative opinion in the academic circle believes that the process of proof methods is in order of divine judgement, confession judgement, and evidence judgement, and these three stages are a process from irrationality to rationality, which means that these three stages are diachronic, but We can interpret from the “Fu” in “Yi Ching”: As early as the Western Zhou Dynasty, my country had the budding of the idea of ”evidence”. Although some scholars also admit that judges have adopted physical evidence and documentary evidence for a long time, because they mainly rely on the confession obtained by torture for convictions, they believe that the principle of evidence judgment has not been established. The author believes that this point of view is actually a narrow interpretation and contemporary fine positioning of the principle of evidence adjudication. It believes that the principle of evidence adjudication is only based on or entirely based on legally obtained evidence. When the facts are also based on some illegally obtained evidence or even based on the gods to judge, it cannot be said that the principle of evidence judging in this period has existed. Strictly speaking, without evidence, the facts of a case cannot be determined as the spiritual core of the principle of evidence judgment, so the above statement is also reasonable. However, when tracing the origin of the idea of evidence refereeing, it may be necessary to make a broad interpretation and broad historical positioning of the principle of evidence refereeing, which means that as long as it possesses the main characteristics of evidence refereeing, it can be regarded as the origin of evidence refereeing thought. Throughout all the definitions of the principle of evidence adjudication, the academic circles seem to emphasize the “evidence-based” in determining facts when defining the definition. Therefore, as long as the facts are determined through evidence, the principle of evidence adjudication is broadly applicable, and it does not have to be this. All the facts of the case or most of the facts of the case during the period are determined based on legal evidence, which means that the evidence adjudication already exists.

It can be seen from the definition of “evidence” of the word “Fu” in “Yi Ching” in the hexagrams of criminal prisons that the court trials of the Western Zhou Dynasty no longer rely entirely on divine judgments, but pay more attention to the application of evidence to make The people are “convinced” (Fu). This kind of “convincing the people” as the goal and the method of “using evidence to prove” coincides with the contemporary principle of evidence judgment of “ascertaining facts based on evidence”. Therefore, the tracing of evidence thought in our country should begin in the Western Zhou Dynasty.

Contemporary evidence refereeing thought originated in continental European countries. The first to embody this principle in judicial proof methods was the Germanic nation in the 11th century. Because of the subsequent prevalence of torture in our country, the continued germination of the idea of evidence refereeing was separated, leading us to misunderstand that the idea of evidence refereeing can only be transplanted. Historical facts have proved that we do not lack advanced concepts of evidence law, what we lack is only the interpretation and inheritance of Chinese traditional classic culture. Now that we have found that we have the basis for evidence judgment, then we can no longer blindly transplant Western evidence law ideas and systems in the evidence law reform; instead, we should base on the local traditional evidence law ideas and concepts, and fully explore, promote and modernize. Conversion.

5. Conclusion

From the legal phenomenon recorded in “Yi Ching”, the appearance of the culture of evidence law can be further separated, which is an important basis for us to re-establish the origin of many ideas of the law of evidence. For example, the “Fu” in the hexagrams “Law” and “夬” of “Yi Ching” all contain the meaning of “evidence”. These hexagrams reflect that whether it is a private reconciliation of the people or at the time of trial, the facts will be determined based on evidence. This fits exactly with the spiritual core of the principle of evidence refereeing. Under the opportunity of realizing the great rejuvenation of the Chinese nation, it is time for us to return to the traditional Chinese legal culture to dig out traditional legal thoughts and form theories with Chinese characteristics.

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