

Min people 'quick to sue' reflects Qing governance

HISTORY

By XIAO LIHONG

The Min people of Fujian Province were labeled as "quick to sue" in all kinds of provincial historical records in the Qing Dynasty (1616–1911). Scholars who study the social history of the area often cite the saying. While studying the judicial practices in Fujian during the Qing Dynasty, I found that Min people's reputation for "suing too much" has rich social connotations. This term is not simply a summary of people's legal behavior, nor is it entirely a way for local officials to shirk their responsibility for poor social governance.

As China moved into a modern society in the late Qing era, the problem brought forth by growing economic activity, enhanced consciousness of rights, and an imperfect local judicial system gradually aggregated, so Qing officials resorted to criticizing the people's quickness to sue and also turned to an appeal for the combination of morality and law, in order to effectively maintain social order and improve governance.

Criticism of excessive lawsuits

The reason why officials in Fujian Province criticized the public for suing too much was that people often appealed to the court for trivial matters such as household chores, marriage, land and irrigation. Records of people turning to and badmouthing each other for money, grain, land and property are plentiful in the local chronicles of Fujian's prefects and counties in the Qing Dynasty.

For example, in the local chronicle of Fujian Province in the Qing Dynasty, a total of 224 lawsuits were filed, including 38 cases of armed fighting, accounting for 16.9 percent of the total lawsuits; 37 cases of denial of debts, accounting for 16.4 percent; 35 land-related cases, accounting for 15.6 percent; and 32 irrigation disputes, accounting for 14.2 percent of the total lawsuits. It should be understood that most of the disputes over land and irrigation in Fujian Province in the Qing Dynasty were part of the common people's struggle over resources for survival.

The tension between population and land distribution in Fujian Province during the Qing Dynasty affected people's normal life. In the 18th year of the reign of the Shunzhi Emperor (1644–61) of the Qing Dynasty, the population density of Fujian Province was 12.48 people per square kilometer. In the first year of the reign of the Xianfeng Emperor (1851–61), it rose drastically to 172.31 people per square kilometer.

At the same time, the amount of farming land did not increase.



The expansion of the population and the shortage of land resources in Fujian Province in the Qing Dynasty intensified the frequency of local lawsuits and led to the local officials' increasing criticism of Min people's suing habits. Photo: FILE

During the reign of the Hongzhi Emperor (1488–1505) of the Ming Dynasty, there were over 13.51 million mu of cultivated land (roughly 900 thousand hectares) in Fujian Province, but in the first year of the reign of the Xianfeng Emperor of the Qing Dynasty, there were only 13.06 million mu.

The expansion of population and the shortage of land resources took a toll on people's livelihood. Against the background of tense conflicts over land, people started to grow economic crops to seek more profit, and some left farming to engage in commercial activities. The planting, trading and overseas trading of economic crops facilitated local commercial activities, and the disputes around these activities naturally increased, which intensified the frequency of local lawsuits and led to the local officials' increasing criticism of Min people's suing habits.

In fact, if officials had carefully dealt with every land and money dispute, it would have greatly increase the burden on the government, so they often turned to social governance methods that were more cost-saving.

To strengthen the criticism of suing too much is to ease interpersonal relationships through appealing to morality, aiming to ultimately establish a combined mechanism of virtue and law in which morality assists social governance.

Therefore, local officials constantly criticized the habit of suing too much, hoping to arouse the public's shame and avoid more lawsuits through fear or repentance. This was in reality a strategy of reducing civil disputes using moral restraint, and it reflects the governance dilemma faced by the Qing officials.

Moral mediation

Though the criticism of excessive lawsuits and the appeal to morality kept some people away from the courts, the piling up of lawsuits was yet to stop. It is impossible to persuade people to value peace and not to protect their own livelihood in the face of scarce survival resources.

Therefore, in addition to the criticism of suing too much, officials also made full use of family clans and other grassroots social structures to help resolve disputes. If a mediation system could be built and operated properly, officials could avoid the trouble of accumulated cases and the public could avoid the burden of filing lawsuits. Such a win-win situation could supposedly create a no lawsuit or fewer lawsuit environment. However, in the process of local mediation, problems frequently arose.

For one, mediation cannot completely avoid going to court. The Qing government did not include mediation in the government budget, and the public had to pay for mediation activities. Mediation fees became a source of income for local gentlemen who helped people settle disputes. Furthermore, the principle of the social mediation system in the Qing Dynasty was to "encourage harmony rather than distinguish right from wrong." Since the mediation did not resolve the two parties' root conflict, there was a great possibility for them to fight again in the future. Thus, many cases still ended up in the hands of the local government.

For another, mediators were hard to find. The lack of official institutional arrangements sometimes got mediators in trouble. Without financial support, local mediators would not be able to sustain long-term mediation ef-

forts in the face of a growing number of lawsuits. If the mediation was not appropriate, the mediator might also get involved in lawsuits. For example, during the reign of the Qianlong Emperor (1736–95), a mediator accidentally injured the plaintiff while handling an economic dispute and he was sentenced to death with suspension.

Despite the array of problems, officials supported the development of the local mediation system in various ways. Thus, local mediation acquired a semi-official role. At root, officials still hoped to make up for the deficiency of the local judicial system by appealing to people's morality, so as to reduce civil disputes.

Confucianism and business

In addition to criticizing frequent lawsuits and encouraging local mediation, Fujian officials also realized that relying solely on morality and the system had a limited effect and that, to truly reduce disputes, they needed to alleviate people's survival crisis. Therefore, officials accepted the increasing commercialization of Fujian in the Qing Dynasty and proactively encouraged the development of local commerce. Through policies and practices, the development of industry and commerce in Fujian flourished in the Qing Dynasty.

Feng Menglong, a renowned Chinese vernacular writer and poet of the late Ming Dynasty, was appointed magistrate of Shouning County in 1634. During his tenure, he became regarded as a morally upright and diligent administrator and he proactively encouraged people to engage in commercial activities and earn a living.

However, the encouragement of commerce still brought new issues, so officials widely promoted the

combination of Confucianism and business. Through private schools and clans, Confucian ideas were spread. A large number of documents recorded the righteous acts of Confucian merchants, thus the combination of Confucianism and business became an important cultural feature of Fujian merchants in the Ming and Qing dynasties.

Eventually, the development of local commerce eased the competition for survival resources in Fujian in the Qing Dynasty to a certain extent. The integration of morality and economy and the encouragement of the combination of Confucianism and business reduced people's desire to focus on profits. This was also an attempt of Fujian officials to discourage lawsuits.

To sum up, though the saying that Min people were quick to sue can be widely seen in the historical records of Fujian Province in the Qing Dynasty, many scholars agree that such a conclusion is full of subjective judgment and that it reflects the governance dilemma of officials. Fujian officials explored the combination of morality with law, system and society through their criticism of suing too much, in order to aid the imperfect local judicial system and growing financial burden and to realize the effective governance of local society.

Therefore, the prevalence of the criticism should not be seen as a strategy of officials to shirk their responsibility toward local social governance. Rather, the saying signifies officials' efforts to break through the predicament. Understanding this discourse of the officials is of great significance to the study of the legal history of the Qing Dynasty.

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