[Da Qing lüli 大清律例 (1740)](http://lsc.chineselegalculture.org/eC/DQLL_1740/) → [目錄 | Content](http://lsc.chineselegalculture.org/eC/DQLL_1740/5) → [名例律 Mingli lü](http://lsc.chineselegalculture.org/eC/DQLL_1740/5.1) → [Mingli lü shang 名例律上名者，五刑之罪名。例者，五刑之體例也。](http://lsc.chineselegalculture.org/eC/DQLL_1740/5.1.1) → [Zhiguan youfan 職官有犯](http://lsc.chineselegalculture.org/eC/DQLL_1740/5.1.1.6)

**律/lü 6 | Zhiguan youfan 職官有犯**

**Officials Who Are Guilty of Misconduct**

凡在京在外大小官員，有犯公私罪名，所司開具事由，實封奏聞請旨，不許擅自勾問。指所犯事重者言，若事輕傳問，不在此限。若許准推問，依律議擬，奏聞區處，仍候覆准，方許判決。

若所屬官被本管上司非禮陵虐，亦聽開具陵虐實跡，實封徑自奏陳。其被參後，將原參上司列款首告者，不准行，仍治罪。

(1) In all cases involving officials at all levels, stationed in the capital or the provinces, if there are those who are guilty[[1]](#footnote-1) of public or private misconduct,[[2]](#footnote-2) the appropriate office shall present the facts in a sealed memorial, requesting an imperial rescript; it is not permissible to recklessly strike their names off the register and launch an unauthorized investigation. This regulation is directed towards those who are guilty of major misconduct; the interrogation of those who are guilty of minor misconduct does not fall under these limitations. If the investigation is permitted to go forward, a preliminary decision shall be made in accordance with the appropriate statutes[[3]](#footnote-3) and a memorial should be submitted requesting imperial authorization concerning the way forward. Only after such authorization is received, is it permissible to pronounce judgment.

(2) If subordinate officials have been subjected to cruel and oppressive treatment by a superior, they are allowed to present a true account of the facts of the oppression and cruelty ina sealed memorial submitted directly to the Emperor on their own initiative. Regarding those who, after being impeached, voluntarily confess to all the charges that were listed against the superior official in the original impeachment, this shall not be permitted and, furthermore, will result in punishment.[[4]](#footnote-4)

**條例/tiaoli 1**

各處大小土官，有犯徒流以上依律科斷，其杖罪以下交部議處。

Concerning tribal chieftains at all levels and in every region who are guilty of misconduct that is subject to penalties of penal servitude, exile, and above, they shall be sentenced in accordance with the appropriate statutes; those who are guilty of misconduct that is subject to penalties of beating with the heavy bamboo and below, shall be referred to the appropriate Board for disciplinary sanctions.

**條例/tiaoli 2**

廕生，及恩、拔、歲、副貢，監生有應題參處分者，聽各衙門題參。其例監生有事故應黜革者，不必題參，咨報國子監，國子監察明黜革，知照禮部。

Concerning *yinsheng* (Students by Inheritance), as well as *en* (Tribute Students by Grace), *ba* (Graduates for Preeminence), *sui* (Tribute Students), *fugong* (Tribute Students, Second Class), and *jiansheng* (Students by Purchase, Fourth Class)[[5]](#footnote-5) who should be impeached by routine memorial and subjected to disciplinary sanctions, let each yamen submit routine memorials of impeachment. Regarding *jiansheng* who are subject to disenrollment[[6]](#footnote-6) as a result of their actions, do not submit a routine memorial of impeachment, but instead transmit a report to the *Guozijian* (Directorate of Education). The *Guozijian* shall fully investigate the disenrollment and inform the Board of Rites.

**條例/tiaoli 3**

給劄歸農之人，若恣肆虐民，占人廬舍，奪人田土，擾害地方者，該督撫掣回官，照民例治罪。其入伍給劄官員有犯，交部議處。

Concerning supervising censors[[7]](#footnote-7) who are commissioned to go to the countryside, if there are those who unrestrainedly abuse the people, occupy their homes, seize their lands, or cause havoc in the region, let the appropriate governors-general or governors take back their commissions and subject them to punishment according to the laws governing commoners. Regarding censors who are members of a local mutual-responsibility group and commit misconduct, let them be referred to the appropriate Board for disciplinary sanctions.

**Glossary**

ba 拔 Hucker 4372: Graduate for Preeminence

chu4ge2 黜革 to dismiss from office

chu3fen4 處分 to take disciplinary sanction against; disciplinary sanctions

fugong 副貢 Hucker 2071: Tribute Student, Second Class

gong1zui4 公罪 public misconduct

gou1 勾 to strike one’s name off the register

jida 給劄

en 恩 Hucker 1823: Tribute Students by Grace

jing4zi4 徑自 without leave; without consulting anyone; on one’s own initiative

ke1duan4 科斷 to pass sentence; to sentence

pan4jue3 判決 to pronounce judgment; to judge

qu1chu3 區處 to handle; to treat

shou3gao4 首告 to voluntarily confess

si1zui4 私罪 private misconduct

sui 歲 Hucker 5869: Tribute Students

ti2can1 題參 to submit a routine memorial of impeachment

tu3guan1 土官 tribal chieftains

wu jida 伍給劄

yi4chu3 議處 disciplinary sanctions

jiansheng 監生 Hucker 356: Students by Purchase, Fourth Class

yinsheng 廕生 Hucker 7990: Students by Inheritance

zi1bao4 咨報 a report transmitted between equals

[Da Qing lüli- version du Duli cunyi 大清律例-讀例存疑 (1906)](http://lsc.chineselegalculture.org/eC/DQLL_DC_1905/) → [目錄 | Content](http://lsc.chineselegalculture.org/eC/DQLL_DC_1905/3) → [Mingli lü名例律](http://lsc.chineselegalculture.org/eC/DQLL_DC_1905/3.1) → [Mingli lü shang zhi yi名例律上之一 名者，五刑之罪名，例者，五刑之體例也。](http://lsc.chineselegalculture.org/eC/DQLL_DC_1905/3.1.1) → [Zhiguan youfan 職官有犯](http://lsc.chineselegalculture.org/eC/DQLL_DC_1905/3.1.1.6)

律/lü 6 | Zhiguan youfan 職官有犯

凡在京在外大小官員，有犯公私罪名，所司開具事由，實封奏聞請旨，不許擅自勾問。指所犯事重者言。若事輕傳問，不在此限。若許准推問，依律議擬奏聞區處。仍候覆准，方許判決。

若所屬官，被本管上司非禮陵虐，亦聽開具陵虐實跡，實封徑自奏陳。其被參後，將原參上司列款首告者，不准行，仍治罪。

條例/tiaoli 1

各處大小土官有犯徒流以上，依律科斷。其杖罪以下，交部議處。

條例/tiaoli 2

蔭生有犯應題參處分者，聽各衙門題參。其文武生員，犯該徒流以上等罪，地方官一面詳請斥革，一面即以到官之日扣限審訊。不必俟學政批回，始行究擬。其情節本輕，罪止戒飭者，審明移會該學教官照例發落，詳報學政查核。貢監生有犯同。

條例/tiaoli 3

文職道府以上、武職副將以上，有犯公私罪名應審訊者，仍照例題參，奉到諭旨，再行提訊。其餘文武各員，於題參之日，即將應質人犯拘齊審究，如督撫同駐省分，一面具題，一面行知應承審衙門，即行提訊。

條例/tiaoli 4

凡參革發審之案，查明被參之人，如係同知、遊擊以下等官，遴委知府審理。係道府，副將等官，遴委道員審理。統令就近提齊款證，秉公確訊。其案內牽連被害之人無關輕重者，該道府審明錄供之後，即分別保釋。止將重罪要犯，帶至省內，由司覆勘解院審擬完結。

條例/tiaoli 5

凡被參革職訊問之員，審係無辜，即以開復定擬。不得稱已經革職，無庸議題。覆其原參，重罪審虛，尚有輕罪應以降級罰俸歸結者，開復原職，再按所犯分別降罰。

條例/tiaoli 6

盛京居住滿洲、蒙古、漢軍文武官員，除因公詿誤獲罪者，仍准本地方居住外，若犯係侵盜虧欠錢糧及姦貪訛詐等事降革者，均連其家屬，撥發各省滿洲駐防，交該管官嚴加管束。

1. Alternative for 犯: commit. I chose “guilty of” because it seems to include the negative tone of the original. [↑](#footnote-ref-1)
2. Alternatives for 公私罪: (public or private) wrongdoing, crime, offense, transgressions, lawbreaking. The advantage of “crime,” is that it seems to fit more closely with the Chinese term *zui* and is a less cumbersome term. The advantage of “misconduct” is that公罪are illegal, but not always “criminal” in nature and that private misconduct 私罪does not usually qualify as an “offense.” For illegal acts that are not specifically labeled as “crimes,” I prefer the terms “misconduct” or “wrongdoing.” [↑](#footnote-ref-2)
3. I prefer “statutes” to “laws,” because I think that this is pointing to a specific set of statutes (as opposed to substatutes). [↑](#footnote-ref-3)
4. Jones’ translation appears to be wrong: “If one against whom an accusation has been made should subsequently file a complaint against the superior, this is not permitted.” I think that this clause is designed to prevent a superior official who has been accused of cruelty from trying to lessen his punishment by retroactively “confessing” to all the charges that were listed in the original impeachment. [↑](#footnote-ref-4)
5. *Yinsheng* (Hucker 7990), *en* (Hucker 1823), *ba* (Hucker 4372), *sui* (Hucker 5869), *fugong* (Hucker 2071) and *jiansheng* (Hucker 356) [↑](#footnote-ref-5)
6. Alternatives: explusion, removal [↑](#footnote-ref-6)
7. ji3 (Hucker 521) [↑](#footnote-ref-7)