

Jesuit Aleni informed his learned editor and friend, Chiang Te-ching, that in Europe (Italy)

«Graduates in law are chosen to govern the people, exactly as prefects and magistrates, governors and commissioners, officials of the Six Boards, and the Nine Ministers of State in China. Some are appointed by the kings to serve as law professors at universities».

In reply to the Chinese question

«Since yours is a righteous country (Italy), there must be many good people. But for those who are bad, do you also have prisons and punishments to control them ?»

Aleni embroiders his reply by contradicting himself about corporal punishment and leaving much to ambiguity, since in 1637 when he published his reply there was probably no learned westerner within hundreds of miles to gainsay him :

«Although my country (papal Italy) guides its people in the path of virtue, there are prisons and punishments for those who have committed crimes, and as a warning to those who have not yet committed any crime. However, whipping and flogging are not resorted to. Besides, the punishment must be according to the law of the land, and cannot be inflicted arbitrarily at one's whim. If the sentence is not according to the law, the guilt falls back on the judge. A judge cannot try a case except in open court; the purpose of this is to guard against rashness and arbitrary decisions. The depositions of both plaintiff and defendant are taken down in writing, and the penalty is imposed according to evidence. If there has

been a crime but there is no evidence, the judge cannot impose a heavy penalty even though he himself may have seen the deed. This rule serves to prevent partiality. As for other procedures, such as flogging and banishment, they are generally similar to those in China»⁷.

However, Aleni's Chinese questioner preceded his probe about law as punishment to warn others against transgressions, by asking about the moral code, presented as an ideal of correct behaviour between ruler and minister, father and son, husband and wife, brothers, and friends :

«Are the five [Chinese] relations esteemed also in your country [Italy] ?»

The Jesuit's answer is positive but maced with more than Chinese human reason and harmony. Aleni's answer stems from a God-creator, prime-mover principle, which the Chinese did not have. Into it he incorporates the Confucian moral code as a natural religion, adding the five constant virtues of benevolence, righteousness, propriety, wisdom and sincerity. Aleni affirms that

«The three principles and the five constant virtues are honoured in every righteous country, and are especially esteemed in my own native land (Italy). God's admonition is that one's duty to honour one's parents is second only to one's duty to honour God : there are three kinds of parents : those who beget us, those who govern us, and those who instruct us. The relations between husband and wife, young and old, are included in this commandment⁸.