**contract/约(Yuē)**

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约(Yue) is a polysemy in Chinese, and more than 20 meanings are listed in *the Chinese Dictionary*. According to *Shuowen Jiezi*, the original meaning of Yue is rope and entanglement. "Yue, entanglement”. Later its meaning is extended to restraint and restriction. For example, *Zhuangzi Pianmu* reads "restraint without rope". Later, it gradually evolved into the meaning of an agreement similar to a contract in the west, that is, the conditions agreed jointly in oral or writing form. For example, *Han Dynasty · Emperor Gaodi* reads,"at the beginning of the year, the King Huai made an agreement with all generals that whoever to be the first to enter Guanzhong will be the king. " It can be seen that in Chinese, the meaning of Yue evolved from object (rope) to action and state (entanglement) between people and objects, and then evolved further to the relationship (agreement) between people (or individual and organization, organization and organization).

From its form, Yue can be categorized into written and unwritten ones. Generally speaking, written Yue is often more formal. From the perspective of different participants, Yue can be established between/among persons, between/among persons and organizations, and between/among organizations and organizations. It is conceivable that the proportion of unwritten agreements between/among persons will be higher than in other cases, but it is also common between individuals and organizations and between organizations. For example, two companies agree to negotiate something at a certain time and place. If the dimension of nation-state is added, Yue can be categorized into domestic and transnational.

The content, negotiation process and implementation of a Yue is always under a certain social, cultural and institutional environment, which requires the self-discipline of participants, soft constraints of customs and social norms, and the mandatory constraints of the rule of law system. In Chinese philosophy and culture, Yue is not based on the abstract public will independent of the existence of the people, but relies more on the cooperation between/among the participants, as well as people's constraints on their own morality, so as to achieve social stability and harmony. For example, Chinese Confucianism emphasizes people's conservation of self morality and true heart, and the inspection and restraint of words and deeds, rather than focuses on facsimile theory or metaphysics, and does not emphasize a super God like in Catholic philosophy. Yan Hui once asked Confucius how to achieve "benevolence". Confucius replied: "self-restraint and return to rites are benevolence. One day, the world belongs to benevolence. It's up to others to be benevolent." (Analects of Confucius Yan Yuan). Neo Confucianism emphasizes life Kung Fu and should always restrict and inspect oneself and follow the principle of heaven. The principle of heaven here is not an abstract concept, but more about daily use. Compared with the emphasis on contract and legal power in western political thoughts such as social contract theory, Chinese emphasizes individual cultivation, and the establishment and implementation of Yue is more based on individual moral constraints.

In addition to individual moral constraints, rites, that is, social norms, also have an important impact on the content, negotiation process and implementation of Yue. Whether in the form or content, a Yue that is not in conformity with rites should not be concluded, nor should it be implemented, and violations should not be punished, but encouraged. On the contrary, the act of establishing a Yue that is not following rites should itself be punished.

In Chinese culture, the punishment related to Yue can come from "heaven" (or God), from social norms, or from law (written or unwritten). The latter is a coercive force imposed by society or the state.

The God in ancient Chinese prose is also different from the God in the west. It is more metaphorical in nature. In essence, In essence, it is a popular natural cosmology dominated by reason and Qi. Therefore, for Chinese people, it is difficult to be linked with the rights given by God, and the impersonal passivity in classical times is even more difficult to be understood.

In the west, the basis of a contract is an oath, that is, a given right. Rousseau's famous book on social contract says: "Since everyone gives himself to the whole, he does not give himself to anyone; and since from any combiner, people can get the same rights they have transferred to him, so people get the equivalent of everything they have lost and greater power to preserve what they have." , which means that as long as the protection given by the community to the individual according to the contract is stronger than that given by the individual in the natural state, the initial agreement, namely contract, is established. Rousseau also mentioned: "Whenever people think they see that sovereignty is separate, they will make mistakes; and those powers that are considered to be all parts of sovereignty are only subordinate to sovereignty and must always be premised on the supreme will, and those powers are only the implementation of the supreme will." "It can be seen that the general will is always just and always based on the public interest; however, it can not be inferred that the people's consideration will always be the same correct. People always want to be happy, but people can't always see happiness clearly. People will never be corrupted, but people are often deceived, and only at this time can people seem to be willing to be happy Something with bad intentions. " "In order to find the best social rules suitable for all nationalities, we need the highest wisdom that can insight into all human feelings without being dominated by any feelings; it has nothing to do with our human nature, but it can understand the depths of human nature; although its own happiness has nothing to do with us, it is willing to care for our happiness; finally, in the current world In the course of time, it takes into account the long-term glory, can work in this century and enjoy in the next century. It simply needs gods to make laws for mankind. " Rousseau's understanding of rights and contracts can be seen in the above paragraphs - in Rousseau's theory, sovereignty can neither be transferred nor separated; law is the embodiment of public will, obeying the law is obeying the people's own will, and Rousseau especially emphasizes that social contracts are "given".

According to western thinking, in real society, the persistent tension between private orders and government regulation exists in almost every field known by law.

Therefore, we have to think about whether the "contract" based on legal power is absolutely feasible. Yue provided in Chinese ancient books are more about themselves, emphasizing social morality than simple legal power and contract.