

THE UNIVERSITY OF CHICAGO

WOMEN'S VIOLENT CRIME AND A CRISIS OF WEAK PATRIARCHY IN LATE
IMPERIAL CHINA

A DISSERTATION SUBMITTED TO
THE FACULTY OF THE DIVISION OF THE SOCIAL SCIENCES
IN CANDIDACY FOR THE DEGREE OF
DOCTOR OF PHILOSOPHY

DEPARTMENT OF HISTORY

BY

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CHICAGO, ILLINOIS

AUGUST 2023

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In dedication,
to the ones who got away.

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Abstract

This dissertation reclaims violence as an instrument of women's power. From chaste maidens to elite writers, discussions of women's agency in late imperial China have long centered on virtuous women. Looking toward the extraordinary to unlock a new realm of possibilities for our understanding of the everyday, I explore the lives of women on the opposite end of this spectrum whose choices resulted in run-ins with the law that bestowed punishments rather than honors. I draw upon hundreds of homicide reports (*xingke tiben* 刑科題本) preserved at the First Historical Archives of China in Beijing about wives sentenced to death for killing their husbands in the eighteenth and early nineteenth centuries. The impressions that these "female criminals (*fanfu* 犯婦)" left on the archive move us beyond an image of women as collaborators in the reproduction of patriarchy, making it possible to see the ways women not only worked within, but also pushed against and broke through, this gender system. I argue that historians have underestimated the role of ordinary, non-elite women's emotional lives in shaping early modern Chinese society. Whether it be a young girl's refusal to abandon hope of creating a life with the boy she loved since youth, a mother working to safeguard herself and her children from an uncaring husband, or an aged wife acting upon her sexual desire for a man half her age, these women's stories compel a re-envisioning of traditional Chinese womanhood centered on resistance to and manipulation of what I call "weak patriarchy," a new model for understanding gender relations in the Qing dynasty that challenges our assumptions about the supposed male dominance of the household.

A Note on Conventions and Abbreviations

The names of the women at the center of this dissertation are represented as they appear in homicide reports. Women are referred to first by their husband's last name, then followed by their father's last name, and finally the word *shi* (氏), which I translate as "Woman." For example, Huang Sun Shi (黄孙氏) is translated as Woman Huang-Sun, the wife of man Huang and daughter of man Sun. There are instances where either the last name of the husband or father is left out. The names of women from minority communities often do not follow this prevailing structure and the word *shi* is omitted.

Ages also appear as they do in the legal record, rendered in Chinese *sui* (歲) instead of Western years. Chinese *sui* is typically one to two years older than age in years, depending how closely birth coincided with the New Year. For example, Woman Huang-Sun was eighteen *sui* at the time she gave testimony, and thus in terms of years she would have been either seventeen or sixteen.

The primary source material of this dissertation are Qing dynasty homicide reports preserved as Board of Punishments routine memorials (*xingke tiben* 刑科題本) at the First Historical Archives of China (*zhongguo di yi lishi dang'an guan* 中国第一历史档案馆) in Beijing about women sentenced to death for killing their husbands. Individual cases are referred by the abbreviation "XKTB" and the following information: archival number, name and age of the woman accused of homicide, adjudicating county and province or administrative region, the year of the originating dynastic reign, the recommended sentence for the woman in question, and finally the Chinese archival title. For example, the case of Woman Huang-Sun is referenced in my footnotes as "XKTB, 02-01-07-1989-007. Woman Huang-Sun (18 *sui*). Nanhe County, Zhili

administrative region, [Hebei]. Jiaqing reign year 1, death by immediate dismemberment (*lingchi* 凌迟). (题为直隶南和县民妇黄孙氏谋勒伊夫身死议准凌迟处死事).”

The reign year of each case after initial reference will henceforth be abbreviated as either “QL” for Qianlong 乾隆 (1735-1796), “JQ” for Jiaqing 嘉慶 (1796-1820), or “DG” for Daoguang 道光 (1820-1850). The majority of the cases included in this dissertation occurred during the Qianlong reign. Recommended death sentences for women who killed their husbands after initial reference will henceforth be abbreviated as “LC” for immediate dismemberment (*lingchi* 凌迟), “ZLJ” for immediate decapitation (*zhanlijue* 斩立决), “ZJH” for decapitation after the Autumn Assizes (*zhanjianhou* 斩监候), and “JJH” for strangulation after the Autumn Assizes (*jiaojianhou* 绞监候). Most of the women discussed in this dissertation were sentenced to death by immediate dismemberment, “LC”.

Acknowledgements

I am most grateful to my advisor, Johanna Ransmeier. Words truly cannot express how thankful I am for her enthusiastic support of this project over the years. At every stage of the research and writing of this dissertation, she has been there to talk over my ideas, provide feedback, and has instilled in me the confidence needed to bring these women's stories to life. Without her, this dissertation would not have taken the shape that it has, and I would not be the scholar that I am. Sharing my devotion to the immense power that can be found in even the smallest and most tangential impressions in the historical record, she has encouraged my creativity and pushed me to never settle for seemingly impossible "boundaries" of history.

I am profoundly thankful to the other members of my committee for their guidance. Jacob Eyferth's expertise in the subject of women's labor in China has been invaluable to the development of this project, and Kenneth Pomeranz's knowledge of all things late imperial has both broadened my knowledge of Chinese history. This dissertation's emphasis on the interrelatedness between economics and emotion would surely not come to pass without their influence. I would also like to express sincere appreciation to Susan Burns. My conversations and studies with her leading up to my orals have greatly shaped my understanding of gender in East Asia.

I am forever beholden to my M.A. advisor at the University of Utah, Janet Theiss. Her mentorship continues to have a lasting impact on my scholarship. I am especially moved by her overwhelming generosity in opening her private collection of Qing legal cases to me which has launched me on the course I am on today. It is with her that I first laid eyes on these historical materials. I am thankful for her unwavering support and belief in me which has enabled me to pursue my dreams. She is truly a model of academic excellence I constantly strive to live up to.

I am appreciative to those who provided feedback on various iterations of this dissertation in workshops and conferences. I would like to express special thanks to discussants Niuniu Teo, Jessa Dahl, and Ruochen Cao who provided instrumental feedback on chapter drafts when I presented at UChicago's East Asia: Transregional Histories Workshop. This bi-weekly workshop was a major impetus in encouraging my forward progress over the years, and the ideas and questions raised by its members have greatly enhanced the development of this work. I want to thank Li Chen for insightful comments and questions on my chapter entitled "Cougars in the Courtroom" at the 2021 International Society for Chinese Law & History Bi-Annual Conference. I am especially grateful to have had the opportunity to present "What She Had" at the 2022 Midwest Conference on Asian Affairs as well as the 2023 Association for Asian Studies Annual Conference with the support of the Buchanan Prize. These experiences helped me refine my conclusion, and I want to express my special thanks to Keith McMahon and Sarah Frederick. I am also grateful for the opportunity to share my initial ideas about this project at its early stages with members of the Qing Code Translation Workshop associated with the Legalizing Space in China Project at UChicago in 2017.

I sincerely appreciate the organizations that have funded my research including the Esherick-Ye Family Foundation, the Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship, and the Henry Luce Foundation/American Council of Learned Societies. This generous support made this dissertation possible, permitting me the time necessary to fully dedicate myself to exploring the archival database in Beijing. I would also like to thank the University of Chicago's Center for International Social Science Research, Center for East Asian Studies, Center for the Study of Gender and Sexuality, and the FLAS program for their substantial support of my research, teaching, and language study over the years. I also want to

offer my special thanks to for the support of the University of Utah, the intellectual community at the foundation of this scholarship, which includes the already mentioned Janet Theiss as well as Wesley Sasaki-Uemura, Margaret Wan, Elizabeth Clement, and Nadja Durbach. I also thank the faculty of the History Department of the College of Idaho, including Steve Maughan.

The months I spent at the First Historical Archives of China in Beijing, reading and transcribing the powerful testimonies of the women who fill these pages, has been one of the most memorable and deeply meaningful experiences of my lifetime. I would like to convey my sincerest appreciation to the archivists at the First Historical Archives for both their facilitation of my research and their ongoing work digitizing these historical materials, both of which were vital to making my encounter with such a large sample of these women's legal reports possible. I would like to say a special thank you to my friends made at the archive including Emily Leigh-Pemberton, Forrest McSweeney, David Porter, Wang You (王悠), Mårten Söderblom Saarela, and Nora Yitong Qiu. Each of them helped to shape this dissertation, graciously entertained my retelling of that day's legal report over lunch, providing comments, insight, and important questions.

I am thankful for the support of my peers and friends who have provided such a warm and welcoming community at the University of Chicago, including Spencer Stewart, Karl Kubler, Wang Weichu, Yuan Tian, Matthew Lowenstein, Yujie Li, Aimee Pizarchik, Ruiling Xue, Zhao Fang, Li Xiangning, Robert Burgos, Erin Newton, Dan Knorr, Sheng Jiakai, Gabriel Groz, and Le Vi Pham. I would also like to acknowledge the members of our intrepid writing group that has been a welcome and needed support in the latter period of preparing this dissertation, including Jacob Eyferth, Xavier Ante, Yuanxie Shi, Hang Wu, Yasser Nasser, and others. I would like to especially acknowledge Xiaoyu Gao for her unwavering support of me

and this project. Our friendship has been a highlight of my time at UChicago, and I am especially thankful for her willingness to look over and provide translation advice often with little notice. I am also thankful to Kandra Polatis who began this journey with me at the University of Utah and continues to be the best friend a person could ask for.

My biggest thanks to my family. My husband, Jesse Holmes, has been my rock throughout this research and my studies, reading every word I have ever written and accompanying me on trips to China and conferences, never once questioning my pursuit of this path in life over our fifteen years together. Without his steadfast dedication and confidence, I truly would not have had the strength and determination to complete this dissertation. My mother, Donna Painter and my grandmother, Marilyn Combs, have been reservoirs of encouragement, instilling in me the belief that I should work for my dreams. I am also sincerely thankful for my niece and nephew, Avery and Anderson, for keeping me grounded and entertained. I am also grateful to have had their parents, my brother Robert Painter and sister-in-law Lindy Painter, as my constant companions throughout this process. Thank you to M. Randall Holmes, my father-in-law, who proofread several chapters. There are countless other people whose contributions to this work helped me reach this point. In the event of any inadvertent omissions, please know how appreciative I am.

Introduction

Sleeping by myself,
I thought other couples are the same in age and are really **in love**...
I married a foolish and useless man,
How long must [I] wait for [him] to grow up?
The more I thought **the angrier I got**...

Woman Huang-Sun, 18 *sui*

Our family made ends meet with the little money made from the sale of cloth.
I spun and wove throughout the day.
I asked about the money...
[My husband] said [it] had been spent.
In unbearable anger, **I began to cry**...

Woman Li-Wang, 37 *sui*

I saw that [he] was young,
And I suddenly had **a wicked thought** (*xienian*)...
I lit a lamp, [and] closed the door.
I got in bed and had illicit sex with [him]...

Woman Liu-Yan, 42 *sui*

Woman Huang-Sun longed for companionship with her newlywed husband, something of the shared affection she knew other couples enjoyed but remained disturbingly absent in her own marriage.¹ Woman Li-Wang revealed nothing about aspirations for marital intimacy. She instead mourned the sudden loss of her income, desiring to have some share of the benefits of her labor, expecting that her husband would care enough about her and his young children to act in their best economic interests, rather than his own.² Woman Liu raised no complaints about conjugal

¹ Number One Historical Archives in Beijing, Board of Palace Routine Memorials (*xingke tiben*) XKTB, 02-01-07-1989-007. Woman Huang-Sun (18 *sui*). Nanhe County, Zhili administrative region [Hebei]. JQ 1, *lingchi* (death by immediate dismemberment) LC. (题为直隶南和县民妇黄孙氏谋勒伊夫身死议准凌迟处死事), notebook.

² XKTB, 02-01-07-1462-003. Woman Li-Wang (37 *sui*). Zhengding County, Zhili administrative region [Hebei]. QL 11, LC. (题报正定府正定县民妇李王氏口角用信谋毒亲夫李顺身死拟凌迟处死事).

love nor economic support from her husband of over two decades.³ In fact, she spoke little of him at all. Hers was a pursuit of desire for sexual satisfaction—even if she must venture outside her marriage to obtain it.

Such evidence of non-elite women's private interiority, documenting their innermost personal thoughts, sentiments, and actions, was not meant to be seen by anyone other than those who made up the upper echelons of the Qing judiciary, men whose task it was to compose and review capital-level criminal reports. Preserved among tens of thousands of homicide records stored in Beijing's First Historical Archives of China, previously obscured by the overwhelming volume of cases of violence against women, is the extraordinariness of every ordinary woman. Their expansive emotionality and expectations of marriage nonetheless exist and are inexorably bound to the extreme acts of defiance that led them there. Traces of these women's personhood, so difficult for the historian to access, let alone reconstruct, come as a consequence of not just any routine investigation, but one in which *she* stood at the epicenter—not as victim, but as perpetrator.

This dissertation reclaims violence as an instrument of women's power in Qing dynasty China (1644–1912). The Chinese legal archive holds a broader spectrum and richer representation of women's agency than scholars have previously understood. Looking to the extraordinary to unlock a new realm of possibilities for our understanding of the everyday, I draw upon the testimonies of hundreds of women sentenced to death for killing their husbands throughout the eighteenth and early nineteenth centuries preserved as Qing Board of Punishments routine memorials (*xingke tiben*) at the First Historical Archives of China in

³ XKTB, 02-01-07-0975-007. Banner Woman Liu-Yan (42 *sui*). Salaqi [Mongolia], Shanxi. QL 31, LC. (题为山西萨拉齐民妇刘闫氏与伊婿王者春通奸杀死本夫议准凌迟处死事).

Beijing.⁴ My focus on the violence women did to men—rather than the violence men did to women—provides a surprising window into early modern Chinese society in which magistrates, clerks, and other state authorities subverted their own beliefs about gender to document the social reality of women as aggressive criminal agents. These women ranged from teenage newlyweds to grandmothers over fifty and resided throughout the Qing empire, including among the Manchu, Miao, Hui, and Zhuang ethnic minorities.

These women's defiance, as evident in the vivid and often counterintuitive testimonies they gave in court, grants us access to unknown aspects of women's generational experience of patriarchy, and allows me to argue that we have underestimated the role of ordinary women's expansive emotional, material, and working lives in shaping Qing society. Whether it be a young girl's refusal to abandon hope of creating a life with the boy she had loved since youth, a mother working to safeguard herself and her children from an uncaring husband, or an aged wife acting upon her sexual desire for a man half her age, these women's testimonies compel a re-envisioning of traditional Chinese womanhood centered on resistance to and manipulation of what I call "weak patriarchy," a new model for understanding gender relations in late imperial China that challenges our assumptions about the supposed male dominance of the household.

Women, Agency, and Resistance

The concept of agency has been central to women's history for as long as the field itself has existed. In the wake of second-wave feminist initiatives for gender equality, historians in the West sought to better understand the experiences of women in the past to make sense of the origins of continued discrimination in the present. They sought to reclaim underappreciated

⁴ This dissertation individually references approximately 152 husband-killing reports and hundreds more reports of women-initiated homicide have shaped this dissertation.

traces of women as historical agents of change, re-centering the historical narrative on women rather than men, who were previously assumed to drive the momentum of history. Utilizing theories of gender, sexuality, and patriarchal power, what may have begun as an aim to add women to history revealed that historical knowledge of women in fact changed our understanding of history entirely.⁵

Despite the importance placed on reclaiming a sense of women's agency among feminist historians, what exactly "agency" meant for women throughout history has been difficult to discern. Lois McNay addresses the contested nature of agency among feminist thinkers. At its most simplistic level, she explains that agency denotes individualized choice and capacity for action to transform. It is also deeply complex. McNay writes,

...[T]his apparent simplicity is belied by the fact that although agency is a universal capacity, it is socially realized in a variable and unequal fashion: it means different things according to the cultural context and some individuals and groups clearly have more agency than others. In other words, agency is inseparable from the analysis of power and therefore, is not so much a thing itself as a vehicle for thinking through broader issues, such as the nature of freedom and constraint.⁶

Thinking about agency in terms of resistance as historically and culturally contingent, feminist philosophers have sought to unpack the strategies women and others at the margins of society employed to resist subordination. Judith Butler argues that through the performative subversion of social norms, people (not just women) possess the power to resist cultural and social control.⁷

⁵ In her seminal article, Joan Scott demonstrates the analytical power of gender to change our understanding of history, arguing that gender it is not just limited to studies of women but rather "relationships of power" in which the masculine and feminine are both unfixed and relational. See Joan W. Scott, "Gender: A Useful Category of Historical Analysis," *The American Historical Review* 91, no. 5 (December 1, 1986): 1065-1069.

⁶ Lois McNay, "Agency" in *The Oxford Handbook of Feminist Theory*, eds. Disch, Lisa Jane, and M. E. Hawkesworth (New York, NY: Oxford University Press, 2015), 39.

⁷ See Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (New York: Routledge, 2007).

On the other hand, some have questioned whether evidence of resistance necessarily leads to liberation. Saba Mahmood offers a critique of women's agency in her work on women within the Islamic faith, stating, "I want to suggest we think of agency not as a synonym for resistance to relations of domination, but as a capacity for action that historically specific relations of subordination enable and create."⁸

In the China field, the topic of agency has in many ways driven the evolution of women's history. Rather than directly theorizing "agency" per se, scholars have focused on revising assumptions about the historical victimhood of Chinese women in history. As Patricia Ebrey writes, "Emphasizing women's victimization...only tends to obscure what women were able to accomplish."⁹ This aim came largely in reaction to a legacy of twentieth century rhetoric about the unique victimization of Chinese women under Confucian patriarchy.¹⁰ Revolutionary writers of the May Fourth era looked upon the women in China's past as victims of traditional society, with practices such as concubinage, foot binding, and widow chastity regarded as an embodiment of the "backwardness" of Chinese culture that had impeded progress towards modernity and that needed to be abandoned if China was to compete with western powers and the quickly advancing Japanese empire.

Driven by a desire to overturn an enduring narrative that isolated Chinese women to a position of powerlessness in history—especially in comparison to the "liberated" Western woman—historians including Patricia Ebrey, Susan Mann, Dorothy Ko and others sought to

⁸ Saba Mahmood, "Feminist Theory, Embodiment, and the Docile Agent: Some Reflections on the Egyptian Islamic Revival," in *Cultural Anthropology* 16, no. 2 (May 1, 2001): 203.

⁹ Patricia Buckley Ebrey, *The Inner Quarters: Marriage and the Lives of Chinese Women in the Sung Period* (Berkeley: University of California Press, 1993), 8.

¹⁰ Dorothy Ko, *Teachers of the Inner Chambers: Women and Culture in Seventeenth-century China* (Stanford, Calif.: Stanford University Press, 1994), 1-5.

reveal the ways women in pre-revolutionary China maneuvered within varying limitations and opportunities to carve out spaces for themselves in which they led meaningful and fulfilling lives.¹¹ Dorothy Ko states, “It is my contention that the deep-seated image of the victimized “feudal” women...[is] a confusion exacerbated by a lack of historical studies that examine women’s own views of their worlds.”¹² Thus, much of this influential scholarship rests on a source base drawn extensively from the writing of women themselves.

Women’s writings, while invaluable, leave us with a representation of traditional Chinese womanhood defined by a select group of literate elites, women among the privileged classes who made up only a small fraction of China’s population. This is a problem which authors readily acknowledge yet nonetheless have been unable to circumvent.¹³ This has not only created an imbalanced picture of what it meant to be a woman in traditional China but has also left us with an incomplete understanding of women’s relationship to and experience of patriarchy. Coming from elite and often wealthy families, the women in Mann and Ko’s studies had the support of male family members, their fathers, brothers, and husbands—something which many other women did not. The men in their lives stood to receive social recognition from these women’s agency, as their writings, choices, and means of self-fulfillment often aligned with the interests of the patriarchal family. Thus, in this way too, elite women themselves benefited from the

¹¹ Susan Mann, *Precious Records: Women in China's Long Eighteenth Century* (Stanford, Calif.: Stanford University Press, 1997).

¹² Ko, *Teachers of Chambers*, 3.

¹³ The elite women writers in both Susan Mann and Dorothy Ko’s studies come from some of the most privileged families of the empire and come predominantly from a single region, that of Jiangnan. Mann writes in her introduction that, “[d]espite the abundance of women’s writing, these works raise particular problems as a source for historians of eighteenth-century China. Chinese women writers of this era were part of a tiny elite...separated as they were by leisure and learning from the other 99.9 percent of women in the late empire.” See Susan Mann, *Precious Records*, 4.

patriarchal system in which they were bound because it had worked for *them*, albeit in limited ways. Women among the lower classes, from the desperately poor to subsistence farmers and even minor landlords, undoubtedly had a different experience of life in a patriarchal society.

Even as historians have endeavored to expand upon this social divide, the evolving conversation about women's agency has continued to center upon virtuous behaviors that aligned with ideal visions of femininity. This has made it difficult to see how women could act in ways that did not reinforce or align neatly with the reigning social order. Patricia Ebrey, for example, reflecting on the changes women experience in the Song asks why women were not able to take better advantage of opportunities that afforded to them greater autonomy in this period, such as increased education and larger dowries for elites and more opportunities for lower class women to earn money through their textile work, to resist and weaken the patriarchal gender system that instead tended to strengthen after the Song.¹⁴ From subjects of elite writers, chaste maidens, and chastity martyrs to foot binding, textile production, and financial management, it has proven difficult for historians to discuss women's power outside the performance of activities that were seen to support initiatives of the patriarchal, whether in the eyes of the women themselves or the men around them.

This issue is not exclusive to China but rather has permeated the study of women throughout time and space. For instance, Simone de Beauvoir asked in her classic study of women and sexuality why femininity has seemingly always attended to the interests of men, stating, "The proletariat could plan to massacre the whole ruling class...but a woman could not even dream of exterminating males. The tie that binds her to her oppressor is unlike any

¹⁴ The specific question Ebrey asks is, "Why did changes that can be classed as adverse to the interests of women take hold fairly easily, while those that promised some improvement did not last or have the anticipated effects?" See Patricia Ebrey, *The Inner Quarters*, 267-268.

other... This is the fundamental characteristic of woman: she is the Other at the heart of a whole whose two components are necessary to each other.”¹⁵ Much in the same way, scholars of Chinese women’s history have yet to fully link women’s agency to resistance outside some service to patriarchy. This has left us with an image of traditional Chinese womanhood that is no longer passive but nonetheless invested in the reproduction of strong patriarchies, in which women must invest in their own subordination to achieve any form of freedom or control over their own lives.

Historians of slavery have problematized agency as a concept for understanding the historical lived experiences of oppressed people. Most notably, Marisa Fuentes, in her effort to reconstruct the personhood of enslaved women in colonial Barbados, writes that, “Scholars nonetheless need to consider what other facets of enslaved lives we can discover beyond heroic tales of resistance and survival. Agency cannot be examined outside the constraints of slavery’s systemic mechanisms of domination.”¹⁶ These scholars have discouraged attempts to retrieve a sense of enslaved people’s power in a society in which constraints impacted every aspect of life (evidenced in no small part by their nearly complete erasure from the archival record). Making a departure from earlier scholarship aimed at disrupting the notion of “the passive and utterly dominated” slave in world history—not unlike the early objectives of Chinese women’s history discussed above—Fuentes contends that interpreting the actions of enslaved people, even those of a fugitive slave, as agency minimizes the incredible violence of their oppression, perpetuating the past violence of the slave’s experience in the present.

¹⁵ Simone de Beauvoir, *The Second Sex* (New York: Vintage Books, 1989), 9.

¹⁶ Marisa J. Fuentes, *Dispossessed Lives: Enslaved Women, Violence, and the Archive* (Philadelphia: University of Pennsylvania Press, 2016), 69.

This represents a markedly different approach to agency than the one previously embraced by historians of Chinese women, many of whom have been more willing to envision women as engineers, or even co-patriarchs, of the Confucian gender system than its “victims.” Without equating the colonial slave experience with that of women in early modern China, there is nonetheless much to be learned from putting these two bodies of scholarship in dialogue with one another. In exploring the lives of enslaved women, with no investment in the system(s) of domination in which they lived, othered and rendered subservient within the intersectional categories of race, gender, and class, Fuentes’ scholarship calls us to grapple with the realness of structures of power in the daily lives of ordinary people, especially those who reside at the lower end of the spectrum of privilege.

Moreover, the meaning of the term “agency,” let alone the concept of “women’s agency,” in the China field remains vague, with no clear linkage to a concept of resistance in which women operated in opposition, rather than alongside, the dominant patriarchal power structures in their lives. Dorothy Ko has rejected the dichotomy between “woman” as either agent or victim, viewing it as not analytically applicable for understanding the full spectrum of constraints and opportunities afforded to Chinese women. However, there is no denying that while inadequate and imperfect, this binary has continued to remerge in conversations about traditional Chinese womanhood. And despite all effort, we have not yet found a way of talking about womanhood outside the dialectic of victim and agent in which we seemingly *must* move away from all conceptions of women’s victimhood to achieve a fuller understanding of women’s agency.

The new paradigm of women's history established by Ko and others has been so successful that it has begun to obscure more than it reveals.¹⁷ It has moved so far in opposition to victimization that we have lost sight of what women were maneuvering within, around, and against. For us to reconstruct a fuller picture of traditional Chinese womanhood that incorporates the lived experiences of the non-elite, a re-balancing must take place in which we bring back into view those constraints as we begin to grapple with the genuine brutality and inequality of the patriarchal gender system(s) under which *all* women lived. The aim here is not to revive the image of the “victimized woman of Old China,” but instead to propose that we have reached an analytical juncture in the doing of women's history where it is now possible to acknowledge the many ways women were powerless in traditional Chinese society *without* diminishing their agency or making them any less agents of history.¹⁸ It is only with a renewed focus and deeper recognition of the genuine obstacles ordinary, non-elite women confronted that we discover the fullest extent of their agency, their willingness to openly defy, resist, and subvert manifestations of patriarchal power in their lives—revealing an entirely different relationship between women and power in China that has implications for how we understand the lives of women across the early modern world.

¹⁷ Dorothy Ko states, “Although not without its grain of truth, the overwhelming popularity of the image of victimized women has obscured the dynamics not only of relationships between men and women but also the functioning of Chinese society as a whole...” See Dorothy Ko, *Teachers of Chambers*, 4.

¹⁸ Rather than “othering” traditional Chinese women in the global history of women, my approach brings Chinese women into the fold in which feminist historians endeavor to understand women's resistance to patriarchy. In other words, the discussion is not about the unique oppression of Chinese women but rather about connecting their experiences to a larger global historical narrative about women's lived experience under patriarchy. In doing so, the focus of this inquiry and the methodologies it elicits is less about “Confucian patriarchy” but rather on understanding manifestations of “patriarchal power” writ large.

“Weak Patriarchy”: A New Model of Qing Gender Relations

On the surface, late imperial China was a highly patriarchal society, and while patriarchal ideals about the proper ordering of Confucian society impacted and shaped the lives of women as well as men to an increasing degree throughout the eighteenth century, Qing patriarchy was also not the monolithic regime of power that it might seem. Much of the gender scholarship discussed above laid important groundwork in showing the fractured nature of patriarchy during the Qing period. Ko has discussed the rise of companionate marriage in popular literature, that fomented, if not also accompanied, a shift towards what she calls “marital patriarchy” based on bonds of affection between husband and wife rather than, and often at odds with, the prerogatives of the patriarchal family.¹⁹ For example, considering chastity as an expression of wifely loyalty to one’s husband, during this period young women later known as “faithful maidens” would refuse to remarry, even when it may have been more advantageous for their deceased husband’s family for them to do so.²⁰ Venerated for their sacrifice despite the conflict with proper authority figures they might have created, legal records show that not just elites but women from various social classes embraced such ideals, and that Qing authorities themselves prioritized and often went to lengths to protect the interests of marital or “conjugal patriarchy” even when it circumvented the authority of the patriarchal family.²¹

However, these studies have also carried with them enduring assumptions about the strength of Qing patriarchy in the household, presuming the widespread investment of men,

¹⁹ Dorothy Ko, *Teachers of the Inner Chambers: Women and Culture in Seventeenth-century China* (Stanford, Calif.: Stanford University Press, 1994).; Janet Theiss, *Disgraceful Matters*, 11.

²⁰ Susan Mann, “Widows in the Kinship, Class, and Community Structures of Qing Dynasty China,” *The Journal of Asian Studies* 46, no. 1 (February 1, 1987): 37–56.

²¹ Janet M. Theiss, *Disgraceful Matters: The Politics of Chastity in Eighteenth-Century China* (Berkeley: University of California Press, 2004), 79.

especially non-elite men, in these vying patriarchal structures. In 1723, the Yongzheng reforms eliminated a system that once held the poor to lower standards of moral performance than other members of society. Following these reforms, all men, regardless of social or economic status, were held to universal standards of patriarchy in ways not expected of them in the past, and at the same time, socio-economic changes produced ever larger numbers of poor men. Scholars have discussed the impact these changes had on the regulation of sexuality.²² But the larger consequences that this ‘democratization’ of social morality had on the performance of patriarchy among ordinary people remains an open question. How did this radical shift in societal expectations conflict with and shape the performance of patriarchy in the marriages of ordinary people? This period of Qing rule is commonly considered a prosperous age, marked by population growth, economic prosperity, and territorial expansion. Upon closer examination, scholars have also observed a rise in violent crime (such as sexual assault, banditry, and rebellion) committed by men at the margins of society often referred to as bare sticks (*guanggun*).²³ In many ways scholars have thus treated patriarchy in the Qing unproblematically, viewing it as strong within its competing manifestations, which has limited our understanding of not just women’s lives but the lives of all who existed in the context of the Qing empire.

I call for a paradigm shift in our understanding of Qing gendered order centered upon the frame of “weak patriarchy” that approaches the Qing gender system as not just disjointed and contested versions of one strong patriarchy, but instead reassesses the presumed strength of

²² Matthew Sommer argues that following the Yongzheng reforms, all persons regardless of social status were held to the same social and moral expectations, and consequently practices of prostitution once tolerated among the lower classes were criminalized. See Matthew H. Sommer, *Sex, Law & Society in Late Imperial China* (Stanford, CA: Stanford University Press, 2000) 5.

²³ Further discussion of this scholarship will take place in the following section of this introduction. For a discussion of “bare sticks (*guanggun*)” see Sommer, *Sex, Law & Society in Late Imperial China*, 97-101.

patriarchy as a hegemonic regime at different levels of society, especially that of the family and the individual. Scholarship has been written about the perceived dangers notorious “bare sticks”—men at the margins of society without a wife, family, or property—posed to Qing social order.²⁴ But the evidence of weak patriarchies depicted in the legal reports under review here illuminates the dangers of men both outside and *inside* the family system, undermining past assumptions about the stake established men—fathers and husbands—had in the prevailing social order and their will and ability to maintain it. Whether evidenced by these men’s excessive cruelty, financial irresponsibility, abdication of duty, or simply their vulnerability at the hands of women, weak patriarchies such as these reveal a broader failure of masculine authority in the eighteenth and early nineteenth centuries than previously recognized. Thus, as a theoretical lens of this dissertation, “weak patriarchy” not only challenges conventions about the success of the male-dominated household in traditional China, but also allows us to see clearly women in this society imagining and pursuing futures for themselves outside patriarchal control.

However, the result of weak patriarchy is not strong matriarchy, nor does evidence of weak patriarchies in society deny the strength of Qing patriarchal principles, structures, and laws. On the contrary, it is a model in which patriarchal strength and weakness co-exist. The usefulness of “weak patriarchy” as an analytical frame is that it allows us to appreciate the flaws in this otherwise “strong” patriarchal system, to de-naturalize patriarchy and explain how it operates, treating it not as a known fact of history but as a cultural and social construction created throughout history, constantly in flux and in need of being reaffirmed. This process is not

²⁴ Thomas Buoye has shown that magistrates composed criminal narratives at odds with bare stick legislation, in which they expressed compassion for “bare sticks” and their destitution. See Thomas Buoye, “Bare Sticks and Naked Pity: Rhetoric and Representation in Qing Dynasty (1644-1911) Capital Case Records,” in *Crime, Histoire & Sociétés / Crime, History & Societies* 18, no. 2 (2014): 27-47.

so easily observed when patriarchy is at its strongest, but when it is at its weakest, on its knees, sometimes literally, such as when a husband falls victim to his wife, the fractures and fragility of this seemingly hegemonic gender system are exposed. And in these moments when men are at their weakest, it allows us to see women's strength and assess their relationship to patriarchy in a new way.

The Extraordinary Ordinary: Defiance, Emotion, and the Everyday

Conducting interviews in China in the 1980s, Margery Wolf asked, "what is a good woman?" The answers seemingly left her frustrated. Wolf explained, "It is almost impossible to get a Chinese woman to describe for you the attributes of a proper woman. She immediately translated your subject into proper wife or mother or daughter-in-law, and if you object, she tells you about a good daughter."²⁵ According to Tani Barlow, prior to the early twentieth century the concept of "Woman" was defined in terms of women's relationships to men. Traditional China "[did] not support a transcendent agent called Woman," as she states, only one's performance as for instance daughter-in-law or wife "[made] a person recognizably female."²⁶ If Wolf asked about specific kinship roles, answers improved. Wolf writes, "When asked to describe a good wife, the women's responses were more revealing. The most frequent requirement was that the woman be a hard worker and not quarrelsome."²⁷

This dissertation makes an original contribution to Chinese women's history by re-envisioning traditional Chinese womanhood through the frame of the "bad woman," centered

²⁵ Margery Wolf, *Revolution Postponed: Women in Contemporary China* (Stanford, Calif.: Stanford University Press, 1985), 112.

²⁶ Tani E. Barlow, "Theorizing Woman: *Funü, Guojia, Jiating*," in *Body, Subject and Power in China*, eds. Angela Zito and Tani E. Barlow (Chicago: The University of Chicago Press, 1994), 256.

²⁷ *Ibid.*, Margery Wolf, *Revolution Postponed*, 218.

upon women's resistance to patriarchy. Exploration into the lives of women at the opposite end of the virtue spectrum, "female criminals" (*fanfu*) whose choices led to run-ins with the law that bestowed punishments rather than honors, offers new understandings of the ways women pushed against and broke through patriarchal restrictions. Through an analysis of women's testimonies embedded within husband-murder reports, I show readers that the women in the following chapters did not hesitate to act against their husbands, fathers, and family members when it came to their pursuit of companionship, sexual desire, or whatever else was theirs in life. Their willful disobedience as women who circumvented male authority and brought their husbands to their knees cut at the myth of feminine passivity that guided Qing gendered logic. Their social positions as wives, concubines, child-brides, and betrothed daughters weighed heavily in determining the consequences for their actions, and we learn through their testimonies about their expectations of marriage that speak to their desire for personal happiness. No matter where they located their sense of dignity, they did not align themselves with initiatives of hegemonic patriarchy. They ran counter to it.

Through expressions of hope, fear, rage, and more, the personalities of the women that permeate each chapter grant us unparalleled access to the little-known lives of the non-elite. Their testimonies open us up to an expansive world of ordinary women's complex and varied emotionality, previously undervalued and otherwise thought inaccessible in the historical record. Within these reports, ordinary, non-elite and illiterate women are, perhaps for the first time, compelled to speak about their emotions and desires. I find them pursuing companionate marriages with young men whom they had grown fond of in their natal villages, expressing their longing for sexual satisfaction in marriage, and even talking about love. Thus, these reports show

the extent to which sex and marriage was not merely instrumental but often and in many ways sentimental, integral to these women's sense of self.

Therefore the vision of ordinary life in late imperial China that this dissertation presents is not one motivated by mere survival—even as we will encounter people among the lowest sectors of society doing what they could to endure.²⁸ Preserved however imperfectly within the confines of the criminal case record, you will find that one's will to survive was always partly about her dignity and self-worth—not just as a wife, but as a person. Everything she did, from the extreme actions she took to the difficult choices she made, tethered in some form to her personhood. In this way, pursuit of love, sexual pleasure, and companionship was just as vital to a woman's survival as her body, property, and labor, from the pig she raised to the man she loved. The materiality of life inexorably bound to their sense of self. Although I do not allege these women to articulate a philosophy of any kind, the records that Qing judicial authorities generated document non-elite women imagining and acting upon an alternative moral code for themselves, neither guided by principles of Confucian patriarchy nor the transactional market in people, in which the feelings of the most desperately poor mattered in marriage and life.

The details embedded in these legal reports allow me to reconstruct a sense of non-elite women's working and material lives both in and *outside* the home. Previous scholarship has shown that although women, especially those among the elite, may have spent much of their lives within the home, their work in the inner realm linked them to the outer world of commerce

²⁸ This represents a departure from the work of legal and social historian Matthew Sommer who in his reading of the Qing legal archive has emphasized survival maximizing practices in the lives of the ordinary rural peasantry. See Matthew Sommer, *Polyandry and Wife-Selling in Qing Dynasty China: Survival Strategies and Judicial Interventions* (Berkeley: University of California Press, 2015).

and finance.²⁹ In this dissertation, the setting of women's stories will also take place in the home, in spaces such as the bedroom and kitchen. Yet we will also meet women fully engaged in the world outside the home in ways that have been underrepresented. We will encounter women going to the mountains to chop or gather firewood, laboring in the fields, attending the opera, venturing to the market to sell cloth, and traveling as a working healer.

Their testimonies reveal in stark clarity the physical strength of women in traditional China. They are portrayed running, dodging, dragging, burying, and sustaining blows and beatings, engaging in direct physical confrontations with men, in which they prevailed. To convict women of these crimes, Qing jurists were compelled to recognize them as rational actors who had in many cases exerted physical dominance over men, their husbands.

This dissertation represents one of the first histories of women's direct resistance against patriarchy in late imperial China. It represents a break from previous scholarship that has documented the ways Chinese women have throughout history exerted power through testing the boundaries of the patriarchal gender system but did not go as far as to claim that their actions and sentiments constituted any form of outright defiance. This conclusion can only be reached once we find a way to place at the center of our historical inquiry women who had little reason to invest in this system in the first place, those outside the elite sectors of society.

Did Chinese women have a revolution?³⁰ If we recognize that family units are inherently political structures and that rising up against those in positions of power is a political act, then yes—and it was much earlier and much more common than previously imagined. Every single

²⁹ As an example of such a monograph see Francesca Bray, *Technology and Gender: Fabrics of Power in Late Imperial China* (Berkeley: University of California Press, 1997).

³⁰ In her influential scholarship about the lives of rural women in 1950s China, Gail Hershatter asks, "Did women have a Chinese revolution?" See, Gail Hershatter, *The Gender of Memory: Rural Women and China's Collective Past* (Berkeley: University of California Press, 2011), 6-7.

woman whom we will come to know in some small way over the course of this dissertation through their testimonies will be held fully accountable for their actions and sentenced to death not just as people who committed homicide but specifically as married women who killed their husbands. Their crimes are political and considered treason to the Qing empire and Qing authorities will treat them like rebels. It is important to enter their stories with this in mind, for the frame of rebellion is the only way through which the state and its officials will view them. No matter how seemingly sympathetic in its detailing of the ways in which husbands had wronged many of these women as wives by the standards of ideal Confucian gender order endorsed by the empire itself, with complaints of starvation and extreme physical abuse—Qing jurists regarded them, in both their sentiments and their actions, as highly dangerous individuals – rebels against the state – and punished them as such.

Women’s Violent Crime: Positionality, Voice, and Action in Husband-Killing Reports

Can women *speak* in the Qing legal record?³¹

One might expect women to have been a rare sight in Qing courtrooms. When magistrates required witnesses to corroborate evidence, handbooks advised that women, seen as weak of moral character, be consulted only as a last resort. If possible, men, assumed more credible in comparison, ought to serve in this role.³² Despite such guidelines, one can readily

³¹ The subaltern theorist Gayatri Chakravorty Spivak famously asks “Can the subaltern speak?” See Gayatri Chakravorty Spivak, “Can the Subaltern Speak?,” in *Marxism and the Interpretation of Culture*, ed. Nelson, Cary, and Lawrence Grossberg (Urbana: University of Illinois Press, 1988), 271-316; 294. For a discussion of Spivak and how her theory relates to Chinese women’s history see, Gail Hershtatter, *Dangerous Pleasures: Prostitution and Modernity in Twentieth-century Shanghai* (Berkeley: University of California Press, 1997), 25-26.

³² See Wang You’s forthcoming article, “Women Till and Women Weave: Rice, Cotton, and the Gender Division of Labor in Qing Jiangnan,” in which she states, “According to various magistrate handbook, women ought not be summoned to court—to protect women’s reputations and free the gentlemanly magistrate from the unpleasant situations of dealing with Shrews.” One

encounter women speaking throughout much of the most seminal scholarship on law, gender, marriage, and family that has drawn from the Qing legal case record. Women provided testimony as victims, familial witnesses, accomplices, and even medical professionals during investigations of what was largely imagined to be male instigated crime, such as sexual assault, homicide, compelled suicides, human trafficking, and illicit sex in the form of prostitution, adultery, wife-sales, and polyandry.³³ Although this demonstrates that women's judgment could matter to and be an integral part of Qing jurisprudence, in drawing extensively from the archival category of illicit sex and marriage (*hunjin jianqing*) in which the involvement of women is typically found, past studies have also left us with a greater impression of the ordinariness of women in the Qing courtroom than was likely the reality.

Despite much growth in field of Chinese legal history, the topic of women's criminality has remained at the periphery of scholarship about law, crime, and violence in late imperial China.³⁴ To date, one of the few studies to tackle the topic directly is Sau-chu Alison Yeung's

notable exception to this disdain for women's testimony is the authority granted to Qing court midwives as medical examiner in cases of alleged rape. See Matthew Sommer, *Sex, Law and Society in Late Imperial China* (Stanford, Calif.: Stanford University Press, 2000), 79-84.

³³ See, Matthew Sommer, *Sex, Law and Society in Late Imperial China* (Stanford, Calif.: Stanford University Press, 2000); Janet Theiss, *Disgraceful Matters: The Politics of Chastity in Eighteenth-Century China* (Berkeley: University of California Press, 2004); Matthew Sommer, *Polyandry and Wife-Selling in Qing Dynasty China: Survival Strategies and Judicial Interventions* (Berkeley: University of California Press, 2015); Johanna Ransmeier, *Sold People: Traffickers and Family Life in North China* (Cambridge, Massachusetts: Harvard University Press, 2017).

³⁴ Robert Antony briefly discusses instances of women's criminality in his larger exploration of predominantly men's banditry in South China, concluding that women have been overlooked in the history of criminal violence. He explains that while women may have played a small role in reports of banditry, they were at times participatory agents in banditry alongside their husbands but more often committed violence against family members. See, Robert J. Antony, *Unruly People: Crime, Community, and State in Late Imperial South China* (Hong Kong: Hong Kong University Press, 2016), 140. For a discussion of women's criminality in the Republican period see, Paul Bailey, "'Women Behaving Badly': Crime, Transgressive Behavior and Gender in

1997 dissertation entitled, “Female Criminality in Qing China: Adulteress-Murderesses in Legal and Popular Culture, 1644-1912.”³⁵ Yeung explores Qing jurists’ perceptions of female criminals as adulteresses in the late Qing period through a largely structural analysis of the Qing Code and sub-statutes about women’s involvement in murder motivated by adultery. Her work builds upon Marinus Meijer’s earlier study of on homicides motivated by adultery in Qing law in which it was legal for the husband to kill both his wife and her lover immediately upon catching them in the act.³⁶ With increased access to the First Historical Archives of China in Beijing in the 1990s and early 2000s, scholars increasingly turned to the criminal case record itself to fill in the gap between principle and practice of Qing law, with the aim of granting us access to the ordinary lives of everyday people. Even this, however, has yielded but limited conclusions regarding the lives of women. Women commonly appear in preexisting studies as either victims or passive accomplices in male-initiated violence, especially in the wake of illicit sex.³⁷ Although central to the criminal investigation, women were nonetheless positioned passively in the criminal reports

Early Twentieth Century China,” *Nan Nü: Men, Women and Gender in Early and Imperial China* 8, no.1 (January 2006): 156-197.

³⁵ Sau-chu Alison Yeung, “Female Criminality in Qing China: Adulteress-Murderesses in Legal and Popular Culture, 1644-1912” (PhD dissertation, University of California, Los Angeles, 1997).

³⁶ Marinus Johan Meijer, *Murder and Adultery in Late Imperial China: A Study of Law and Morality* (Leiden: E.J. Brill, 1991).

³⁷ Sau-chu Alison Yeung, “Female Criminality in Qing China: Adulteress-Murderesses in Legal and Popular Culture, 1644-1912,” PhD dissertation (University of California, Los Angeles, 1997). Sau-chu suggests that most female murderers were adulterers. While this may well be the reality in the context of the larger case record, this dissertation shows that many “chaste” wives also had reason to kill, and did so for a variety of reasons and without accomplices, such as in the wake of domestic disputes about the management of the household finances. See Chapter Three, “What She Had: Managing Property and Confronting Financial Collapse.”

seemingly about them, having been either sold, sexually assaulted, murdered, or having committed suicide.³⁸

It is crucial to recognize the ways that this more common encounter with women in the Qing criminal case record has shaped our understanding of their lives. As the most likely targets of illicit sex and spousal homicide, women often appeared at the periphery of criminal investigations, positioned passively as victim or accomplice to male-initiated crime, even when the crime itself is seemingly about them. For example, in cases of chastity suicides and wife-killing, these women's feelings and actions are left to be described by their family members, or by the perpetrator himself. In cases involving other crimes in which women survived the underlying offense such as trafficking, wife-sales, and polyandry, women provided testimony but often did so in a circumscribed role, confirming or challenging the testimonies of those around them, especially that of the assumed male perpetrators whom magistrates imagined as chief instigators of all wrongdoing. As a result, the positionality of women in most commonly encountered reports involving them restricts their narrative authority. What we have been able to glean from women's testimony has been restricted as well, presenting but a partial view of their selves, their actions, and how they lived their lives.³⁹

³⁸ Janet M. Theiss, *Disgraceful Matters: The Politics of Chastity in Eighteenth-Century China*, Berkeley: University of California Press, 2004; Matthew H. Sommer, *Sex, Law & Society in Late Imperial China*, Stanford, CA: Stanford University Press, 2000; Matthew H. Sommer, *Polyandry and Wife-Selling in Qing Dynasty China: Survival Strategies and Judicial Interventions*, Berkeley: University of California Press, 2015; Robert J. Antony, *Unruly People: Crime, Community, and State in Late Imperial South China* (Hong Kong: Hong Kong University Press, 2016).

³⁹ This is not to say that these reports don't provide meaningful insight into women's lives. They do, but it is to question the ideal that the full potential for understanding women's lived experience through these reports has yet to be realized.

The question therefore becomes not *can* women speak in the Qing legal archive, for copious records exist of them doing so, but rather under what circumstances and in which criminal scenarios were women given the authority to *speak* about themselves rather than providing context for the actions and testimony of others. That is, when was it essential and necessary for jurists to record something about the lives of the women they encountered in their courtrooms that went beyond “routine” corroboration? Where can we find testimony reflecting non-elite women’s varied and complex emotional, material, and working lives? It is the aim of this project to develop methodologies to detect and interpret these moments in the Qing legal archive. I have found not only that such evidence exists but that it has long existed among the same archival category that has dominated our understanding of women, gender, and the law, because of investigations in which women stood as chief perpetrators of homicide in one of the most unexpected and extreme criminal scenarios: husband-murder.

When wives were designated chief perpetrators of their husband’s murder, magistrates envisioned them outside of ideals of feminine victimization, viewing them not as targets of male rage, desire, or profit, but instead as chief instigators of violence and illicit sex *against men*. With allegations of husband-murder, women’s narrative positionality shifts from a space of passivity to that of activity as they are positioned in an active male legal-conceptual space, not just as a chief culprit and active criminal agent but also as a primary narrator of her own story, her actions, and her choices, with her own emotions and desires as the driving force behind the crime itself.

Literary theory has motivated the questions that have shaped this inquiry. I am inspired by Natalie Z. Davis’ use of fiction as a lens to understand how criminals in sixteenth-century France composed compelling letters for remission of punishment for crimes including husband-

killing. As Davis explains, women crafted narratives evoking wifely indignation toward husbandly misconduct that reinforced values of family hierarchy that justified to their listeners the use of violence against their husbands.⁴⁰ This approach has been used by scholars of China before. In 2007, contributing authors to the collected volume titled *Writing and Law in Late Imperial China* set out to “illumine the complex intersections between writing as a cultural practice and the administration of justice.”⁴¹ Contributors to that volume argued that for magistrates, the adjudication process included writing reports about criminal activities that involved narrative construction that paralleled fiction. Popular stories provided magistrates with a discursive framework to make sense of social disorder far removed from their own life experience.⁴²

Unlike the petitioners in Davis’ study, my historical subjects did not compose their confession narratives firsthand. Much like any historical source, Qing homicide reports are not an uncomplicated window into the past. Acquired under the duress of interrogation, the final versions of testimony included in this dissertation are not verbatim accounts but instead filtered versions of perpetrator’s original responses to specific questions aimed at producing a

⁴⁰ Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and Their Tellers in Sixteenth-century France* (Stanford, Calif.: Stanford University Press, 1987), 95.

⁴¹ Robert E. Hegel and Katherine N. Carlitz, ed., *Writing and Law in Late Imperial China: Crime, Conflict, and Judgment* (Seattle: University of Washington, 2007). In the introduction, Hegel states that “law ostensibly aims at fixity and stasis, whereas writing is inherently innovative...Case reports—however strictly they seem to apply the law—effectively supplement and undermine its certainties. By examining writing and law together, we bring out the ceaseless dynamism in late imperial Chinese culture” (xi).

⁴² Well-known literary archetypes, such as the shrew, reemerged in reports of domestic violence, which as Janet Theiss has explained, functioned as a persuasive rhetorical device to grant leniency for a husband who killed his wife. See, Janet Theiss, “Explaining the Shrew: Narratives of Spousal Violence and the Critique of Masculinity in Eighteenth-Century Criminal Cases” in *Writing and Law in Late Imperial China: Crime, Conflict, and Judgment* (eds. Robert E. Hegel and Katherine N. Carlitz, 44-63. Seattle: University of Washington Press, 2007).

convincing conclusion.⁴³ The magistrate and his clerks, not the culprits or witnesses, had the final say in the construction of these reports, controlling the representation of testimony and deciding how much of it would be preserved.

How can one know where the magistrate's version ends, and the culprit's story begins? What has been overlooked is the people who these cases were about, and the power behind the basic facts *they* provided during interrogation, and I highlight the narrative agency of culprits, approaching these reports as hybrid narratives that reflect a complex process of co-authorship. I have developed a distinct methodology for reading women's testimony in which the complex motivations involved pushed the boundaries of both literary and legal paradigms. The work of a magistrate did not exist in a vacuum and their influence was far from absolute. On the contrary, judicial reliance on testimony as evidence left magistrates dependent upon culprits to resolve crime. As Yasuhiko Karasawa explains, it was the task of the magistrate to "expose the truth itself...on the grounds that the person who committed the crime knows best what s/he did...proof of guilt always had to include the criminal's written confession." Unlike with modern western jurisprudence, Qing magistrates could not convict a suspect of a crime that the suspect themselves did not admit to doing, and they relied upon culprits to provide them with credible information about themselves and the crime. While sanctioned methods of non-lethal torture, such as a finger press or ankle press, could be employed to help expose "the truth," if culprits refused to modify or add additional details to their response despite intimidation—which happened more readily than one might assume—magistrates often had no choice but to contend

⁴³ Yoojin Soh, "Crafting Testimony: The Qing Homicide Reports and Narrative Structure," *Law and Literature* 31, no. 2 (2019): 194.

with the testimonial evidence provided.⁴⁴ In this way, magistrates held power, but so too did the culprit in their courtroom.

It is clear from reading closely and broadly within the archive of women-initiated homicide that jurists demanded perpetrator testimonies be both be believable and align with the facts of the crime, but the outcome of interrogation did not always result in an expected or anticipated criminal narrative. The reports were not predetermined. The women whose testimonies we will read were often burdened with narrative authority integral to the creation of the case narratives lobbied against them, conceived as rational actors. Introspection into their inner thoughts became a necessary requirement for county magistrates to explain their transgressive homicidal motivations and actions removed from their own world view, the substance of which became not only the focus of but also the foundation of the case narrative itself. We may never be able to hear women in their own voices, but the testimonies presented here may bring us as close as we could hope to get. And where access to women's voice falls short, their actions ring clear.

To Kill A Husband: Wifely Violence in the Qing Code

To kill a husband was one of the worst crimes a woman could commit.⁴⁵ The architects of the Qing Code designated it among one of the "ten abominations," a list of the ten the most egregious offenses in the empire, a crime of extreme unfiliality in which juniors plotted to kill

⁴⁴ For a brief discussion of torture techniques, see *Ibid.*, Yoojin Soh, "Crafting Testimony," 197-198.

⁴⁵ The premeditated killing of a husband's paternal grandparents or parents is also included in the statute on husband-killing and garnered the married woman the same punishment, immediate dismemberment. However, it should also be noted that husband-killings are significantly more common in the legal case record than either of these envisioned scenarios. See, Article 284 of the Qing Code.

superiors who shared the one of the most intimate bonds of mourning.⁴⁶ Categorized under the statute on “plotting the killing of paternal grandparents and parents (謀殺祖父母父母),” the Code states, “In the case of anyone who plots to kill...a husband...If the killing has taken place, then all will be condemned to death by slicing.”⁴⁷ Women were not judged as person but instead within her socially defined role as “wives.” In other words, severity of punishment stemmed not from the offense committed but also the relationship between culprit and victim. Consequently, when a “wife” who killed her “husband,” her superior and family head, the leader of the political unit of the family, Qing jurists viewed these women’s actions as not only deeply immoral, but also profoundly political and tantamount to treason.⁴⁸

And yet, despite the seriousness of the crime of premeditated husband-murder, Qing judicial discourse had relatively little to say on the matter. Beyond recommending a strict punishment of immediate execution by dismemberment, few statutes discussed this seemingly legally uncontroversial issue. Among the seven statutes listed, none concern husband killing, and noted late nineteenth century scholar and commentator of the Qing code Xue Yunsheng made no remark on the matter. Regardless of reason or circumstance, a wife who willingly or otherwise killed her husband had violated the hierarchy of human relationship, turning patriarchal hierarchy on its head. In the eyes of the Qing court, such women deserved

⁴⁶ The explanation for this severe punishment is based on the degree of sacred bonds of hierarchical (and patriarchal) human relationships based on mourning obligations. For more on the degrees of mourning relationships in Qing China see Norman Kutcher, *Mourning in Late Imperial China: Filial Piety and the State* (Cambridge: Cambridge University Press, 1999).

⁴⁷ Statute 03, DLCY, *juan* 32. (Jones, Article 284, *The Great Qing Code*) 凡謀殺...夫...已行...已殺者, 皆凌遲處死。

⁴⁸ Listed just before husband-killing among the ten abominations is the crime of plotting rebellion. Scholars have discussed the history of “immediate dismemberment (*lingchi*)” as the recommended punishment for all political crimes. See Timothy Brook, Jérôme Bourgon, and Gregory Blue, *Death by a Thousand Cuts* (Cambridge, Mass.: Harvard University Press, 2008), 55-61.

harshest punishment, and magistrates lacked clear guidance to consider arguments for leniency or mitigating factors during the adjudication process.

Outside the statute on “plotting the killing of paternal grandparents and parents,” the Qing Code envisioned a few other criminal scenarios in which a wife’s actions might cause her husband’s death: (1) the unintentional beating of a husband to death, (2) the intentional and unintentional killing of a husband because of adultery, and (3) compelling a husband to commit suicide.⁴⁹ Each scenario culminated in a death penalty for the female offender, of which only the crime of compelling a husband-suicide offered her any significant hope of leniency during the period of annual review.

First, the statute entitled, “wives and concubines who beat their husbands (妻妾毆夫),” outlines punishments for women who physically attacked their husbands dependent upon on the types of physical injuries he sustained. For instance, it recommends a punishment of one-hundred strokes of heavy bamboo for those married women who beat their husband, in which the husband also has the option of divorcing her. If the beating amounts to a serious disability, then the punishment is immediate strangulation. If beating results in the unintentional death of a husband, wives and concubines were sentenced to immediate beheading, and as we have learned above, if death was premeditated, the punishment was immediate dismemberment.⁵⁰ The statute notes that the use of poison to inflict death upon one’s husband would be judged in accordance to this statute as well.

In comparison, husbands who killed their wives received lighter sentences for the reciprocal crime. According to the case record, husbands who killed their wives with

⁴⁹ Jones, *The Great Qing Code*, Art. 285; Art. 315.

⁵⁰ Statute 2, DLCY, *juan* 36. 凡妻妾毆夫者，杖一百…死者，斬（決）。故殺者，凌遲處死。

premeditation received sentences of immediate strangulation.⁵¹ Those who did so accidentally, received strangulation after the Autumn Assizes, with hope for standard forms of leniency which the legal record suggests was readily granted (while such leniency for compelling husband-suicide appears to have been rare). My review of the First Historical Archival digital database of homicide reports has shown that when it comes to spousal homicide, records of accidental wife-killing far outweigh accidental husband-killing. Whereas reports of husband-killing yield relatively equal numbers of premeditated and accidental, wife-killing were predominantly accidental. Provisions in the Qing Code, as well as general expectations of submissive wifely behavior, made it easier for husbands to convince county magistrates that their homicidal actions had been unemotional, and therefore unintentional, inspired by his wife's bad behavior, especially disrespecting her parents-in-law.⁵² Jurists made their attitudes on this clear with the statute entitled, "husband who beat a guilty wife or concubine to death (夫毆死有罪妻妾)" which offers light punishment for wife-killing in the wake of such incidents. It states, "Whenever a husband kills his wife or concubine because she has struck or cursed the husband's paternal grandparents or parents without authorization, he will receive 100 strokes of heavy bamboo."⁵³ If a husband strikes his wife and she commits suicide, he receives no punishment.

Considering comments Xue Yunsheng made on the subject of the punishment for wives who beat their husbands is revealing of the unforgiving attitudes elites held toward acts of wifely

⁵¹ For example, Wei Hongji from Hengshui County, Jizhou, stabbed his wife to death and was sentenced to strangulation after the assizes. See XKTb, 02-01-07-0011-001. (题为直隶冀州衡水县人魏洪济砍死伊妻拟绞监候事). This case is discussed in Chapter Six.

⁵² If one were to look only at the Qing Code, official anxiety about wifely defiance exists most strongly in regards to the potential of a wife to attack her parents-in-law rather than her husband. Take, for example, the specific statute on "wives or concubines who plot to kill the parents of a deceased husband (謀殺故夫父母)." It should be noted that I have yet to encounter one case of this in the archive.

⁵³ Statute 2, DLCY, *juan* 34. (Article 293 in the Jones English Translation of the Qing Code.

aggression. The first substatute under “wives or concubines who beat their husbands” specifies that “whenever a wife or concubine beats a husband. If the husband wishes to divorce her, he may do so because the bond of righteous affection between them is already broken.”⁵⁴ In response to this ruling, which provided that such husbands also be compensated upon the return of their wife, Xue Yunsheng argued for heavier punishment for wives than recommended by the Qing code in cases of husband beating. He states, “For a wife to beat a husband is an example of one of the ten abominations. [Wives] who cause injury [to their husbands] ought to be sentenced to exile; how can a monetary fee serve to recompense for such an offense?”⁵⁵ Xue Yunsheng goes on to express bewilderment over the recommended punishment for husband-beating, an offense designated among the ten great evils, to be lighter than that of illicit sex in which a husband is at the appropriate time permitted to kill his wife.⁵⁶ Magistrates viewed even the slightest act of violence toward a husband, let alone intentional murder, as a vile offense demonstrating a wife’s bad character in which she was deserving of harsh punishment with no consideration of leniency. The Qing code, therefore, explained husband killing under the assumption that only unvirtuous wives commit acts of violence against a husband.

Jurists who administered laws characterized husband-killers as either unchaste or disobedient, but always as a generally wicked woman. A substatute to the statute on “killing the adulterous male” states that “all wives or concubines who, because of adultery, plot to kill their own husband will be condemned to death by slicing. The adulterous lover will be condemned to

⁵⁴ Statute 2, Substatute 01, DLCY, *juan* 36.

⁵⁵ Xue Yunsheng, Statute 2, Substatute 01, DLCY, *juan* 36. The substatute states, 凡妻毆本夫，如本夫親告，又復願離，恩義已絕。Xue Yunsheng’s comment, 再妻毆夫，載在十惡，毆傷即應擬徒，豈得概准納贖...

⁵⁶ Xue Yunsheng’s commentary reads as follows: 例於婦女有犯，多曲意從寬，而一經犯姦，本夫登時殺死，即應勿論，是以姦罪為重，而為輕也。兩相比較，殊覺參差。

beheading (after the assizes).”⁵⁷ 其妻妾因姦同謀殺死親夫者，凌遲處死。姦夫處斬（監候）。 Subsequent statutes delineate levels of culpability among those involved in the crime. In particular, statute three states, “If the adulterous wife intentionally kills her husband, and the adulterous male has no knowledge of the plot, he shall be punished [only] for the crime of adultery.”⁵⁸ 姦婦自殺其夫，姦夫果不知情，止科姦罪。

Suicide was perhaps the least anticipated form of violence Qing jurists thought a woman might inflict upon her husband. Under particular circumstances, Qing jurists treated suicide as a form of homicide in which someone ought to be found culpable for another’s death.⁵⁹ Much of the discussion about this criminal scenario in current scholarship has been surrounding women’s chastity suicides in cases of illicit sex in the eighteenth century. In 1733, the Yongzheng emperor canonized chaste women who killed themselves rather than submit to sexual assault, and these offenders were sentenced to delayed decapitation.⁶⁰ Men’s suicides have received markedly less attention by both contemporary historians and Qing period elites.

In cases of adultery, the Qing state anticipated that a husband would punish the adulterers, immediately killing them upon finding them in the act. In many ways, the Code obligated *every* husband to value chastity, even above a wife herself, but it did not consider that he might value marital chastity above his own life. In 1805, an additional statute was added to the Qing Code to address the social reality of this unorthodox response to adultery. Section three of the statute on “compelling someone to commit suicide” 威逼人致死, states:

If a wife has consensual illicit sex with someone...[and] her husband does not tolerate

⁵⁷ Jones, *The Great Qing Code*, 271.

⁵⁸ Statute 4, Substatute 03, DLCY, *juan* 32.

⁵⁹ Statute 8, DLCY, *juan* 34. (Also known as Article 299 in the Jones translation of the Qing Code).

⁶⁰ Theiss, *Disgraceful Matters*, 51.

[the illicit sex], but, as soon as he discovers it, tries unsuccessfully to kill the adulterers, and because of this out of humiliation commits suicide, the adulterous wife is sentenced to strangulation after the assizes. The adulterous male, without exception, is sentenced to 100 beatings with heavy bamboo, and three years penal servitude.⁶¹ 婦女與人通姦...其本夫並未縱容，一經見聞，殺姦不遂，因而羞忿自盡者，姦婦擬絞監候。姦夫俱擬杖一百、徒三年。

A husband who committed suicide in the wake of adultery unsuccessfully punished the adulterers and thereby failed to exercise the authority granted to him by the state (*sha jian busui* 殺姦不遂). Although magistrates considered this failure as part of the course of events that led to a husband's suicide, it did not excuse an adulterous wife and her lover from punishment. In the vision of the drafters of the Code, the wife's illicit sex ultimately caused the events that led to the husband's death.

If a woman was found guilty of husband-killing, the crime of compelled husband-suicide offered her the only chance at a reprieve of some kind during the Autumn Assizes. Yet among such cases, the records I have located confirm that women charged with compelled husband-suicide in the wake of adultery were indeed executed.⁶² Adultery was not always a factor in instances of husband-suicide, however. Qing jurists viewed the actions of men who took their own lives in reaction to their wives' adultery as an aberration from the proper performance of husbandly duties—they looked disparagingly upon men who committed suicide after a quarrel with their wives with a level of disapproval analogous to state condemnation of “reckless” suicides committed by women chastity martyrs who the Qing state claimed had “taken life lightly (輕生 *qingsheng*).”⁶³ In fact, jurists used this precise language to describe such suicidal

⁶¹ Substatute 03, *Duli cunyi* 讀例存疑 (DLCY), *juan* 34: 299.

⁶² One such example is the case of Woman Hua-Ye who “Welcomes A Long Lost Lover.” See the first legal case in Chapter Four.

⁶³ Janet Theiss, *Disgraceful Matters*, 28-29. For more on official criticism of women's suicide see Theiss' subsection entitled “The Fickleness of The Chaste,” 183-187.

men. According to the substatute, “If a wife or concubine’s shrewishness (悍澆 *hanpo*) compels her husband to commit suicide then she shall be sentenced to immediate strangulation, but if the quarrel between them is about a trivial matter and this compels [her] husband’s death, [regard] this husband as one of those who take life lightly and commits suicide (其夫輕生自盡者).” With this, Qing jurists questioned the moral capacity of men to uphold principled standards of morality in much the same way as women. Consequently, the Code recommends that the punishment of such wives be reduced from immediate strangulation to strangulation after the Autumn Assizes.⁶⁴ This lighter punishment reflects a judicial condemnation of these men’s behavior.

But what type of argument constituted a “trivial matter” between husband and wife as opposed to one more serious? Interestingly, this statute appears to grant the magistrate wide latitude to judge for himself whether the nature of arguments resulting in husband-suicide were trivial or not. What I can say about my experience with this particular set of cases is that among the many non-adultery-based husband-suicides I have read in the archive, nearly all found the suicidal husband to have taken his life in vain. In an Autumn Assizes document dated from the Daoguang and Guangxu reigns, women guilty of this crime were in fact not executed but instead remained in prison year after year.⁶⁵

Among the three criminal scenarios for husband-killing outlined above: premeditated, accidental, and inadvertent (by which I refer to husband-suicide)—the testimonies that fill the

⁶⁴ Substatute 10, Statute 08, DLCY, *juan* 34.

⁶⁵ One example is the case of Woman Cheng-Shi in XKTB, 02-01-07-4097-001. (题报德安县犯妇刘程氏与夫刘星若口角致其服毒身死拟绞监候事 (光绪十年四月十四日) whose record of continued imprisonment I located in the following document, 03-7257-054. (呈朝审并各省拟不准援免犯妇清单 (光绪十五年)).

pages of this dissertation are overwhelmingly from those women judged to have committed the most serious offence: premeditated husband-killing (both with or without an accomplice), and their punishment was immediate death by dismemberment. This selection is based on the richness of testimonial detail and nuance, and this dissertation is not intended as a representative overview of husband-killing in the Qing, but instead targets case reports in which women, specifically non-elite women, were required to speak to the magistrate, both at length and about different matters, throughout the course of the investigation into their husbands' deaths.

In practice, reports of husband-killing in the Qing legal record, while straightforward in terms of sentencing, reveal the women giving testimony to be individuals more complex than the monstrous image presented of them in the Qing Code. Judicial attitudes toward husband-killers could be more complicated too. As the ultimate crafters of testimony, in some cases, magistrates appear to build compassion for such women who were not permitted any form of institutional sympathy under the law, but who were often dealing with abusive husbands who did not provide for the basic needs of their families. Yet, as we shall see, the traces of these women left on the historical record are more a consequence of judicial puzzlement and the process of encounter to learn what drove these women to do what they did than any attempt at compassion, an attempt to establish motivation and nothing more.

Husband-Killers in the Qing Legal Case Record

It is clear from magistrates' recorded reactions that they viewed men, not women, as ideal instigators of homicidal violence and hesitated to cast women in such an aggressive criminal role, which was no surprise given their skepticism of women's ability to even serve as competent witnesses. During interrogation, they posed questions to women who offered up such confessions

such as, ‘You’re a woman, how could you kill a man?’⁶⁶ Gendered assumptions about women’s physical strength, or lack thereof, relative to that of their victims cast doubt on women’s criminal agency, appearing to initially supersede these women’s confessions. Judicial confusion intensified when such women seemingly refused (or could not) name an accomplice: the ubiquitous yet often non-existent male lover.

As common as magistrates’ suspicions about women’s strength, and thus their credibility, were their presumptions about the involvement of a male lover. As much as adultery guided the imagined husband-killing outlined in the Qing Code, so too did it seem to guide the assumptions of county magistrates as they approached criminal scenarios. Magistrates entered such crimes with pre-existing assumptions about the inevitable role of outside men in husband-murder to explain why a woman would be willing to end her husband’s life. Often women were simply unable to name a lover, refusing to align neatly with the magistrate’s preconceived ideas about the crime. In such cases, introspection into women’s lives often came as a consequence of their defense against allegations. Yet, when a lover was discovered, women did not necessarily adopt a passive role in their dangerous liaisons. Magistrates were more easily convinced of women’s agency in matters of illicit sex than violent crime itself, willing to recognize women as either initiators or equal co-conspirators in extramarital sex that inspired their husbands’ death, while their lovers could often be the less willing party in such volatile affairs. Women homicide culprits were held to a high standard of proof, burdened with the task of defending their motive

⁶⁶ An example of this type of gendered question comes from XKTB, 02-01-07-0230-009, in which an official asked the culprit, “She is but a woman, how could [she] have beat your husband to death? (他一個女人如何能把你丈夫打死呢)” It should be noted that that the magistrate in this case also questioned the age of the alleged assailant, who was over 70 *sui* at the time. The topic of women’s strength will be explored in Chapter One.

for and ability to kill their husbands that fell outside magistrates' preexisting beliefs about both gender and criminality.

Yet, as we shall see, despite women being less than ideal masterminds of homicide, magistrates could be sufficiently convinced of their strength, agency, and independent willingness to instigate homicide to hold them fully accountable under the law. I argue that reaching such outcomes required the elicitation of extensive testimony because magistrates, as elite men, could not relate to the realities of women's lives, which included pregnancy, menstruation, textile and food production, and women's feelings about sex, leaving them more dependent upon their female culprits as narrators than in more typical cases of male-initiated homicide. Judicial reliance upon women's testimony to construct a credible case narrative believable to reviewing officials meant that magistrates had to begin to know these women in some way, learn about their marital problems and frustrations, penetrating their personal lives to reconstruct a worldview far removed from their own.

This need for narrative satisfaction created not only a space but also a demand for ordinary woman *to speak*, and not just about the pivotal moment of defiance that had suddenly brought them face to face with an appendage of centralized state power that would come to immortalize them in history. They would also be called upon to explain the seemingly smaller and otherwise private moments of everyday marital life that had led them there, arguments about overcooked food, disputes about the pawning of a quilt, and the pursuit of sexual fulfillment, capturing a sense of their emotionality, yearnings for companionship, and affection, as well as mounting indignation and yearnings for revenge. Perhaps most surprising to readers, while the husband-killer of the Qing Code is represented as an abomination against principles of filiality, husband-killers in the Qing legal case record are far from one-dimensional monsters or

archetypal “shrews,” but in fact appear as complex and motivated female selves rarely encountered in the realm of discourse, eerily sympathetic yet nonetheless deserving of utmost punishment in the eyes of the state.

To be sure, not every report of husband-murder, independent or otherwise, preserves a clear sense of the female culprit’s personhood. Some reports are rich, while others leave little impression upon the reader at all. My intensive reading of the women-initiated homicide record has shown me that the greater the narrative dissonance, meaning the farther removed these women’s criminal actions and motivations are from magistrates’ expectations of criminality, the more room women have to speak. This is exacerbated by multiple factors, prominent among them being method of murder. When women killed using direct violence (shooting, stabbing, strangling etc.), as opposed to poisoning of food or having a lover kill the husband, the magistrate required further explanation of *their* extremely violent actions, because this type of violence was not expected from a woman. Thus, readers will find that while poisoning was perhaps the most common way wives premeditatively killed their husbands, I have chosen not to emphasize these cases in my dissertation. Because the case followed judicial expectations to a degree, the testimony in these cases is more muted, for her actions are more within expectations. Whereas if a woman stabbed her husband repeatedly and made no significant efforts to escape punishment, the magistrate felt a need to probe into what led to such strong motivations. Such cases have a more robust and nuanced testimonial narrative. An altogether unexpected circumstance we will encounter in Chapter One is husband-killing over matters of conjugal sex, rather than illicit sex. Magistrates were confused as to why a wife would kill her husband over what *they* considered to be trivial matters of sex in marriage, but these issues were clearly of utmost importance to the women themselves. Additionally, dealing with minorities, different

languages, dialects, or customs further exacerbated the degree of removal and dissonance between magistrate and culprit, meaning that the testimonies of minority women appear more frequently in this dissertation than one might expect.

As noted earlier, one of the most disconcerting aspects of these legal reports is that the process of searching for a motivation for women's crimes elicited a testimonial narrative that may strike readers initially as "compassionate" or "sympathetic." Many women's complaints about their husbands appear if not "justified" then at least "reasonable" and understandable to readers who can see how husbandly failure drove them to extreme ends. Even in the least sympathetic of scenarios, adulterous husband-killing, wives' testimonies reflect a desire that does not appear "evil" or "malicious" but instead human for companionship and support from a man. But this introspection is only a reflection of magistrates seeking to overcome their ignorance in the zealous pursuit of motive (and perhaps to fulfill their own curiosity) with narrative sympathy virtually never signifying leniency in punishment.

Magnifying The Margins: The Makings of a Feminist Archive

If reports of women-initiated homicide have long existed in the Qing homicide record, located among one of the most well-trodden archival categories, why only now have these revealing documents come to light in a comprehensive study?

One of the reasons for this is because of the way in which this project is focused on mining the rich social and cultural data inherent in criminal reports to reconstruct the lives of ordinary women. In other words, my aim is not to argue whether or not husband-killing rose or declined during the Qing, or even necessarily that it was a widespread social phenomenon or institutional issue for the Qing bureaucracy. Instead, I am interested in finding singular moments of defiance in the case record by the women who committed them, combing the archive to detect

the most detailed impressions left by women, and then scrutinizing those accounts and bringing them together to see what they might collectively say about women's experience under patriarchy.

A Data Feminist Approach⁶⁷

Until only recently it has been difficult to locate reports of women-initiated homicide in the archive. Such cases make up only a fraction of the total homicide record. Only with the advent of digitization has it become possible to distinguish these otherwise marginal criminal scenarios from the larger record of male-initiated violence. With regard to spousal homicide specifically, any encounter with the archive makes clear that men killed their wives much more often than women killed their husbands. Formerly, when left with reels of microfilm to comb through, it would have been a monumental challenge if not an impossibility to amass a representative sample of the "marginal," relegating such reports to the status of anomaly when they were occasionally chanced upon.

Digitization has therefore provided feminist and gender historians with a powerful analytical tool necessary to center women in the archive. Although only archival titles are searchable, the database allows one to add, remove, and co-mingle search terms.⁶⁸ One of the most important functions is the ability to "remove" or eliminate criteria from the search pool listed. For example, consider reports of premeditated homicide of a husband in which illicit sex

⁶⁷ The term "data feminism" was first introduced by the writers of a book of the same title in which authors approach the science of contemporary data collection from a feminist lens, investigating biases inherent in the process that has led to varying levels of discrimination. See Catherine D'Ignazio and Lauren F. Klein, *Data Feminism* (Cambridge, Massachusetts: The MIT Press, 2020).

⁶⁸ For example, located region, county, year; One the most important functions is its ability to "remove" or eliminate a criterion from the search pool listed. For example, search for reports of premeditated homicide of a husband in which illicit sex was not a factor. The ability to quickly eliminate "illicit sex" from the equation elicits a spectrum of reports.

was not a factor. The ability to quickly eliminate “illicit sex” from the search parameters elicits a spectrum of reports outside the norm. This, in combination with an understanding of the gender system in which the archive was created (as well as that which guides the archival classification in the contemporary period), one is equipped to reverse engineer the gendered archive.

One of the foremost ways I have adopted this approach is utilizing the linguistic othering of women in traditional Chinese society to locate the records pertaining to them. Women in the Qing were typically known by their father or husband’s name, with a “*shi*” particle attached. This has at times been translated as “Mrs.” but is translated here as “Woman”. If women had names like men in legal records, it would be more difficult to locate them. Thus, in a matter of years rather than decades, one is able to compile a sample of documents which have long existed, to study not a ‘big issue’, but small issues of singular lives on a large scale. This dissertation is an inquiry into the marginal to find the ordinary, something that would otherwise exist only as disparate pieces impossible to connect. Moreover, this process has allowed me to amass a nearly representative regional sample. These cases come from all throughout the Qing empire, including minority populations.

One report of a woman who intentionally kills her husband is exceptional, a formidable woman, but with hundreds of women, this is a chorus of discontent speaking to their formidability and the shape of their lives, demanding our attention and careful consideration in the historiography.

Learning To Read Silence from Sound: The Analytical Power of A Singular Case

How can this encounter with magnified marginality help us to better understand the relationship between women and the archive? It has begun to show us that while strength exists in numbers, and this dissertation is certainly part of a normative tradition in which a “large”

quantitative source base establishes legitimacy of the inquiry itself, this project also shows the importance of the relationship between quantity and quality, that explanatory power can reside in the most tangential, brief, and the rare, and this is perhaps most clear *because* it is a study about women. Women's gendered experience of life was different and thus it is reasonable to conclude that their encounter with the archive would be different as well.

To hold women to the same standards of evidentiary proof that have traditionally legitimized past inquiry may serve as the perpetuation of past violence. Women often operated outside the purview of the Qing state. We only encounter them when they *happen* to get entangled in a legal report and their dealings rise to the surface. Given women's relative rarity in the archive in comparison to men, the conclusions drawn from each individual report demand a feminist reading in which we consider evidence that might at first glance appear exceptional as instead revealing of the ordinary and the mundane. In this dissertation, one will encounter various topics that on their own may appear exceptional. For example, I have encountered only one report documenting a woman who drew upon the help of an economically well-connected female friend to purchase land outside her husband's control. This woman's actions and the women's network of economic influence that emerges from her report ought not to be regarded as rare or exceptional simply because I have located only one instance of it, but instead indicative of a larger pattern of covert womanly behavior; the tip of the iceberg of the reality of women's lives which the historian can never fully see. While I have come across only one report of a woman buying land behind her husband's back, many more reports exist in which married women attempted to exert some control over their household finances, and hundreds of accounts are found of women demanding control over what was theirs in life, whether it be their bodies, children, dignity, desires, or personal possessions. Thus, while I do not have over one hundred

reports of wives buying land, I do have well over one hundred reports of married women expressing the same fundamental sentiment, which should have a compound effect when considered between and across case boundaries for their impact on the historical record.

Chapter Outline and Organization

Age is a significant category of historical analysis in this dissertation just as important as gender, class, sexuality, or the law. Women who stood trial for husband-murder were *always* asked about their age at the time of interrogation, and according to the information elicited from these reports, it was likely the first question posed to them.⁶⁹ No matter the precise criminal scenario, county magistrates always included the age of the alleged “female criminal” in their reports as an important context clue to evaluating the plausibility of the purported motivation. While many women may have been unaware of their exact age and were likely pressed to provide the Qing court with some estimated answer (and indeed a few women will state that they did not know how old they were), age is nonetheless the most consistently known and material detail about the women interrogated, followed by information collected about age at the time of marriage and the number of children in marriage.

With the demographic information about women’s ages elicited from these legal reports, In both sections of this dissertation, the chapter divisions will be three phases of what I call married women’s “reproductive life course”: Youth: newlywedded women who have not yet had children (teens to mid-twenties); Mid-life: women in mid-life, married for multiple years often

⁶⁹ According to the order of information in these reports in which culprits answer specific questions from the county magistrate, age is typically the first recorded response. For example, in the case of Woman Wang blinded by her husband and not allowed to die, the magistrate asked her, “How old are you this year? (你今年多少年紀了).” Not exclusive to women-initiated homicide, recording the age of culprits and to some extent accomplices appears to have been a customary practice; however, they did not consistently record the ages of witnesses or more peripheral figures.

with young children (late twenties and thirties); and Old Age: women married for decades with at least one adult or married out child (late thirties through fifties).⁷⁰ I have decided to orient women's ages around childbirth to adjust for women who entered homes as child brides who began having children often earlier than those married at age twenty. The age categories themselves reflect where these women exist in relationship to childbirth. Of course, not all women gave birth, and the chapters that follow address the experience of women without children as well.

This framework is both organizational and analytical. Thinking critically about the lived experience of women in this way has allowed me to consider the diverse range of opportunities and constraints non-elite wives faced at different phases in their life course. It has also enabled me to illuminate seemingly disparate and various dimensions of married women's lived experience—from newlywedded women's particular frustrations about conjugal sex to elderly wives acting upon their sexual desires with much younger men—insights that would have otherwise remained in isolation or have fallen by the wayside if another structural principle had been adopted, such as criminal scenario.

Yet the reproductive life phases outlined above are also permeable, like a spring cold snap or a long summer. They serve for me as more of a guiding principle than an inflexible boundary, and I designated each chapter a seasonal title in an effort to capture a sense of this. Many of the topics covered in the chapters of this dissertation, such as sexuality, affection, work, and property are not necessarily exclusive to any one phase. This being said, topics do arise as a

⁷⁰ Women reached the height of their physical development at 28 *sui*, and deterioration was believed to begin at 35 *sui*. As Susan Mann states, "When a woman reached 42, her hair began turning gray, and at 49 she ceased to menstruate." See Susan Mann, *Precious Records: Women in China's Long Eighteenth Century* (Stanford, Calif.: Stanford University Press, 1997), 46.

subject of concern for women at certain phases in married life. For instance, while complaints about “work” pervade the testimonies of women no matter their age, I have nonetheless found it to be a chief motivating factor that drove women in mid-life to commit homicide. This is not to suggest that work does not appear in the testimonies of older women, or that the topic of conjugal sex, as another example, does not appear in testimonies of longstanding wives, nor that young wives were not expressing concerns about household finances; they *all* were, but these issues arise as a particular matter of complaint or as the prime motivation for homicide in the testimonies of women of certain ages.

Section One explores reports of independent husband murder in which wives acted alone without an accomplice. In Chapter One, I investigate young women’s resistance to sex with their husbands, their frustrations over sexual banishment and unconsummated marriage, their experience with sex before marriage, and their reaction to accusations of lost virginity. These reports reveal the importance of sentiment in sex for young wives (and at times for their young husbands too), as they attempted to exert control over their sexuality in marriage. Concerns about conjugal sex fall by the wayside in Chapters Two and Three as we encounter women married for many years, often with children. I consider what these women saw as theirs in life outside of their bodily sexuality as we move outside the bedroom into spaces both in and outside the home to explore women’s working and material lives. Chapter Two explores marital conflicts that arose over disputes about the management of the household economy from women’s points of view, exploring their attitudes toward their work and the attempts they made to exert some influence over their livelihoods. Organized around the categories of prepare, repair, supply, and raise, this chapter makes the all too often invisible dimensions of women’s working lives visible as I cover a range of labor married women engaged in as wives, such as food preparation,

clothing production, chopping of firewood, and raising of children and livestock (primarily pigs). These wives depicted themselves as taking an active role in maintaining the economic stability of their households, and many identified themselves as the sole supporters of their families. Chapter Three builds upon this exploration of women's work to consider more fully married women's relationship to and conceptions of property. I investigate the ways older wives endeavored to establish spheres of economic autonomy for themselves outside their husbands' control through their personal (and often clandestine) management of land, textiles, and livestock. This chapter also discusses the importance of children, particularly sons, to wives' property claims and future security and personal happiness.

In Section Two, I take a closer look at the adulterous woman, revealing just how often Qing courts encountered and acknowledged female agency in matters of illicit sex. Exploring the articulation of love, longing, and affection in the law, Chapter Four investigates young women's desire for and pursuit of companionate marriage with men of their natal villages. While not all women with such a romantic interest were eager to abandon their marriages for their companions, an unexpected pregnancy could render it difficult for them to conceal their illicit sexual activities. Chapter Five investigates the consequences of illicit relationships for women in middle age, including illegitimate pregnancy and the adjudication of paternity, in which determinations notably fell to the adulterous mother. Finally, Chapter Six examines 'female sexual predators' in Qing law. Contrary to assumptions about gendered power in sex, I explore accounts of older women as initiators of illicit sex and their sexual desire for men decades younger than themselves. The actions of the women in this chapter suggest that menopause or the start of the post reproductive stage in life may have endowed many wives with the freedom to pursue sexual fulfillment and pleasure with men other than their husbands.

The dissertation culminates in an epilogue that examines one single report: the case of fifty-four *sui* Woman Wang who, having been made blind by her husband, excessively beaten, and not allowed to die, killed him with a pair of chopsticks while he lay inebriated. Hers is the *only* husband-killing case I have encountered in my review of hundreds of cases in which the Board of Punishments decided that a wife judged to have premeditatively murdered her husband ought to receive a reduction of punishment. Through an analysis of Woman Wang's haunting testimony and a reconstruction of the masculine world in which the investigation into her husband's death operated, I explore the limitations of institutional leniency for even the most sympathetic of husband-killers as I ask what space was there for married women's righteous anger against their husbands under Qing law.

While having been found to have committed extreme acts of violence, the women whom we will come to know in some small way through these chapters ought not to be viewed as extraordinary, for what they wanted out of life—something of their own, upon which to guarantee their futures, some form of emotional, sexual, or financial autonomy distinct from their husbands and the patriarchal family—was not exceptional, but in fact representational. Their stories are not unique, we simply haven't heard them yet.

Chapter 1

Trouble in the Marriage Bed:

Licit Sex, Virginity, and Expectations of Marital Intimacy

Spring

“She dared not move a muscle,
for, like the child of a patriarchal society,
she lived in dread of her man.”

Xiao Hong, *The Field of Life and Death*

They had been married just four months when the trouble began. Nineteen *sui* Woman Wang had yet to refine her skills in the kitchen, and her husband, Han Yanming (also aged nineteen), had no patience for it. “In the beginning, our marriage was good,” she told the magistrate in her testimony, “[But] at the end of October, I don’t remember what day, I overcooked lunch and my husband became angry and refused to eat. He scolded me, saying, ‘you have been raised by a donkey and you are a useless thing, you can’t even make food! How are you going to manage the house!? What do I keep you for?!’ After this, he detested me, was often angry, and didn’t speak much...”¹

Hurt by her husband’s callous disregard for her and her feelings as a new and inexperienced wife, Woman Wang made sure the magistrate knew of her frustrations. She said, “I had just come to my husband’s house and did not know much about [managing] a household. He didn’t have any kind words to say to me and continuously scolded me. I could only cry in anger...” In search of an outlet from this misery, she went to her parents for help. “I told my father [about the whole situation]. He persuaded me to be patient. My husband had a bad temper,

¹ XKTB, 198.3/209.16, Woman Wang (19 *sui*), Shaanxi, 17th Year of Emperor Qianlong (QL), (1753), Immediate Dismemberment (*lingchi*). Case obtained from Professor Janet Theiss’ private collection at the University of Utah.

and so I dared not argue with him [myself].” Finding little support from her natal family, she returned to her husband and tried to be patient, as her father had instructed, hoping that her marriage might improve.

But the abuse continued. It seemed that Woman Wang could do nothing to please her husband. This time, conflict surfaced in the bedroom. “I sat near the edge of the bed by the fire making shoelaces. I was about to go to sleep, but my husband held the quilt tightly around him, and as I pulled it, the threads tore. My husband scolded me saying, ‘You’re a useless thing, raised by a donkey! You destroyed the quilt!’” Whether over burnt food or a tattered quilt, the insult was the same, that Woman Wang’s inadequacies as a wife stemmed from an inadequate upbringing. This shaming of her mother must have struck a personal chord with her, and her husband’s cruel words reverberated throughout her testimony. “He kicked me twice,” she continued, “and cursed me again saying that *I was a useless thing, raised by a donkey*, and that he didn’t want to share a bed with me. I could only get up and sit by the side of the bed. I was angry and began to cry.”

Degraded, beaten, and without the slightest gesture of conjugal affection, Woman Wang’s patience wore thin. Restricted to the floor, she sat beside the bed. “I began to think about how since we have been a couple, he would often scold me because of the slightest offense. I suffered all the time, and now he did not want us to sleep together and had kicked and scolded me. Even if I desired to argue back, he is a man, I am no match for him. A man such as this is no good for me. The more I thought the more I hated [him].” While Woman Wang considered herself ‘no match for him,’ that night proved otherwise. She remembered that he had brought a gun home with him that evening after hunting in the mountains. Seeing it propped up against the wall, she got up and grabbed it. It was loaded. “[I thought] it best to use the gun to kill him and

then kill myself, and it all would be over with.” Steadying the gun atop the stool near the bed, Woman Wang took aim and shot her husband dead.

Woman Wang entered marriage with a set of expectations. While she understood marriage to include a certain amount of physical discipline and quarreling, she did not imagine it as an overwhelming physical and verbal assault. There are vast numbers of homicide reports preserved among the Board of Punishments Palace Memorials in Beijing, but few read like this. While introspection into the ‘criminal state of mind’ may have been a conventional feature of these reports, testimonial narratives are often nonetheless routine and predictable.² In cases of women who intentionally killed their husbands, however, particularly when violence was involved and no accomplice could be found, judicial puzzlement over such scenarios not only granted women room to speak about marital life but led to insistence that they did so. This, I argue, led judicial authorities to place more consideration on women’s emotional state of mind than in comparable cases, especially those involving male offenders. With Woman Wang in the role of perpetrator, the men who adjudicated crime and composed legal reports, namely magistrates and clerks, whether knowingly or not, preserved rare and seemingly unfiltered traces of ordinary women’s emotionality in the wake of some of the most extreme moments of women’s defiance in Qing dynastic history.

New Wives and Vulnerable Husbands

Judicial elites did not envision women as likely perpetrators of violent crime, let alone murderers of men. The actions of these women cut at the myth of female passivity that guided the prevailing gender logic that ordered Qing society, and compelled magistrates to both

² Jennifer M. Neighbors, “Murder, Mercy, and *Mens Rea*: Intentional Homicide in the Qing Dynasty,” in *A Question of Intent: Homicide Law and Criminal Justice in Qing and Republican China* (Leiden: Brill, 2018), 122.

acknowledge women's aggressive criminal agency and grapple with the uneasy realities of their lives. Yet while magistrates may not have anticipated these women's behavior, the punishment they received was predictable. The Qing Code recommended a strict penalty of death by dismemberment or "slow slicing" for the premeditated murder of a husband by a wife, the most severe form of capital punishment given to traitors to the state.³ As these women challenged patriarchal authority in the household, they also challenged the patriarchal gender system of the Qing State itself.

In this chapter, I analyze reports of premeditated husband-murder committed by young women ranging in age from teens to mid-twenties. These women were typically newlyweds within the first years of marriage or grew up as child brides in their husband's home, while some had yet to marry. There is an overwhelming tendency for them to center their complaints about marriage around issues of conjugal sex, and I explore a range of disputes arising over these matters, including married women's resistance to sex, their frustrations over sexual banishment and unconsummated marriage, their experience with sex before marriage, and their reaction to accusations of lost virginity. These cases provide extraordinary access to the private sex lives of ordinary people previously thought unreachable. I argue that many young peasant women entered marriage with a desire for intimacy and conjugal affection in which sex was a main component. These expectations not only reveal the importance of sentiment in sex and marriage, but also show the ways ordinary women demanded control over their own sexuality and marital experience.

Wronged: Bad Betrothals and the Origins of Marital Discontent

If Woman Wang had been a bad cook, it seemed that eighteen *sui* Woman Huang was no

³ Jones, "The Ten Great Wrongs," in *The Great Qing Code*, Art. 284.

more skilled as a laundress. Married at the age of twelve *sui*, her years with her husband had been unbearable. “[He] had a bad temper,” she told the magistrate, “and regularly beat and scolded me. How was I to carry on living?”⁴ She portrayed him as antagonistically critical of her housework. “[One day], he took off four pieces of clothes and ordered me to wash and dry them. I obeyed. Once he saw the washed clothes, he vehemently scolded me for doing a poor job and ordered me to re-wash them. I obeyed and washed them a second time. Once again, he said that the clothes were not clean. He was clearly looking to quarrel!”

It was not just his criticism but his disciplinary tactics that angered her. She spoke about a time when he refused to let her eat after she had prepared lunch for him and his parents. She told the Qing court, “That evening, mother-in-law secretly gave me some food to eat. When my husband found out, he cursed me saying, ‘you like to eat but are too lazy to work, you often stay at your mother’s home, and you can’t even clean clothes properly, why should I give you food?’ He grabbed a bamboo cane and began to beat me violently.” That night, he continued to abuse Woman Huang by humiliating her mother, just as Woman Wang’s husband had done. She continued, “In bed my husband cursed my mother saying, ‘it’s no surprise that a dim-witted mother would give birth to a dim-witted daughter. I should kill you and remarry a good wife! I do not fear your ghost!’”⁵

Woman Huang identified the ways in which her husband wounded not just her physical body but her sense of personhood: her pride, sense of security, and self-worth. In contrast to the miserable reality that she tolerated for multiple years with her husband, she provided the magistrate with a clear articulation of what she had hoped marriage would be like. “In my heart,”

⁴ XKTB, 192.10, Woman Huang (18 *sui*), Guangxi, QL 17, Immediate Dismemberment (*lingchi*). Case from Professor Janet Theiss’ private collection at the University of Utah.

⁵ Woman Huang strangled her husband with a rope that night while he slept.

she said, “I thought other couples have arguments, but they also have good days... It looked like he truly did not want me.” Among the many grievances Woman Huang raised, in this brief line of testimony, she suggested that her husband had also failed her emotionally. She expected, to some degree, that a husband and wife would share an emotional bond, some kind of affection and kindness, a form of intimacy.

When young women were brought before the Qing court, they often spoke about feeling both disappointed and trapped in marriages with men far removed from their imagination of both a husband and married life. For them, shared affection, attraction, and respectability emerge in their testimonies as important expectations for a husband. Marriage betrothals could take place when women were quite young, with some mentioning being as young as nine *sui* when matched, and if women did not enter their husband’s home’s early as a child bride, cases in this study show that women knew little about their future husbands before marriage, often meeting them for the first time the day they wed. Yet a few cases reveal that women sometimes knew their husbands-to-be during engagement and even socialized with them. Rather than fostering good relations, however, in the following cases the poor opinions women formed of their fiancés during this period inspired them to do whatever they could to stop their marriages. These women were distraught when it finally became clear that the man they had just married or were about to marry was not only not *the* man they had hoped for, but not a man they could ever envision themselves spending any meaningful time with, let alone the rest of their lives. It was a rude awakening that some simply refused to accept.

Many young women were bold enough to cast blame on their parents for arranging a bad spousal match for them. Twenty-two *sui* Woman Mo told the magistrate, “I resented my parents

for making such a mistake in matching me to this family!”⁶ She described her husband as short, imbecilic (*chidai* 癡呆) and depressed. In addition to her personal displeasure with him, her parents-in-law and their household were no more appealing to her; she said, “my husband’s home was infested with rats and [they] bit up [my] clothes.” She went home whenever possible. After three years with them, she decided that she had had enough of her husband and his family and poisoned him with the arsenic she took from her parents’ house that had been intended for the rats.

While mothers may have had a certain degree of influence over their daughters’ marriage arrangements, fathers were the ones who managed and approved the matches, and young women often criticized their fathers specifically for not using better judgment when selecting their husbands. Twenty-eight *sui* Woman Wei, for instance, was deeply distressed when she realized that her father had married her to a thief. She told the Qing court, “I’ve been betrothed to marry Wei Fucuo since I was little...In Qianlong 37...Fucuo came [to my home] without a [betrothal] gift [but] my father let him reside [with us] because he wanted to see him become a person worthy of respect before he allowed him to marry me. These last few years [I] could see that Wei Fucuo was gluttonous and lazy. He often leaves in the night and does not return. [I] think he goes out and steals things...[Before he] stole his brother’s cow and his uncle’s indigo...I resented my father for wrongly matching me to this man! I refused to resign myself to be the wife of a thief and wanted to kill him.”⁷ Thinking that she would not be physically capable of carrying out the

⁶ XKTb, 02-01-07-1445-001. Woman Hou-Mo (22 *sui*). Cangwu County, Wuzhou Prefecture, Guangxi. QL 41, LC. (题为广西梧州府苍梧县民妇侯莫氏欲改嫁毒死亲夫侯伯位议准凌迟处死事). Woman Mo’s parents-in-law gave the food that their son had eaten to the pigs—and they died—which proved to them that their son’s food had been tampered with.

⁷ XKTb, 02-01-07-1444-003. Woman Wei (28 *sui*), Maping County, Liuzhou Prefecture, Guangxi. QL 41, LC. (题为广西柳州府马平县民妇韦氏达三夫行窃主使谋杀亲夫韦扶华议准凌迟处死事). Zhuang minority.

deed herself, Woman Wei gradually sold off the cloth she spun and wove throughout the day until she had enough money to pay a man to beat her husband to death.

While Woman Wei resented her father for not having the necessary foresight to anticipate her husband's true nature, her testimony suggests that fathers may have at least tried to take their daughters' happiness into account when deciding their futures. Some fathers even appear to have listened to their daughters' objections; but, as the following case shows, even when a father was willing, breaking off an engagement was no easy task. Once again, thievery was the young woman's prime complaint. After her betrothed husband was caught stealing, twenty-four *sui* Li Simei told the Qing court, "I had no desire to marry him [and] my father planned to return the [betrothal] gift [and] break off the engagement."⁸ Unfortunately for Li Simei, her husband's family refused. Betrothal agreements, typically marked by the acceptance of a monetary 'betrothal gift' or bride-price by the woman's parents, seem to have been as permanent as marriage itself. Even though Li Simei's parents were ready to repay the betrothal gift to the groom's parents in full, without mutual agreement between families, there was little Woman Li Simei's father could do to get her out of the marriage. But Li Simei refused to accept this fate. Her father having given up, she turned to her brother next and pleaded with him, saying, "Poor fate (命運不好 *mingyun buhao*) has matched [me] to a thief! How am I to hold [my] head up?! Help [me] think of a way [out of this marriage]."⁹ Much like Woman Wei above, Li Simei

⁸ XKTB, 02-01-07-1532-004. Li Simei (24 *sui*). Ruichang County, Jiangxi. QL 43, LC. (题为江西瑞昌县民女李四妹与蔡宝源通奸谋死未婚夫议准凌迟处死事). In addition to dreading that her marriage to a known thief would make her a laughingstock in the community, Li Simei explained that she had developed feelings for another man, Cha Baoyuan, who was a close friend of her fiancé. She confessed to have engaged in premarital sex with Cha Baoyuan, but she reported that her paramour was unaware of the murder plot.

⁹ This line of Li Simei's testimony reads as follows: "...小女子向哥子李勝蛟說命運不好許配做賊的人如何出頭叫他想個法子..."

wanted help, and she had conceived a plan. She proposed murdering her husband to her brother, and while he initially hesitated, he found the ten *liang* copper cash she offered him after she pawned her hairpins and cloth convincing enough.

It was perhaps more common for fathers to discount their daughters' personal happiness when arranging their marriages. Eighteen *sui* Woman Lu seemed to have better understood the permanence of her marriage arrangement, but this did nothing to alleviate the frustration she felt when she discovered that her father had married her to a man who was thirty-three *sui*, nearly twice her age. She told the Qing court, "When my husband came to my house to give my father the wedding contract, I stole a glance behind [my father's] back and saw that my husband was old and ugly. I did not want to be matched to him. That moment I wanted to speak with my mother, but I also thought that the [marriage] contract had been finalized and my father would say there was nothing that he could do, and so I did not speak [with her]. On Qianlong 8, 10th month, 28th day, my husband married me and brought [me] to his home. I don't know why my husband did not like me either, but he only hated me, and I could not go on living."¹⁰ Woman Lu became so angry after putting up with her husband's violent torment that she beat him repeatedly with a rod and stabbed him to death while he slept.

If breaking off a betrothal was difficult, divorce was an even more challenging endeavor, especially for women. The only legitimate reason Qing judicial elites saw for granting wives a divorce was abandonment. If a husband left his wife for at least three years, she could annul the marriage, but it is unclear how often women in this situation pursued divorce.¹¹ Men, on the other hand, had broader latitude when it came to ending a marriage. According to the Qing Code,

¹⁰ XKTB, 02-01-07-0267-009. Woman Lu (18 *sui*). Xiaochuan County, Henan. QL 10, LC. (题为河南洧川县人路氏杀死伊夫沈法议准凌迟处死事).

¹¹ Matthew Sommer, *Polyandry and Wife-selling*, 289-290.

a husband could divorce his wife for a wide range of reasons, including “failure to give birth to a son, licentiousness, failure to serve her parents-in-law, talkativeness, theft, jealousy (presumably of a concubine), and severe illness.”¹² In practice, however, magistrates did not grant husbands a divorce so easily, especially for reasons as trivial as “talkativeness.” Adultery, in contrast, which fell under the category of “licentiousness,” was seen as a more serious transgression and ample reason to expel a wife. Outside the law, men also engaged in the practice of wife-selling for profit and survival, and while a wife’s compliance was often key to the success of such illicit arrangements, women were sold against their will as well.¹³ Given women’s recurring complaints about thieving husbands, it is worth noting that jurists considered “theft” a worthy reason for divorce, just not for a woman petitioner. The confidence with which these women, and their families, pled for annulment on this ground suggests that local communities, and especially women themselves, saw “theft” as reason enough for *any* spouse to want to dissolve their marriage.

For all practical purposes then, women had no legal way out of marriage. Once the decision had been made, betrothal gifts exchanged and contracts written, there was no going back or avoiding the marriage that had been arranged for them by others. Yet, even without legal recourse, women still found ways to protest traditional marriage. Many were as bold as to run away with lovers, pretending to be husband and wife.¹⁴ Some women took advantage of the

¹² Matthew Sommer, *Polyandry and Wife-selling*, pp. 288.

¹³ *Ibid.*

¹⁴ For a discussion of elopement during the Qing, see Paola Paderni, “I Thought I Would Have Some Happy Days: Women Eloping in Eighteenth-Century China,” *Late Imperial China* 16 (1995). As we shall see in Chapter Four, illicit couples often thought that husband-murder was vital to the success of their elopement plot. We will take a closer look at risks women were willing to take to make a life with the man they longed to be with.

custom of wife-selling for themselves when they could and pressured their husbands to sell them. A few even tried to make it on their own, arranging their own remarriages.¹⁵

The women we will encounter in this chapter employed a more extreme tactic: homicide. Those who desired remarriage envisioned their husband's death as the only real way to free themselves from conjugal confinement. Others desired only revenge. It was not that they were unable to envision a life beyond their marriages, but that their interests had shifted. If not the marriage, they were determined to end the man who had made life a misery. To describe these women as merely "unhappy" fails to grasp the true extent of their torment, and diminishes the verbal, mental, and physical abuses they suffered in marriage. As we shall see, conjugal sex was a major issue of concern for women, and their motives for murder stemmed from the troubles they experienced around sexual intimacy with their husbands, matters far removed from what Qing jurists ever imagined might inspire a wife to kill her husband.

¹⁵ Matthew H. Sommer, "Wives Who Demanded To Be Sold," in *Polyandry and Wife-Selling in Qing Dynasty China: Survival Strategies and Judicial Interventions* (Berkeley: University of California Press, 2015), 213. On page 290, Sommer mentions that some women ran away and pretended to be widows, arranging their own wife-sales, and states, "If caught, these women were punished more harshly, although I have yet to see a case in which one was actually sentenced to strangulation." I have encountered one such case. In Qianlong 38, Woman Li (29 *sui*) from Beijing ran away from her husband (39 *sui*) and daughter (8 *sui*) after her husband threatened her with a knife for beating their child too hard (XKTB, 02-01-07-1271-010). Woman Li fled to a different part of Beijing where she planned to beg for a living during which time she befriended a group of older women. These women tried to help her look for employment, but when they could not find her a job, they arranged a fraudulent marriage on her behalf to a night-soil cart pusher (推糞車度日). Woman Li's mistake was remaining in Beijing. After a year or so, her original husband spotted her in the city one day and subsequently reported her to the authorities. Woman Li was arrested and sentenced to strangulation after the assizes. This is a particularly severe punishment considering that her crime was non-violent and did *not* involve a homicide of any kind. Woman Li did not kill anyone, she simply ran away and remarried under false pretenses. In addition to this, I have come across several more cases involving women-initiated wife-sales, typically occurring in or near urban centers (such as Suzhou), but these cases occur in the context of homicide. See Stephanie M. Painter, "'This is Not a Marriage': Husbandly Virtue on Trial in Qing Dynasty Law," Master's thesis, University of Utah, 2016.

Talking about Sex in Qing Law

Entering new households as outsiders, disappointed with their husbands, and possibly even frustrated with their own families, these cases document women's futile struggle to adapt to their new lives as wives. In my reading of these cases, I have found conjugal sex to be a significant recurring issue of complaint particular to the testimonies of young women. These cases provide rare access to the private sex lives of ordinary married couples and, perhaps even more importantly, do so from the point of view of women themselves. Previous research about marriage in the Qing has dealt almost exclusively with the regulation of illicit sex, covering topics such as prostitution, wife-selling, polyandry, and rape, all criminal scenarios in which women typically fell victim to men's sexual desire and homicidal rage.¹⁶ The cases under review in this study are quite different. They deal with matters of *licit* sex, legal sex in its ideal 'proper' place among married heterosexual couples, and the homicidal rage that motivated these crimes belongs to the women who serve as our narrators.

The following reports also introduce us to a new vocabulary for talking about sex in Qing law. As mentioned above, the sex one regularly encounters in the legal archive are examples of illicit sex. The term for "illicit sex" is *jian* (姦), and judicial officials referred to all sex outside marriage in legal reports as *jian*, including premarital and extra-marital sex, as well as sodomy.¹⁷ As such, testimonial narratives about sex can sometimes strike readers as manufactured and

¹⁶ Matthew H. Sommer, *Sex, Law & Society in Late Imperial China* (Stanford, CA: Stanford University Press, 2000); Matthew H. Sommer, *Polyandry and Wife-Selling in Qing Dynasty China: Survival Strategies and Judicial Interventions* (Berkeley: University of California Press, 2015); Janet M. Theiss, *Disgraceful Matters: The Politics of Chastity in Eighteenth-Century China* (Berkeley: University of California Press, 2004).

¹⁷ Sex acts between men were referred to as *ji jian* (sodomy). Prior to the Qing, sodomy was not explicitly an illicit act, but during this period, legislation expanded and jurists designated sodomy a subcategory of illicit sex (*jian*). See Matthew Sommer, "The Penetrated Male in Late Imperial China: Judicial Constructions and Social Stigma," in *Modern China* 23, no. 2 (1997): 140.

unnatural. Take, for example, this line of testimony from Woman Qiao-Xiao who plotted with a lover to kill her husband. She stated, "...I walked by and met him and [we] had *illicit sex* once in the woods. After that we had *illicit sex* whenever it was convenient, [I] don't remember how many times."¹⁸ It is doubtful that Woman Qiao-Xiao actually described the extramarital sex she was having as "illicit sex" (*jian*) when she spoke to the Qing court; *jian* was not a common word for sex but a legal term meant to establish criminal wrongdoing. But among the vast amounts of homicides filed under the archival category of "marriage and illicit sex," there are numerous reports that deal with domestic disputes arising over state-approved "licit sex" or conjugal sex, such as the cases under review here.

So, how was sex discussed in the legal record when officials could not describe it as *jian*? Qing judicial elites seem to have had no similarly consistent term to use to refer to conjugal sex, but if a term had to be designated, the closest state approved term for "licit sex" in the Qing legal lexicon would be the euphemistic term *xingfang* (行房), which refers to sexual intercourse between a husband and wife. I have found *xingfang* to be the most commonly recurring term for conjugal sex in these reports, found in testimony, interrogation questions, and magistrates' summaries. Much like the term *jian* itself, rather than an everyday word for sex, *xingfang* has a somewhat formal connotation and can be found in Tang period literature, but also appears in the sexually explicit vernacular Ming novel, *Golden Lotus (Jinpingmei)*.¹⁹ Unlike cases involving illicit sex, however, one also encounters more colloquial references to conjugal sex in testimony, the most common of which being "sleep together" (*tongshui* 同睡), "have sex" (*jiaogou* 交媾),

¹⁸ XKTB, 02-01-07-0778-003. Woman Qiao-Xiao (21 *sui*). Hubei. QL 26, LC. (题为湖北襄阳县人乔萧氏与李三通奸谋死本夫议准凌迟处死事).

¹⁹ Cihai (辞海), "xingfang," accessed March 15, 2021, cihai.com.cn; Zdict, "xingfang," accessed March 15, 2021, zdict.net

as well as more indirect phrases, such as “do this thing” (*gan zhe shi* 干這事), in addition to different iterations of *xingfang*, such as *fangshi* 房事. As we shall see, despite being lawful sex between heterosexual couples in marriage, licit sex could cause as much trouble for the Qing state as its more disreputable counterpart.

Defiant: Women’s Resistance to Conjugal Sex

Displeased with their husbands, some young women resisted conjugal sex as much as possible. Twenty *sui* Woman Fan told the magistrate that her husband was “short, ugly, and stupid” and she refused to engage him in sex after consummating the marriage. “[I] truly detested him...[I] only had sex with [him] once (*he nanren shui guo yi ci* 合男人睡過一次). [Later, I] always wore clothes when [we] were sleeping [together]. [I] wouldn’t sleep with him even when he pestered (*chanrao* 纏繞) [me].”²⁰ Woman Fan’s husband tolerated her refusal to engage in sex to some degree, but he soon interpreted his wife’s continued sexual rejection as an insult and one day he threatened her with force. Woman Fan told the Qing court, “That evening [my husband] wanted to sleep with me in the garden. I refused. He quickly left the garden and returned with a knife and said to me, ‘If you won’t sleep with me, I’ll kill you!’ I said, ‘If you want to kill [me], then kill [me]! I won’t sleep with you!’ (小的說要殺就殺我是不合你睡的)” Meeting force with force, Woman Fan’s words of defiance likely caught her husband off guard. He probably thought a threat of violence would compel his new wife’s submission, and never really intended to kill her, but either way, she called his bluff. Seeing that she was serious about her claim, even if he was not, he put down the knife and went to bed. She, however, stayed awake. “I saw that he was

²⁰ XKTB, 02-01-07-0065-009. Woman Fan (20 *sui*). Jinxian County, Zhengding Prefecture. QL 2, Unknown punishment (likely LC). (题报正定府井陘县民女范氏杀死伊夫尹二贵事).

asleep, and [I] saw the knife atop the bed (*kang*). Frustrated, [I] stupidly thought that if he wanted to kill me, I'd better kill him, and quietly got up and grabbed the knife."²¹

At the start of her testimony, Woman Fan mentioned wearing clothes at night when she slept, and she is far from the only woman in this chapter to mention doing so. The frequency with which this detail is encountered in women's testimony suggests that it was not just a polite way to communicate married women's sexual unwillingness to the Qing court, but also a real non-verbal sign women employed to show their husbands that they were unavailable for sex on particular nights. In addition to presenting their bodies as inaccessible with clothing, women also described themselves as sleeping at inconvenient locations in bed, such as at the foot or with their head at the opposite end. Husbands were under no obligation to heed such "signs" from their wives, as this and the following cases make perfectly clear, but women's menstruation likely made suspension of sex a routine practice, especially since some sources suggest that it may have been common for men to fear women's menstrual blood as a dangerous substance.²² Thus, the performance of such physical signals might have also allowed wives to evade sexual encounters with their husbands at other times.

²¹ The use of "stupidly" is a recurring marker in homicide reports, revealing both the culprits' attempt to downplay their own premeditation in the crime and to argue that they be granted some form of institutional leniency. However, as a wife who killed her husband, it was exceedingly difficult under the Qing Code for Woman Fan to receive any demotion of sentence. This raises the question of what we should make of the "sympathetic husband-killer" in Qing law? This question is taken up at length later in the dissertation, particularly in the epilogue.

²² Women's menstrual blood has been viewed as a dangerous pollutant in China and elsewhere in the world. See, Charlotte Furth, "Blood, Body, and Gender: Medical Images of the Female Condition in China, 1600-1850," in *Chinese Femininities/ Chinese Masculinities: A Reader*, eds. Jeffrey N. Wasserstrom and Susan Brownell (Berkeley: University of California Press, 2002), 291. As we shall see in a later case, ordinary men feared women's menstrual blood as an inauspicious substance. Women themselves seemed not to share in this belief.

For Qing magistrates, however, women's resistance to conjugal sex demanded some explanation. It was not enough for them to know that a woman's opposition to sex inspired marital discord to the point of homicide; instead, women's testimonial narratives reflect judicial interest in understanding *why* they had opposed conjugal sex in the first place. For example, the above case connected Woman Fan's aversion to marital intimacy to her general dislike for her husband. In describing him as "short, ugly, and stupid," her explanation of her enmity for him was brief and superficial, but other women provided more detailed accounts of the issues that led them to deny their husbands sexually. In another case involving one of the youngest female criminals I have encountered, fifteen *sui* Woman Qin from Guangxi refused to have sex with her husband (also aged fifteen) after he placed a new restriction on her movement.²³ She told the Qing court, "In the 9th month of Qianlong 31, I was at my parents' home harvesting rice and returned on the 17th after [we] finished. My husband harvested [at home]. My husband scolded me upon my return saying after this I was no longer allowed to return to my parents' home." Unlike Woman Fan above, who had only been married for two months, Woman Qin had been a member of her husband's household for two years (since she was thirteen), and she characterized their relationship as good up until this point. She continued in her testimony, saying, "That night we slept together. My husband touched my body a while wanting to have sex (*xingfang*) with me. I did not want to have sex and [he] got angry and called me a "pig-dog (猪狗)" and kicked

²³ XKTB, 02-01-07-0985-006. Woman Qin (15 *sui*). Guangxi. QL 31, LC. (题报贵县民妇覃氏谋杀亲夫李均朋拟凌迟处死事). Woman Qin does not provide the date of her marriage or mention when it was consummated but given that the couple had been sleeping together in the same bed it is likely that this was not their first sexual encounter. Moreover, as mentioned above, husband and wife were both the same age, fourteen. While readers might consider this quite young for persons to be married and engaging in sex, they were of age. According to the Qing code, sex with persons aged twelve or under was illegal. See Matthew Sommer, "The Penetrated Male in Late Imperial China," 148.

the lower half of [my] body wildly.” It is not clear if this was the first time her husband had tried to engage her in sex or if they had been intimate before. Woman Qin’s testimony does not mention having consummated the marriage prior to this point, but the couple had been sharing a bed, so one might infer that they had done so. That night, she suffered abuse from him for her sexual refusal, but she was also successful in her effort to evade him. The next night, however, he tried again. “That night [he] pestered me once more. I could only get to sleep by getting up and quietly walking out into the kitchen to avoid him.” Her mother-in-law found her asleep in the kitchen early next morning and questioned her. “I was embarrassed,” she told the court, “and dared not speak [about what had happened].” Her mother-in-law brought her back into the bedroom. “My husband would not let up and continued to pester [me]. When he saw that I really would not have sex with him, he said [he] wanted to beat me to death and remarry. I couldn’t stand the suffering and feared he really wanted to kill me and in that moment, I stupidly got the idea to kill my husband.” Days later, her husband “pestered” her again one night, scolding her till second watch, when she finally beat him to death as he slept.²⁴

As we have already seen in several cases, the time women spent at their parents’ home and away from their husband and his family was a common dispute between newlyweds. While it may have been customary for women to spend some time with their parents after marriage, they were expected to be away from their husbands less and less as time went on. Yet young women mention frequent and sometimes lengthy visits to their parents’ homes, especially in the first years of marriage before children. They went to help with chores, fieldwork, or simply as an escape from a married life to which they had not grown accustomed. For young Woman Qin,

²⁴ Second of the five night watch periods, “Second watch” (*ergeng* 二更) was between 9:00 PM and 11:00 PM.

who had grown up and was continuing to grow up alongside her husband, his decision to not let her return to her natal home marked a shift in their relationship in which they were no longer children together, but husband and wife, and her place was in his home. The sexual advances he made toward her those nights were but another sign of the transition from girlhood to wifehood soon to take place in her life.

While women emphasized their resistance to sex as the pivotal conflict that led them to plot their husbands' deaths, as we have just seen, they also reported resenting their husbands for other reasons as well. What is more, they did not portray their refusal to have sex as the driving motivation for their violent actions either; rather, according to the report, it was their husband's *attitude* and *reaction* toward their sexual refusal that incited their homicidal rage, not the sex act itself. At this point, it is important to pull apart the threads of the Qing state's outwardly seamless testimonial narrative, and seriously question its construction. Did Woman Qin's intent to kill truly stem from her husband's recent disciplinary measure? Were these two incidents all that connected? Did her husband even threaten to kill her that night? Or were these details pursued to make her violent actions more believable for the magistrate and reviewing officials?²⁵ Perhaps, it was simply a case about a fifteen *sui* girl who did not want to have sex so badly that she would rather kill the man pressuring her than succumb to her fate.

While young women's repeated objections and defiant attitude toward sex may have had more to do with their desire to avoid sexual intercourse altogether than with the grudges they

²⁵ In the latter part of the chapter there is a discussion of the questions magistrates posed to Woman Qin in this case and in other cases to women that clearly suggests that they probably never would have believed a woman would have killed her husband just because she did not want to have sex. They did not see this warranting enough enmity to inspire such an extreme act of violence against a husband, and thus it is not a surprise that these women commonly report their husbands threatening to kill them.

reported to the court, these cases do not suggest that women valued virginity or celibacy for its own sake. Even Woman Fan, who openly said she would rather die than sleep with her husband, reported having sex with him at least once before taking this stand. Instead, it is more that they desired some control over their own sexual lives in marriage, and thus they focused on the hurt they felt when their refusal to have sex was met with cruel words and physical abuse. They highlight marital intimacy as an act that married couples ought to engage in when on good terms and a pleasure they could revoke.

The testimony of twenty-two *sui* Woman Zhang-Zhang from Shaanxi who refused to have sex with her husband after he let her go hungry best captures this point.²⁶ She told the Qing court, “My husband went to his brother’s house and left not even the least bit of rice at home [for me] and I starved. When my husband returned, [he] did not ask whether I had eaten but quickly closed the door and went to bed. I saw that he was exhausted and did not quarrel with him. [I] could only go to sleep hungry. [I] waited a moment and undressed. The lamp hadn’t yet gone out when around second watch my husband awoke wanting to have sex (*xingfang*) with me.²⁷ I was starving and angry and said ‘Today you’ve eaten your full while I’ve starved here all day long! How could [I] be in a good mood to do this with you?!’ [I] then got up, put on [my] coat, and moved to sit at his feet saying repeatedly that this was all his fault.” With this response, Woman Zhang-Zhang expressed a desire for conjugal sex to be contingent upon her husband showing at least the smallest concern for her sustenance, and she resented him for thinking that he could expect to take pleasure in her body when he had cared so little for it. After making her discontent

²⁶ XKTB, 02-01-07-1150-012. Woman Zhang-Zhang (22 *sui*). Shaanxi. QL 35, LC. (题为陕西延川县人张张氏抓勒本夫张从贵身死议准凌迟处死事).

²⁷ Second of the five night watch periods, “Second watch” (*ergeng* 二更) was between 9:00 PM and 11:00 PM.

known, a fight ensued in which Woman Zhang-Zhang pushed her husband off her after he punched her twice in the shoulder. She continued, “I feared he’d get up and hit [me] again and so [I] grabbed his scrotum hard. He yelled out in pain rolling around the bed (*kang*)...I thought about how unfortunate I was to be with a husband who lets me starve all day and still beats and scolds [me] and I suddenly got the idea to kill him.” With her husband writhing in discomfort, using both hands to cup himself, Woman Zhang-Zhang took advantage of his vulnerable state. She searched for her belt, got on top of him, and strangled him to death.

Like Woman Zhang-Zhang, other women’s testimonies centered upon complaints about what they considered to be inappropriate moments of sexual contact from their husbands. These cases depict women’s attempts to maintain some semblance of control over the frequency and timing of conjugal sexual encounters despite their efforts being at odds with their husbands’ own understanding of sex as being under their exclusive domain. As with the earlier cases, it was not necessarily the sex act but their husbands’ violent and callous reaction to their temporary refusal to engage in sex that was at the heart of these women’s homicidal intent. Seventeen *sui* Woman Gui-Tian, for example, objected to the timing of her husband’s sexual advance. “I was in the bedroom sewing when my husband entered and closed the door wanting to have sex (*xingfang*) with me. It was in the middle of the day [and] I feared my mother-in-law would return and refused. My husband pulled my left hand and told me to get into bed.”²⁸ After this, Woman Gui-Tian pushed her husband away, knocking him to the ground. He got up and threatened her with a knife and she quickly grabbed a rod and beat him so severely that he eventually died from the

²⁸ XKTB, 02-01-07-1965-002. Woman Gui-Tian (17 *sui*). Dongxiang County, Sichuan. QL 60, ZLJ. (题为四川东乡县民妇桂田氏殴伤伊夫桂玉身死拟斩立决事). In contrast to most of the women in this chapter, Woman Gui-Tian committed unintentional homicide, claiming that she did not intend to kill her husband when she knocked him to the ground.

wounds. Another woman, twenty *sui* newlywed Woman Yao, told the Qing court that she refused her husband because he was not clean enough.²⁹ She testified, “He came home drunk after work wanting to have sex (*xingfang*) with me and I refused telling him he was too dirty.” He met her rejection with a threat of murder.

Cleanliness is a recurring concern in women’s objections to sex. Women’s testimonies emphasize how their understandings of their own bodies guided their decisions about conjugal sex. Woman Cui-Yao (aged twenty *sui*) objected to sex one night because she was menstruating.³⁰ She told the Qing court, “My husband had a couple drinks, closed the door, and went to the bed. [He] wanted to have sex (*xingfang*) with me [and] urged me to quickly come to bed. I said I am unclean and refused. My husband did not believe [me] and scolded me for intentionally [rejecting him].” Upset that her husband had thought her frigid, Woman Cui-Yao thought this misunderstanding could be resolved if he saw proof of her menstruation, but it only made the matter worse. She continued, “I was angry and took the soiled cloth in my hands and brought it for him to look at. I did not expect my husband to suddenly become even more obstinate upon seeing it. [He] said, ‘On New Year’s Day [you] put this kind of filthy thing in my face to make all things inauspicious [for me]!’ He scolded me and said that after this I could no longer sleep with him. [He] then grabbed a small vegetable knife sitting beside the bed and placed it by his side saying that if I got in the bed, he’d kill me.”³¹

²⁹ XKTB, 02-01-07-2077-015. Woman Yao (20 *sui*). JQ 2. (题为陈允相戳伤伊妻身死议准绞监候事). Wife-killing. Notebook 2.

³⁰ Ibid., XKTB, 02-01-07-2027-015. Woman Cui-Yao (20 *sui*), Pingquan Prefecture, Zhili. JQ 2, LC. (题为直隶平泉州民妇崔姚氏杀死亲夫议准凌迟处死事).

³¹ Cautioning his readers not to use women’s menstrual blood as a medicine, Ming Dynasty physician Li Shizhen wrote, “When woman starts her period her evil juices are full of stench and filth, hence the gentleman should keep his distance; as they are not clean, they will harm his male essence and invite disease.” Outside the realm of medicine, ordinary men seemed to have

Clearly, Woman Cui-Yao had misjudged the situation. She was unaware that the sight of her blood would inspire such anxiety in her husband. For her, her blood proved she did not reject her husband out of spite, but for him, it was an insult. Thinking him asleep, Woman Cui-Yao attempted to get back in bed despite her husband's threats, but he awoke and tried to stab her again with the knife. She dodged him and went and sat back down on the floor. "At around third watch,³² I was unbearably cold and thought that my husband and I had only been married for two months and he hated [me] and often scolded [me] and now because I refused to have sex, he wanted to kill me. Seeing that he was this cruel, [I'd] never be on good terms with him and before long [he'd] kill me." That night she cut his throat with the knife he used to threaten her.

In yet another example, twenty *sui* Manchu Banner Woman Zhang-Yang from Liaoning, also married less than a year, objected to her husband's sexual advances following pregnancy.³³ Woman Zhang-Yang told the Qing court, "I gave birth to a girl and could not get out of bed to do work. My mother-in-law told my husband to wait on me. My husband continued to sleep [alongside] me in the same bed (*kang*) every night." It appears that Woman Zhang-Yang had been suffering from postpartum sickness and had been instructed to remain on bedrest, but her husband was less than sympathetic to her condition. She continued, "On the eleventh, my body was unclean and ached. I was irritable and had a fever and dry mouth. After the lamp had been lit, I wanted some hot water to drink and asked my husband to go boil water [for me]. My

also internalized this belief. See Frank Dikötter, *Sex, Culture, and Modernity in China: Medical Science and the Construction of Sexual Identities in the Early Republican Period* (Honolulu: University of Hawaii Press, 1995), 41.

³² Third of the five night watch periods, "third watch" (*sangeng* 三更) was between 11:00 PM and 1:00 AM.

³³ XKTB, 02-01-07-2234-011. Woman Zhang-Yang (20 *sui*). Liaoyang Prefecture. QL 9, Immediate strangulation (*jiaolijue*). (题报辽阳州旗妇张杨氏用剃刀将伊夫张才茎物割落身死拟绞立决事). Banner woman. Note that this sentence is not a standard punishment for any type of husband-killing.

husband refused and told me to drink room temperature water. I said, ‘my birth month is not yet complete, [I] have a fever and can’t drink room temperature water,’ and asked him again to go boil hot water. My husband refused, blew out the lamp, and went to bed...I told my husband that he was heartless, and he did not utter a word [in reply].”

Angry with her husband for being so uncaring, Woman Zhang-Yang became even more upset when he tried to have sex with her later that night.³⁴ She continued in her testimony, saying, “[We] slept till midnight when my husband tore off the cotton quilt covering me and got on top of me telling me to take off [my] underpants and have sex with him. I said my birth month is not yet complete, my body is unclean, [I] cannot have sex and pushed him off. My husband refused [to listen] and was intent on doing it. I thought that since my daughter was born [I] have been in pain and if [I] did this thing now with the birth month not yet over I’d suffer more. Suddenly, I stupidly thought to gash his stiff [penis] to injure him and make [him] unable to do this thing. I lied to him, saying ‘you lie down on the bed (*kang*) and wait for me to take off my underpants and then I’ll do it with you.’” She got up and grabbed a razor. With the razor in her right hand and his erect penis in the left, she told the court, “[I] gashed [his stuff] one time and my husband yelled out ‘Ouch! (*aiyou!*)’” Determined to protect herself rather than submit to the pain she knew sexual intercourse would bring, Woman Zhang-Yang hoped to impair her hard-hearted husband through a plot that required confidence and calculation. However, even in the

³⁴ The “birth month” (*chan yue* 產月) that Woman Yang refers to is the customary practice of a month long period of seclusion for women after they give birth. In her work on medical knowledge about pregnancy during the Qing, Charlotte Furth states, “...the traditional month’s seclusion after delivery was so taken for granted that the popular handbooks did not even trouble to emphasize it. The body at this time needed an artificial external shell, the mother’s room, which would be carefully guarded from cold and damp, off limits to visitors, from which she emerged only when the baby was ready to be presented to the world at the “first month” ceremony.” See Charlotte Furth, “Concepts of Pregnancy, Childbirth, and Infancy in Ch’ing Dynasty China.” *The Journal of Asian Studies* 46, no. 1 (1987): 15-16.

wake of her husband's insensitivity, she argued that she never intended for him to die, only inflict a slight wound, just enough to make it physically impossible for him to carry out the act of sex. But he eventually died.

It is difficult to imagine that a magistrate could have judged Woman Zhang-Yang's violent actions to be anything but premeditated. Especially given the mounting animosity she reported having felt for her husband in the moments leading up to her decision to grab the razor, the magistrate in this case could have easily viewed Woman Zhang-Yang's narrative as demonstrative of a "will to kill."³⁵ The choice of weapon alone, not to mention its target, made intent likely. Either the magistrate thought she did not mean to kill her husband, as she stated, or perhaps he thought it reasonable that a woman might not know that such a wound could cause death. Surprisingly, Woman Zhang-Yang was judged *not* to have premeditatively killed her husband, which saved her from the punishment of dismemberment suffered by almost every other woman in this chapter.³⁶

³⁵ Jennifer Neighbors, "Murder, Mercy, and *Mens Rea*: Intentional Homicide in the Qing Dynasty" in *A Question of Intent: Homicide Law and Criminal Justice in Qing and Republican China* (Leiden: Brill, 2018), 98.

³⁶ It is not clear why the magistrate in this case reached a finding of unintentional homicide. The full case report may include some explanation, but I do not have access to it at the time of publication. While Woman Yang was a Manchu Banner woman, her status should have no impact on a case of murder. Her case contains many of the typical narrative markers included in intentional homicide reports, such as evidence of some enmity (but perhaps not sufficiently profound), use of a deadly weapon, and a preconceived plot. Especially when read in conjunction with other unintentional women-initiated homicides, the decision to judge this case as unintentional is curious. Typically, for women, unintentional murder occurred during domestic physical altercations which wives did not start but eventually engaged in. For example, a husband gets angry with his wife and hits her, but she hits him back and ends up killing him. Yet, Woman Zhang-Yang's husband was not reported to have physically hit her. Moreover, she clearly thought up a plan to hurt him. It may be that the magistrate imagined Woman Zhang-Yang could have died or been seriously hurt having sex so soon after pregnancy and considered the threat of sex in her condition the first blow and her actions simply a response to his violent proposition. In my reading of these reports, I have noticed a number of instances such as this and the possibility of informal "leniency" for women criminals in this space, showing that in many

Unsatisfied: Desire for Sexual Intimacy in Marriage

The above cases have spoken to the desperate pleas of young, sometimes adolescent, women for some form of control over their own sexuality in marriage. Perhaps more surprising than evidence of women's resistance to conjugal sex are the higher number of cases I have encountered involving young women's complaints about an *absence* of sex in marriage. In the following testimonies, young women were deeply concerned with their marital performance, and they saw conjugal sexual intimacy as something they both valued and anticipated as validation of their social position as wives.

Some women concentrated on the hurt and humiliation they felt when their husbands refused to share a bed with them at night. The testimony of eighteen *sui* Woman Xu-Zhao from Neixiang County, Henan contains a detailed account of the wide range of abuses she suffered while married, but among them all, she placed special emphasis on her husband's sexual rejection of her.³⁷ “[My husband] hated me for being small and ugly. [He] did not have sex with me (*bu yu xiaode tongshui*). Whether the work was hard or light, he told me to do it. If I did something wrong, [he'd] hit and scold me. He never gave me enough food to eat. On cold days [he] wouldn't even give me a cotton-padded jacket to wear. My parents-in-law are elderly and could not manage [him]. I was humiliated by him and unbearably skinny. I was resentful and bitter but did not say a word.” In addition to all the ways she was made to feel insignificant, including starvation, excessive labor, and physical and verbal abuse that even her parents-in-law

ways, the line between “premeditated” and “unpremeditated” murder could be blurry and at the discretion of the magistrate.

³⁷ XKTB, 02-01-07-0867-011. Woman Xu-Zhao (18 *sui*). Neixiang County, Henan. QL 28, LC. (题为河南内乡县民妇徐赵氏砍伤亲夫徐江身死议准凌迟处死事). Woman Zhao was found to have struck her husband with the axe in the head three or four times and to have struck his legs another three times.

objected to, Woman Xu-Zhao's husband also refused to engage her in sex. Her testimony continues to suggest, without saying it directly, that he treated her more like a slave (or perhaps even an animal) than a wife. She testified, saying, "I went with him to the mountains to chop firewood. He refused to carry any [firewood] and just told me to carry [it all] back to the house. If [I] did not carry enough or walked slowly [he'd] beat and scold [me]. On the 27th day, I was on the mountain gathering crops and my husband said I had gathered too little and said he wanted to beat [me]. In our house [we] sleep on a bed of rolled up grass on the floor. At night my husband went to the bed and took off his shoes to sleep. Seeing that [his] shoes were worn through he said that I had been at my natal home for some time and didn't make him a pair of shoes and scolded me. I [replied] saying, 'I was sick at my natal home for over two months and [I] also had no money to buy cloth. What was I going to use to make [you] shoes?!' [I] argued [with him]. He then got up from bed and grabbed a log and beat me a few times with it. [I] went to sleep and [he] scolded me and refused to let me [sleep]. [He] said, '[I] never wanted to be married to you! Before long, [I'll] kill you!'" For him, her primary value was her physical labor, which he exploited to no end. After the argument had ended, he put her outside. Woman Xu-Zhao dared not re-enter until he was asleep. She continued, "[When] I finally went back in [I] sat with my clothes on at his feet. The more I thought, the angrier [I] got. [I] could not sleep."

When morning came it was cold. Woman Xu-Zhao explained that she went and gathered some of the firewood to make a fire to warm herself when she saw an axe lying on the ground. She continued, "I thought my husband had absolutely no marital feelings of kindness and affection [toward me]. Every day [he] beats, scolds, and humiliates [me] in the extreme. How could a person [in this situation] keep on living?! It would be better to hack him to death in exchange for [my] life. [I] had made up my mind." For Woman Xu-Zhao it was being cast

outside and not even allowed to sleep on the makeshift bed of grass on the floor, let alone alongside her husband, that ignited the violent fury that had been brewing in her for some time. But one will recall that absence of sexual intimacy had been at the forefront of her complaints from the start, when in the second line of her testimony, she said, “[My husband] did not have sex with me.”

Focus on sexual rejection is a recurring issue in young women’s testimonies, and numerous women reflect upon their husband’s decision to expel them from bed in the final moments before murder. One will recall the case of nineteen *sui* Woman Wang who accidentally tore the bed quilt. She reported that her husband had cast her out of bed, saying, “[My husband] didn’t want to share a bed with me. I could only get up and sit by the side of the bed. I was angry and began to cry.” In yet another example, twenty-one *sui* Woman Ma’s account of excessive cruelty also culminated in her husband expelling her from bed.³⁸ She told the Qing court, “I burned food and my husband stripped off [my] clothes and beat me with a belt and did not allow me to eat for two days. I couldn’t have been angrier.” She explained that she attempted suicide but was saved by a passerby, and after this, life with her husband got worse. She continued, “I did not expect that my husband’s humiliation of [me] could intensify... This year... my husband came home and was drunk saying his stomach ached and [he] wanted to lay down on a warm bed (*kang*)... he scolded me for not making the bed warm enough. I was upset but warmed the bed for him [anyway]. [He] then took off his clothes... and slept. [He] said I was not allowed to sleep on the bed (*kang*) with him. I lit a lamp and sat down.” While perhaps far from the most physically painful or even mentally exhausting form of punishment these women experienced, removal

³⁸ XKTB, 02-01-07-1876-013. Woman Ma (21 *sui*). Hezhou, Lanzhou Prefecture. QL 58, LC. (题为兰州府河州回妇马氏谋死亲夫马双儿身死拟凌迟处死事). Hui minority.

from the bed constituted not just an insult but an act of sexual alienation and absolute loss of intimacy, and in the moments of self-introspection that followed, their plans of murder quickly took shape.

In addition to sexual shunning, the testimony of many young women, particularly teenagers, center almost exclusively on the frustration and disappointment they experienced when their husbands simply refused to have sex with them altogether. In comparison with the above cases, the testimonies of the following women did not include reports of excessive physical abuse; rather, absence of sex was the prime complaint. Eighteen *sui* Woman Yun-Zhang told the Qing court that her husband (also aged eighteen) had never engaged her in sex.³⁹ “[My husband] was thin, weak, and appeared sickly. After he and [I] were married [we] slept together in the same bed [but] my husband knew nothing about sex (*fangshi*)...if [he] cannot have children [I] will be unable to hold [my] head up high all [my] life...I hated [him].” Woman Yun-Zhang’s concerns about marital sex centered upon the fear that she could end up childless if she remained married to him. She concluded that the only explanation for her husband’s unwillingness to have sex (in addition to the physical maladies she observed) was that he was impotent. While there are no other details in the case to confirm her informal diagnosis, it was worry enough for her to plot his murder. Fear of childlessness, especially if the fertility problem was thought to rest with the husband, was particularly alarming for women, and for good reason, because while many women surely desired children for their own sake, children were also an important avenue of support for women in old age.⁴⁰

³⁹ XKTB, 02-01-07-1715-006. Woman Yun-Zhang (18 *sui*). Wuqing County (Tianjin). QL 41, LC. (题报武清县人云张氏毒死伊夫云义美拟凌迟处死事).

⁴⁰ If a wife could not have children and her husband was wealthy enough, a concubine could be brought into the family to help perpetuate the patriline. However, if a husband was impotent,

For twenty *sui* Woman Zhao-Gu, on the other hand, the problem was not that her husband was unwilling to have sex, but that he was not willing to do so with her. She told the Qing court that during their two years of marriage, she and her husband had not once had sex. While this absence of sexual intercourse between them was on her mind, unlike Woman Yun-Zhang above, she raised no accusations of impotence. It was not until she spotted him chatting up a neighbor girl one day that she wondered if perhaps the reason he showed her no sexual attention was because he was giving it all to the neighbor woman.⁴¹ When he returned home late that night, she told the magistrate that the following took place. “I slept in the bed with him with my clothes on. At around second watch he was sound asleep. I thought about since [we’ve] been married, for two years my husband has not consummated the marriage with me. In [my] heart [I] was resentful and in a state of panic I got the idea that [I] wanted to kill him and grabbed a small dagger.”

Absence of sexual initiation became a source of anxiety for young women. It undercut not only their new social position as wife but also for some it invalidated the legitimacy of their marriages altogether. Was a woman even a wife if she and her husband had never consummated the marriage? According to the law, the answer was unequivocally yes, for all these women were tried as ‘wives’ who killed their ‘husbands,’ justifying their harsh punishment. But, according to the women themselves, perhaps not. While there may have been other ways a woman might perform wifedom without the occurrence of sexual intercourse with her husband, it was

options were more limited. In a Guizhou case from Qianlong 41, a forty-one *sui* Miao woman named Ah Nai paid a man to kill her husband after he would not permit her a divorce. It had become clear to her that he was impotent, and she wanted to remarry so that she might have a child. She told the court, “I worried that because [I] had no children [I] would have no one to rely on all my life.” XKTB, 02-01-07-1442-007, Ah Nai, Guizhou, QL 41.

⁴¹ XKTB, 02-01-07-1058-001. Woman Zhao-Gu (20 *sui*). Hebei. QL 33, LC. (题为直隶阜平县民妇张顾氏杀死伊夫张有议准凌迟处死事).

especially important and desirable in the lives of these newlywedded young women. Without it, they themselves were out of place, aspirations of motherhood out of reach, and a loss of intimacy cast a pall over the marriage.

One observable pattern that emerges from the archive is the tendency for teenage brides to become sexually frustrated with their even younger husbands. In such cases, teenage women (no younger than sixteen) were married off to even younger men (typically thirteen or fourteen). Given the rate at which couples matching this age description appear in the archive, this combination seems to have been a true recipe for disaster. In their testimonies, women complained about their young husbands' disinterest in matters of sex, describing them as silly and inexperienced, which left them feeling both neglected and deeply disappointed. For example, seventeen *sui* Woman Ma told the Qing court, "I did not hate [my husband (aged thirteen)] but he despised me. After [we] were married he never slept with me (*tongshui*). I tried to persuade him with kind words, but [he] always refused. If [I] asked him to sleep with [me] he just scolded me. [I] was hurt and began to think about murdering him and remarrying a good [man]."⁴² While it may seem clear to us that the sexual problems Woman Ma experienced with her young husband stemmed from his adolescence, she never made the connection herself. Instead, her testimony suggests that she thought the lack of sexual affection he showed her was the consequence of his general dislike for her, as she noted above, saying, "...He despised me." She argued that his treatment of her outside the bedroom also provided clear evidence of his disaffection for her. She explained that one day he ordered her to prepare a meal even though she had already told him she was not feeling well. She replied to him, saying, "My body aches and

⁴² XKTB, 02-01-07-0135-001. Woman Ma (17 *sui*). Gansu. QL 6, LC. (题报凉州府平番县民妇马氏扎死伊夫拟凌迟处死事). She took her father-in-law's knife and cut her husband's throat in the night and placed the knife next to his body in hoping that it would look like a suicide.

you show [me] no compassion! [He] hit me once, [and] I became more resentful.” One could imagine that a seventeen *sui* girl might see such a situation as permanent, unable to foresee that their young husband’s feelings and desire for them might change as they matured.

Many of these adolescent husbands were alleged to suffer from a mental disability of some kind. For example, in contrast to Woman Ma above, eighteen *sui* Woman Huang-Sun *did* realize that the problems she and her young husband (aged fourteen) experienced in the bedroom had to do with his age, but she also suggested that there was something more influencing it too. She told the Qing court, “My husband is ugly and short and somewhat feeble minded (*chidai* 癡呆) and does not understand the ways of the world (不懂人事 *bu dong renshi*.)” While at fourteen, it is conceivable that her husband may have simply been disinterested in matters of sex, just as in the former case, in describing him specifically as *chidai* (“feeble-minded”) she lodged a separate complaint. The term *chidai* can be translated as crudely as “foolish” or “stupid,” but a medical text includes the following definitions as well: “chronic or persistent disturbance of the intelligence which is characterized by mental sluggishness, lack of intelligence, foolishness, and/or clumsiness,” and can range in seriousness from “diminished speech” and “mental torpor” to “deranged speech, crying or laughing for no reason, and no desire for food.”⁴³ Many of the women in this chapter have characterized their husbands as “foolish” or “stupid,” but they often use the term *yuchun* (愚蠢), which connotes a more surface-level insult rather than a serious

⁴³ For a modern translation of “*chidai*” into English, see *Chinese Medical Psychiatry: A Textbook & Clinical Manual*, rev. ed. (California: Blue Poppy Press, 2001), s.v. “Feeble-mindedness.” It is worth pointing out that in 1931 under the “New Family Law,” which created equal grounds of divorce for both sexes, many of the women in this chapter would have likely been found to have legal grounds to divorce their husbands. Susan Glosser explains that courts deemed men who suffered from mental illnesses “unfit husbands,” and their wives were readily granted a divorce. See Susan L. Glosser, *Chinese Visions of Family and State, 1915-1953* (Berkeley: University of California Press, 2003), 110-127.

judgment of health. The term “*chidai* (feeble-minded),” on the other hand, which appears frequently in cases involving teenage brides and adolescent husbands, suggests that young women, and sometimes also their parents-in-law, understood the younger husband to be cognitively impaired. This may have made the physical act of sex difficult for the young man rather than it being merely an issue of his immaturity.⁴⁴

As with many women, marital discontent inspired Woman Huang-Sun’s frequent return to her parents’ house. One day she spoke with her mother about her husband’s unwillingness to consummate the marriage. She continued in her testimony, saying, “[I told my mother that my husband] does not understand matters of sex...My mother urged me [to be patient and said] that [I] would have good days with him, but since he married me we have never had sex. I tried to teach him many times, but he did not understand.”⁴⁵ Dissatisfied with this advice, either because her mother did not seem to fully grasp the emotional toll this situation had on her or simply because there seemed to be no way of resolving it, Woman Huang-Sun described her feelings to the Qing court. “Sleeping by myself, I thought other couples are the same in age and are really in

⁴⁴ Understanding women’s complaints about their husband’s “stupidity” is somewhat tricky. Given the indirect way women in these cases sometimes talk about sex, it can be unclear if they are saying that their husband did not know about the “facts of life” regarding the matter of sex alone, or if they are lodging a more serious complaint about their husbands having little understanding about the ways of the world in a more general sense. Especially given the adolescence of the men being talked about, I take the larger context of the testimonial narrative into account to understand if these women believed that their husband’s lack of interest in sex was caused by a real mental disability, or if it was simply a matter of them being too young and naïve.

⁴⁵ A Daoguang case contains similar language from a woman (aged 17) about “instructing” her husband in sex. In this case, the woman’s husband was not younger but older than her (aged 22), and she described him as *chisha* (foolish; stupid), a variant of the term *chidai*. In her testimony, she said “I saw that my husband has a foolish (*chisha*) temperament and did not understand the facts of life and I was unhappy. Some days later, I taught him to have sex once (小婦人教他行了一次房事). Later, I tried to have sex with him multiple times [but] my husband always refused. [We] never had sex again and were on bad terms.” She poisoned him with arsenic. XKTB, 02-01-007-030083-0002. Woman Zhang-Wang, Shandong, Daoguang 11.

love (人家夫妻都是一样年纪甚是亲爱)...I married a foolish and useless person, how long will [I] have to wait for [him] to grow up?! The more I thought the angrier I got. Then I came up with the idea to kill him and remarry a good man...”⁴⁶ While Woman Huang-Sun was in fact not that much older than her husband, only four years his senior, it seemed that the age discrepancy between a fourteen *sui* boy and a eighteen *sui* woman created a gap in maturity level too great for these eager young women to handle. In her opinion, a husband her own age would remedy her sexual frustrations and give her a better chance to experience companionship in marriage. Strikingly enough, her testimony makes clear that this expectation for love in marriage that she longed for, albeit perhaps too impetuously, did not come out of thin air. She knew that married women in other families experienced love. So, why was she not experiencing it too?

The teenage women who found themselves in this situation often expressed a desire for remarriage. Both Woman Ma and Woman Huang-Sun wanted to remarry, and specifically stated that they wanted to remarry a “good man” (*haoren* 好人), as opposed to the presumably ‘bad men’ with whom they felt fate (and perhaps more so their fathers) had matched them. It should be noted that the idea of remarriage remains notably absent from many of the testimonies explored at the forefront of this chapter. Especially those women who resisted conjugal sex and abuse to the point of sexual rejection, any form of happiness let alone life beyond their homicidal actions was not something they envisioned; instead, they desired only revenge in the moment. On the other hand, it is clear that these teenage newlyweds not only saw causing their husbands’ death as the *only* way for them to find a happier life, but also thought that they could get away

⁴⁶ Ibid., XKTB, 02-01-07-1989-007. Woman Huang-Sun (18 *sui*). Nanhe County, Zhili administrative region [Hebei]. JQ 1, LC. (题为直隶南和县民妇黄孙氏谋勒伊夫身死议准凌迟处死事). Notebook.

with it. There is a clear sense of urgency in their testimonies, as if time was running out and that in choosing to wait for their marital troubles to somehow dissipate and their situations to improve, they would be making an even bigger mistake. It seems that they aspired to something more than a conventional widow remarriage, but in fact hoped that if they acted fast enough, it might be like they were never married at all. What they wanted was a complete do-over, a new beginning, and time was of the essence.

Their urgency makes even greater sense when considering the young women who clearly saw ‘failure to consummate’ as not just the source of their marital discontent, but more importantly, the solution to it. In declining to solemnize the marriage with sex, their husbands had preserved for their wives one valuable asset, their virginity; the significance of this did not escape these women. They clearly understood the value of their virginity and the potential power it lent them to escape their marriages. Some women submitted their virginity to the court as evidence.⁴⁷ One such woman was seventeen *sui* Woman Ji-Sun from Shanxi. She declared herself a virgin in her testimony and drew a connection between this maintained status and her plans for remarriage. She told the Qing court, “In the evening [when we] sleep, [my husband (aged fourteen)] doesn’t know the least bit about the facts of life (*renshi*). I thought married to this type of man, [I’d] certainly suffer all my life. Because of this, he and I were on bad terms. To this day I am still a virgin (至今小婦人還是處女). Later, [I] began to think frequently about plotting [his] murder and remarrying another man...[One night] when I entered [the bedroom], my husband had the cotton blanket wrapped around [his] body and would not let me cover [myself] with [him]. Filled with anger I could not sleep and the more I thought the angrier I

⁴⁷ XKTB, 02-01-07-0685-004. Woman Ji-Sun (17 *sui*). Xinzhou (Shanxi). QL 23, LC. (題報忻州民婦姬孫氏勒死本夫擬凌遲處死事).

got....” The potential success of Woman Ji-Sun’s future marriage plan rested in the realization that her maintained virginity offered her a real solution to her problem. It gave her leverage on the marriage market and made not only the idea of remarriage, but the potential for this next marriage to be better than the first, a real possibility. It is imaginable that given her own youth, as well as her husband’s adolescence, she would present as a virginal bride desirable for any man.

The Qing court, however, did not take Woman Ji-Sun nor any other woman’s testimonial claim of virginity at face value.⁴⁸ As the final section of this chapter shows, magistrates doubted the chastity of the women who had somehow found a way into their courtrooms, and claims of sexual innocence, especially claims of virginity, were met with extreme suspicion. Moreover, Qing courts had a method for testing virginity which meant that they did not need to rely on women’s testimony alone. Magistrates routinely ordered midwives to examine a woman’s hymen for evidence of penile penetration. Past scholarship has shown that this procedure was likely developed for and most often utilized in cases of rape to determine the full extent of the alleged assault.⁴⁹ The cases in this dissertation show that magistrates employed genital exams on women

⁴⁸ In another similar case, twenty-two *sui* Woman Yan of Sichuan was also subjected to a genital exam to prove her virginity. Woman Yan had been married to her fifteen *sui* husband for three months when she wanted to remarry because she believed him to be mentally handicapped (*chidai*). She told the court, “I feared he’d hurt [me] and in [my] heart [I’d] detest [him] all my life. I wanted to kill my husband and remarry but [I] could not carry it out because my mother-in-law was home. My mother-in-law told my husband to go with me to my natal home.” Woman Yan took this as an opportunity to bash her husband’s head in with an iron bell that day as they walked to her natal home. The magistrate questioned Woman Yan, asking if she had engaged in illicit sex with someone to which she replied no. He then called a midwife to examine her. The midwife confirmed she was telling the truth, and that Woman Yan was in fact a virgin (*chūnǚ* 處女). XKTB, 02-01-07-1108-011, which is also Ibid., XKTB, 02-01-07-1103-012. QL 34. (题为四川大足县人鄢氏谋杀亲夫王元议准凌迟处死事).

⁴⁹ Matthew H. Sommer, *Sex, Law & Society in Late Imperial China* (Stanford, CA: Stanford University Press, 2000), 79-81.

in instances where no allegation of rape, let alone illicit sex, had been made, as an ‘unbiased’ metric for determining virginity in and of itself. Consequently, this state-sanctioned genital exam severely diminished women’s testimonial power regarding their own sexual pasts, especially if the woman claimed to be a virgin.

One might wonder why the veracity of Woman Ji-Sun’s virginity claim even mattered to the Qing court at this point. Her husband was dead, and she stood trial for his murder, not illicit sex. It mattered because, as we shall see, magistrates almost always believed it impossible for these young murderesses to have carried out violent homicide without a lover. Among many reasons, they believed it unlikely that a young woman *could* kill her husband without help or that she would do so without another man to rely on in the future. Therefore, the magistrate in the above case called a court midwife not just to *know* if Woman Ji-Sun was a virgin and test the validity of the sexual frustrations she spoke of in her testimony, but also to confirm that illicit sex had not been the true cause of all the trouble from the start. As it turned out, in this case the midwife concluded that Woman Ji-Sun had told the truth. She was and would forever be—both by her own words and judicial confirmation—a “virgin.”

Experienced: Premarital Sex, Sexual History, and Accusations of Lost Virginity

So far, the testimonies explored in this chapter have shown that many young women entered marriage with sexual awareness. In their failed attempts to initiate conjugal intimacy, women described themselves as effectively charged with instructing their husbands in matters of sex. They anticipated sex once married and, eager to engage their husbands on their wedding night, were left disappointed and frustrated when it failed to take place. One will recall that even those women who resisted conjugal sex had experienced it and seemed astutely aware of what it was they were avoiding. For these newlyweds, conjugal sex was not just a ritual solemnization of

the marriage but also an important signifier of their position and status as wife. Sometimes they met it with defiance, struggling for some control in life over their own sexuality. Other times, when their husbands denied them, whether as a form of punishment or not, they felt out of place.

It is difficult to know what type of sex education young women received before marriage. For instance, did mothers prepare their daughters for what to expect on their wedding nights before they left home? We saw that Woman Huang-Sun showed no hesitation in going to her mother to complain about her young husband's sexual unwillingness, which suggests at least to some degree that mothers and daughters had these types of conversations. Yet, there was also fifteen *sui* Woman Qin, who as one will recall, was too embarrassed to disclose her own sexual troubles to her mother-in-law. Given the lack of historical evidence, legal cases might be the only source to turn to for any insight into this question, and while much is still unknown, the legal record makes one thing clear: young women engaged in sex before marriage. In addition to complaints about conjugal sex, the testimony of young female perpetrators frequently includes reports about their premarital sexual encounters. For many women, these early sexual experiences constituted their only form of sex education before marriage. As the following cases reveal, this strongly influenced their expectations about marital sex and intimacy.

Much like the teenaged brides discussed above, nineteen *sui* Woman Li-Geng's primary marital grievance centered upon her husband's sexual reticence.⁵⁰ She characterized him (aged eighteen) as short, ugly, and uninterested in matters of sex, saying, "I hated [my husband] because [he] had not yet reached puberty [and] did not understand sex (*bu zhi fangshi*)...I

⁵⁰ XKTB, 02-01-07-2902-017. Woman Li-Geng (19 *sui*). Tai'an County, Shandong. DG 6, LC. (题为山东泰安县民妇李耿氏谋杀亲夫李五月身死议准凌迟处死事). Woman Li-Geng stabbed her husband with a knife as he slept. It should also be noted that in comparison with other cases of this nature there is no significant age gap between husband and wife, he was just one year younger than her.

thought that since marriage there was no affection between [us].” In the moments before the murder, her husband had accused her of adultery, saying that she must be carrying on with someone at her parents’ home where she often went. This accusation enraged her, and because she already resented him for showing her no affection, she stabbed him to death. The magistrate asked Woman Li-Geng if she had engaged in illicit sex as she testified her husband claimed. Strikingly, she told him yes, but not in the way her husband had alleged. In the past she had been intimate with a neighbor boy while living with her parents, but this all ended once she married.⁵¹ Woman Li-Geng insisted that her motivation for killing her husband rested in her resentment toward *him* alone and that her previous sexual experience with this man had nothing to do with it.

Judicial suspicion about illicit sex permeates the adjudication of husband-murder cases. Magistrates approached these scenarios with the belief that illicit sex motivated women, especially young women, to kill their husbands, and if pressed hard enough, a lover could always be found to have either inspired or at least helped them carry out the crime. Because of this, they interrogated women about their sexual pasts. This line of questioning did not always leave magistrates with the answer they desired. Women often had a sexual history to report, but it did not provide an explanation for their homicidal actions, at least not in the way magistrates envisioned. In the following cases, none of the former sex partners women named were found to have colluded with them in their husband’s murder. Sometimes these men were apprehended and punished for fornication, but other times they simply could not be found. Because of judicial fixation on illicit sex, the historian is left with evidence of many women’s premarital sexual

⁵¹ Woman Li-Geng did not explicitly state that the premarital sexual relationship stopped once she was married, but the lack of detail regarding her relationship with him suggests that it had.

experiences seemingly immaterial to the crime at hand. These cases not only shed new insight into women's own conceptions of their sexuality, but also reveal that many women entered marriage much more sexually experienced than previously thought.

Woman Li-Geng had sex before marriage, and while this aspect of her life had no bearing on her sentence or punishment, its preservation within the case record can help us make sense of the sexual dissatisfaction she and other young married women spoke of in their testimonies. The premarital sexual encounters these young women described constituted their first sexual experiences, often with a neighbor boy they had known growing up. These early relationships created for them expectations about sex that imparted in them a desire for intimacy and affection they often found absent from marriage. Perhaps Woman Li-Geng resented her husband's sexual unwillingness not just because she knew sex was something husbands and wives were expected to engage in, or even because she knew other wives had husbands who loved them, but precisely because she had known affection from a man once before.

For example, twenty-two *sui* Woman Wang from Yunnan drew a close connection in her testimony between her premarital sexual activities and the disappointment she felt in marriage.⁵² She explained, "When I was fifteen, [I] often worked in the fields [and] played with Zhang Hui [and we] had illicit sex, [I] don't remember how many times. Before long [our] intimate friendship drew suspicion. Villagers often caught [us] laughing together [and] gossiped. My father found out about it and beat me [and] frequently disciplined [me] for having illicit sex. When [I] turned eighteen, Zhang Hui took a wife and [his affection for] me cooled. [But] I'd seek him out and sometimes have illicit sex with him. In the 9th year, 12th month, I uxoriocal

⁵² XKTB, 02-01-07-1208-007. Woman Wang (22 *sui*). Langqiong County, Dali Prefecture (Yunnan). QL 36, LC. (题报大理府浪穹县民妇王氏夫打骂怀恨毒死本夫施大廷拟凌迟处死事).

married (*zhaozhui* 招贅) my husband Shi Dayang [and] only hoped that [we'd] be on good terms as husband and wife and [he'd] love and cherish me.⁵³ Who knew he had a bad temper and would beat and scold [me] all the time?!”

Woman Wang entered marriage with sexual experience, and it is clear from her testimony that she had enjoyed some affection in her life before marriage too. In comparison, her relationship with her husband stood in stark contrast to what she had once experienced, and married life failed to provide her with the “love” or companionship that she had hoped for. Having experienced sentimental affection undoubtedly only added to the mounting resentments she had toward her husband. She continued to describe how her husband (aged thirty-two) had refused to let her stay over at her parents’ home once they moved out and beat her repeatedly with a bamboo rod. It was all this abuse, she argued, that led her to poison him by adding wolfsbane to his food, the effects of which she knew were strong because she had seen it kill a group of pigs who ate it in the field nearby where she often worked. The man with whom she had been intimate with in the past, while someone she obviously was fond of, did not conspire with her to kill her husband.

The sexual histories of young women within these legal reports were not always as indicative of companionate romance as the above case suggests; others in fact appear to have been much more predatory. For instance, eighteen *sui* Woman Chen-Zhang from Linzi County, Shandong told the Qing court that she had premarital sex once a few months before she married the boy (aged fourteen) she had been matched to since youth.⁵⁴ She had done so with Wang Liu

⁵³ This line from Woman Wang’s testimony reads as follows: “...只望夫婦和好愛惜...”

⁵⁴ XKTB, 02-01-07-0354-011. Woman Chen-Zhang (18 *sui*). Linzi County, Qingzhou Prefecture (Shandong). QL 12, LC. (题为山东青州府临淄县民陈张氏与王六通奸勒死本夫陈继先议准凌迟处死事).

(aged thirty-three), a much older man who was a friend of her father whom she had come to know while growing up. Given the large age gap between them, Wang Liu made sure to clear himself of any greater sexual misconduct in his testimony, saying he never had sex with her before this specific incident because she was too young. He made a living weaving for a family in nearby Yishui County and often came and went from the area. When he had returned after two years away, he said he noticed Woman Zhang (maiden name) had “grown up” and they often “joked and laughed together.” He told the Qing court, “I walked past and saw her standing outside the gate and asked if her parents were home, she said they had gone out. I borrowed tobacco and entered her house, asking [her] for a light. Because no one was home, [I] grabbed [her] hand flirting with her. Woman Zhang consented.” In her own testimony, Woman Chen-Zhang said, “After that my mother was always home and [Wang Liu] never had illicit sex [with me] again [before marriage].”

While it is difficult to say whether Woman Chen-Zhang’s encounter with Wang Liu taught her anything about companionship, especially given his advanced age and her then-youthful naivete, their descriptions of their time together are not without markers of affection. Whatever the case, sexual experience with Wang Liu seems to have nonetheless impacted her marital expectations and prospects of happiness with her adolescent husband who she complained “knew nothing about the facts of life” and was “poor.” What is more, she continued to seek out Wang Liu. A few months after her wedding, she came home for a visit and had illicit sex with him again. After that, Wang Liu asked her to meet him at a vacant house at which she asked to borrow some money, and he gave her fifty small cash in exchange for what had now been three sexual encounters.

After this, she did not see Wang Liu for the next three months. He left for work and she returned to her husband's home to help with the harvest. Once back, she and her husband got into an argument while in bed. She continued in her testimony, saying, "In the evening, my parents-in-law went to sleep in the east side of the house while my husband and I slept in the northern room. At the time my husband said I had left [him] two or three times now and never once made him a pair of shoes and [he] scolded [me].⁵⁵ I argued with him a while, everyone was still asleep. When the rooster crowed, my husband awoke and started scolding me again." This argument enraged Woman Chen-Zhang, and she feared she could not hope to have any good days with this type of man who "endlessly scolds people." She told the Qing court, "What type of marriage could I have with this man?! In that moment I got the idea to kill him," and she strangled him with a belt.

During interrogation, the magistrate struggled in vain to connect Wang Liu to the murder. He pressed Woman Chen-Zhang, saying, "Clearly, you thought to have Wang Liu conspire with you to kill your husband! You two are in regular contact and it would be convenient for [you] to become forever husband and wife!" The magistrate, at least, thought the pair likely enough to have run away together. He told Woman Chen-Zhang that she *must* have plotted her husband's murder with Wang Liu during the times they had sex. He threatened her to reveal this certain truth or endure torture. Woman Chen-Zhang gave the following reply. "My husband is young, does not understand the ways of the world, and his family is poor. I was discontent [with this],

⁵⁵ This specific complaint about a wife not making her husband shoes, especially when she had been away at her natal home, is repeated in quite a few cases. While shoes were probably something men needed to have repaired and mended constantly, and this work fell on the shoulders of their wives, these cases also suggest that in addition to being a practical item, making one's husband a pair of shoes, especially when a couple had been apart for some time, was considered a sign of a wife's affection for him.

but kept it hidden to [myself]...If I had plotted with Wang Liu and he told me to kill my husband, wouldn't I hate him now that [I] will pay with my life for the crime I've committed? Why would [I] not implicate him, but instead put up with torture to conceal him?!" In addition to this rationale, Woman Chen-Zhang said she had not seen Wang Liu in the months leading up to the murder, suggesting that she could thus not have plotted with him, and finally, expressing her own frustration over this line of questioning, she said, "What more is there to say?!"

Implicating Wang Liu in the murder was, after all, the only reason why the magistrate had asked Woman Chen-Zhang to recount her sexual history to the Qing court in the first place. Yet it was a dead end. In addition to her testimony, Wang Liu also had an alibi for where he was during those months which supported Woman Chen-Zhang's story. Left without any recourse, the magistrate seemingly had no option but to accept Woman Chen-Zhang's story even though he was disinclined to believe her. However, Wang Liu did not go unpunished. He was sentenced to one month in the cangue for fornication, while the murder remained Woman Chen-Zhang's crime alone. Her parents were asked to explain why their daughter would commit such a crime and said that she was "a bit slow-witted and foolish." Her father-in-law added, "She had a child's temperament, but it wasn't bad." He believed that their age difference had been the root of the problem too, saying, "my son was young, only fourteen *sui*, and hadn't matured. My daughter-in-law is seventeen *sui*, and already grown, [because of this] they were on bad terms." Woman Chen-Zhang's sexual history, however, remained part of the case report, not as evidence of co-conspiracy, but to demonstrate that the magistrate had at least done his due diligence in trying to uncover "the truth."

As one can see, women's reports of premarital sex often came as a consequence of magistrates' initial suspicions that men instigated women to kill their husbands out of a desire for

illicit sex.⁵⁶ Perhaps it seemed too unlikely to these elite men that a woman might kill her husband without another means of support, but more than this, they simply thought women physically incapable of carrying out these often violent homicides alone.⁵⁷ During interrogation, magistrates put gender at the forefront of adjudication, burdening women homicide culprits with the responsibility of explaining away their perceived feminine physical weakness. Magistrates asked questions, such as, “You are of the weaker sex (*nüliu* 女流), how could [you] kill a person alone?!”⁵⁸ and “You are but a woman, if no one helped you, how could you have beaten a man to death? If [you] don’t tell the truth [you] will be tortured!”⁵⁹ Assumptions about physical strength based on age also intersected with those of gender during interrogation. For example, a magistrate questioned a woman who testified that mother killed her husband, not her, saying, “Your mother is over 70 *sui* [and] but a woman, how could [she] beaten your husband to death?”

⁵⁶ Assumptions about a lover-as-accomplice were not entirely unwarranted. There are more cases in the archive that fit this scenario than not, so magistrates had good reason to think that illicit sex was at the root of these crimes. But, as we have seen, this was not always the case. When illicit sex was not found to have motivated husband-murder we are left with both an understanding of judicial assumptions about female criminality and insight into the lived realities of women’s sexual histories.

⁵⁷ It is interesting that one of the above cases is a poisoning, a method of murder that did not require any special act of physical strength on the part of a woman, and yet the magistrate was still suspicious about her having had a lover. It is possible that these elite men thought poison to be something difficult for a woman to procure on her own, and cases exist in which lovers equip their paramours with the deadly substance, but the legal record also shows that women were perfectly capable of finding poison on their own. It is more likely that such cases reflect the judicial assumption that women, in addition to being physically weak and ill equipped to kill their husbands, were unlikely to do so without another man to rely on in the murder plot and beyond.

⁵⁸ XKTb, 02-01-07-0239-008. In this case, a woman was alleged to beat another woman to death, and the magistrate asked, 你一個女流如何能獨自殺人。

⁵⁹ XKTb, 02-01-07-0158-009. This question also does not come from a husband-killing but one in which a wife killed the man whom her husband pimped her out to. The magistrate asked, 你是個女人若沒有人幫你, 若何能將男人打死, 若不實說就要撈了。

Clearly you must have helped her!”⁶⁰ In another case, the magistrate remained unconvinced that an eighteen *sui* woman possessed the strength to kill her husband without help. She replied to him, saying, “Although I am of the weaker sex (*niliu*), [I] am four years older than my husband, [and] his body was weak.”⁶¹ Despite such reservations, however, both young and old were sentenced for husband-killing, with the youngest included in this dissertation was just fifteen *sui*, the oldest, sixty-six *sui*.⁶²

The gender bias inherent in these questions suggests broad judicial unwillingness to envision women as agents of violent crime. It is not that magistrates considered women incapable of violence—they were often easily convinced that a woman might kill a child or herself—but they were genuinely skeptical of women’s ability to kill *men*, who were assumed to be physically superior to women.⁶³

⁶⁰ XKTB, 02-01-07-0230-009. This is a case of a son-in-law killing, and the magistrate asked the woman the following: “你母親是七十多歲的人他一個女人如何能把你丈夫打死呢這分明是你從傍幫打的。”

⁶¹ XKTB, 02-01-07-0972-003. This is an example for a husband-killing report, title 题报济阳县人柳尹氏掐死伊夫柳顺拟凌迟处死事. The young woman replied, saying, “小的雖是女流比男人大四歲...”

⁶² Qing law considered the “weakness” of culprits in deciding punishment. It permitted compassion be shown to homicide culprits under the age of 10 *sui* and over 80 *sui*. See Jing Fenghua, “‘Compassion for the Weak’: Juvenile Offenders in the Qing Dynasty Legal System,” *Modern China* 44, no. 4 (2018): 377.

⁶³ It is my impression from reading broadly in the archive about women murderers that the imagined victim of a woman’s violence was a child. Magistrates were also not surprised when women killed other women. In cases of husband-murder, questions about a woman’s physical strength disappear when her husband suffered from a physical or mental impairment or deficiency. For example, they could believe that a seventeen *sui* girl might overtake her thirteen *sui* husband in a physical altercation, but a young woman likely could not kill an adult man. Thus, the emphasis placed on men’s consciousness (sleeping, intoxication, etc.) just before the murder is likely both a result of the pervasive gender-bias against women’s physical strength, as well as the women themselves having picked an opportune moment to unleash their rage. For magistrates, it seems that for a woman to have overtaken her husband and killed him, he had to have been incapacitated at some level. Of course, this was not always the case. Reports exist in which women did kill adult able-bodied men their same age or older who had full control of their faculties.

However, the assumed physical weakness of women was just one of many obstacles that made it difficult for magistrates to imagine women as the sole perpetrators of violence against their husbands. The following case is an example of not only judicial disbelief about women's ability to kill men without help, but also the general bewilderment with which they approached young women's complaints about conjugal sex, thinking such matters too trivial to have incited homicide. Woman Wang (aged nineteen) told the Qing court that she killed her husband after they got into a fight because she refused to have sex, saying, "[We] were on good terms with one another usually...On the evening of the 27th of October, my husband went to sleep and told me to come sleep too. [I] had genital sores (下體生瘡) and went to sleep at my husband's feet.⁶⁴ My husband told [me] to sleep alongside him. I was afraid of irritating the sores and refused. My husband then came and grabbed me by the neck. I was afraid of the sore pain, [and] using [my] left hand to prop up his shoulder, [I] squeezed his scrotum with [my] right hand. Unexpectedly, [I] squeezed a little too hard [and] he yelled out [but] before long [he] lay on the bed [and] did not speak." Fearful that when he woke, she would suffer further punishment, maybe even death, she fetched a plowshare and stabbed him with it in the head, killing him.

Woman Wang was far from alone in demanding some authority over her own sex life, a desire in common with the women who resisted conjugal sex due to menstruation or recent pregnancy in cases explored earlier in this chapter. But her explanation left the magistrate completely unconvinced. After her first round of interrogation, he continued to press Woman Wang, with added torture, to reveal the 'real' truth, saying, "You and your husband are a young married couple! If your husband wanted to sleep with you and you badly injured him so that he

⁶⁴ XKTB, 02-01-07-0087-013. Woman Wang (19 *sui*). Xiping County, Yunnan. QL 3, LC. (题为云南新平县民女王氏殴伤伊夫王凤天身死拟凌迟处死事).

may be dead, you should have still tried to revive him! Why were [you] so hard-hearted as to then kill him with a plowshare?!...You, a young woman, don't say you are without anything else to say! ...It takes ruthless cunning to do this type of thing! If no one conspired with [you], tell me how you alone moved the corpse from the bed? There must be more to it than this!"

The magistrate's reaction to Woman Wang's explanation shows just how difficult it was for these elite men to understand these women's emotionality regarding not just matters of conjugal sex, but their fears over the repercussions of their defiant actions from their husbands, many of whom threatened to kill them. Regarding the magistrate's question about her ability to move her husband's body, her only response was "in a state of panic [I] pushed my husband's corpse off and under the bed," but she did try to blame her rash action on her youth, saying "I am young and did this thing suddenly without thinking. To this day I am entirely regretful!" In the end, Woman Wang could not offer the magistrate the narrative satisfaction he craved because it had not been so. The realities of these women's actions compelled judicial elites to both acknowledge women's physical strength as well as grapple with the uncomfortable reality that women could and did overpower men.

Furthermore, magistrates imagined the "co-conspirator" of husband-murder to be a man with whom the wife had been engaging in illicit sex who wanted to remove her husband from the picture so he might continue their illicit relationship in peace. As we have already seen, the Qing court's reliance on this preconceived narrative could create more problems for them than answers. In the previously explored case about fifteen *sui* Woman Qin who slept in the kitchen to avoid her husband's sexual advances, the magistrate, as well as her husband's family, were "certain a lover conspired with [her]." Unlike the women above, the pressure was too much for young Woman Qin to handle and she decided to give them what they wanted. She said, "[I]

blurted out that a [man] with the last name “Huang” told [me] to kill my husband and marry [him] and we’d flee together.” Later, when this man whom she called “Huang Chaoyong” could not be found and she could not tell the magistrate where he lived, she confessed that she had made him up completely. But the magistrate, given a narrative that made sense to him, showed hesitation in changing it. He said, “How could you so casually come up with the specific name of “Huang Chaoyong”?! Besides, your husband merely intimidated and scolded [you] because you would not have sex with him. This is not anything worthy of causing profound enmity! You are so very young, how could you dare carry out such violent treachery!...Clearly, a man inspired and aided [you]!” As in the other two cases, the magistrate could not shake Woman Qin of her revised testimony. However, we do learn that she enjoyed listening to the Zhuang people sing when she went to town, and she overheard the name “Huang Chaoyong” in one of their songs.

Broken but Not Unworthy: Dealing with Accusations of Lost Virginity

In the following cases, husbands’ suspicions about their wives’ sexual pasts created unnecessary tension in otherwise good marriages. Conflict could have been avoided altogether if these men had not cared so much about their wives’ sexual purity. These cases indicate that premarital sex was not an uncommon occurrence in young women’s lives, and speak to women’s own understanding of their sexuality, which as we shall see, did not align neatly with state and societal expectations of womanly virtue.

The marriage between twenty *sui* Woman Wang of Sichuan and Qu Guojun (aged twenty-seven) seemed better than most. Appropriately close in age, the couple lasted four years together, longer than many of the couples discussed in this chapter.⁶⁵ While they remained

⁶⁵ This excludes women who entered their husbands’ homes as child-brides.

childless, Woman Wang was four months pregnant at the time of her arrest.⁶⁶ Woman Wang's testimony also contains no complaints about her husband during the earlier years of her marriage; instead, she attributed their falling out to one incident that occurred on her father's birthday. "In the 37th year, 12th month, 24th day my husband and I went to my natal home to offer my father well-wishes on his birthday. [A man named] Wang Jizong was also there. [He] chatted and laughed with me in secret [but] my husband saw. When we returned home [from the celebration], [my husband] questioned [me] asking if I and Wang Jizong had had illicit sex. I refused to answer and because of this my husband and I were on bad terms."⁶⁷ It seemed that for Woman Wang's husband, the conversation his wife and Wang Jizong shared that day, whatever it may have been about, conveyed an observable familiarity between them. Such a public display of affection marked by laughter signaled intimacy, the subtle meaning of which was not lost on her husband. From then on, Woman Wang's marriage took a turn for the worse. She continued in her testimony, saying, "[After that], [my husband] got drunk and wanted to beat and scold [me]. In the 38th year, 12th month, 24th day, my husband quarreled with me because I had been late making food and tied [me up] and beat me until second Uncle Zhao Guoyang and his wife came and persuaded him to stop. In the 39th year, on the night of the 1st month, 13th day I went to sleep with [my] clothes on while my husband was out getting drunk. At around first watch, [he] returned and scolded me for not waiting for him [and] grabbed [me] by the hair saying [he] wanted to kill me."⁶⁸ I pleaded with him to show [me] mercy. [He] finally let go and went to

⁶⁶ XKTB, 02-01-07-1330-016. Woman Wang (20 *sui*). Zhaohua County, Baoning Prefecture (Sichuan). QL 39, LC. (题为四川保宁府昭化县民妇王氏勒死亲夫赵国均拟凌迟处死事). Woman Wang miscarried her baby in jail while awaiting trial, and according to Assizes documents, she was executed in Qianlong 40.

⁶⁷ This is another example of ordinary people maintaining connections from their past.

⁶⁸ First of the five-night watch periods, "first watch" (*chugeng* 初更) was between 7:00 PM and 9:00 PM.

sleep. I sat on the floor crying and thought my husband constantly beats and scolds [me], eventually [he'd] wear [me] down till [I] was dead.”

After her husband had fallen asleep that night, Woman Wang noticed a silk cord by her side and got the idea to strangle him to death. Taking advantage of his inebriated state, she wrapped the cord around his neck while he slept, got on top of him in bed, and used her knees to pin down his shoulders, using both hands to pull the cord around his neck with all her strength till he died. She then tied the cord to the foot of the bed, opened the door, and yelled out for help. Zhao Guoyang and his wife, the couple who had come the previous month to save Woman Wang from her husband's abuse, heard her calls. They attempted to save Qu Guojin but, as we know, he was already dead. Woman Wang cut up the cord and when asked about what happened, she told the couple that her husband committed suicide. To Woman Wang's surprise, they were unconvinced and reported her to the yamen.

Woman Wang's testimony does not tell us if her husband ever pressed her again for a definitive answer about the man who flirted with her on her father's birthday after their initial confrontation. However, her description of his changed behavior following the incident suggests that he believed something improper had transpired between them and took her silence as confirmation. While he could not get her to speak, the Qing court did. The magistrate demanded the answer she refused her husband, and as it so happened, she had known that man quite well. Woman Wang confirmed that she had indeed been sexually intimate with Wang Jizong in the past, but never while she was married. She told the magistrate, “I was well acquainted with [my] neighbor named Wang Jizong before marriage. In Qianlong 35, 3rd month, [I] don't remember what day, Wang Jizong walked by, and with no one else around, flirted with me [and we] had illicit sex once. My parents did not know about it. After [I] was married [I] did not have illicit

sex with Wang Jizong [again], [and] [he] never came by my husband's house." Having occurred outside the bounds of marriage, she described her sexual encounter with Wang Jizong as anything but a serious affair. It was an isolated transgression from years ago, and had not posed her any problem, at least not until the friendliness her former neighbor showed her that day cast doubt in her husband's mind.

Unsurprisingly, the magistrate imagined Wang Jizong to be Woman Wang's former "lover," and was confident that he had been a co-conspirator in the murder, and under threat of torture he pressed her to admit that they had killed her husband so that they could continue having illicit sex. But Woman Wang refused to modify her narrative. She repeated that they had only had sex *once* before she was married and told the magistrate to question her neighbors if he was still unconvinced and see if they had ever seen him come by her husband's house before. She responded to the magistrate, saying, "If I had someone help [me], what good would it serve [me] to hide it now?"

While this question was rhetorical, it is worth considering. If magistrates' suspicions of a lover's involvement were in fact true, why might a woman shield her former sexual partner? If she genuinely cared for him, it is possible that she lied and chose to take the fall to protect her former "lover" from a shared fate of execution. But if saving him was unimportant to her and she had truly been coerced into it, she had every reason to disclose the truth. She might receive leniency, but only if she could convince the magistrate that she had *no knowledge* of the homicidal plot and it had all been her lover's doing. If this were not the reality of the situation, it would have taken remarkable criminal savvy and an astute awareness of the law for her to maintain such a false narrative under interrogation. Moreover, if she had any awareness of the plan and did nothing to stop it, whether she actively participated in it or not, her punishment

remained the same: dismemberment. Rather than probing too deeply into the murky unknowns which exist for all cases, I have made the choice to take these women's accounts seriously, especially their sexual histories, which they advocated for under great duress in defiance of the plausible state narrative, which as they themselves often agreed, would have been the more strategic and logical narrative, if it only had been true.

The sex partners women named were found to have not colluded with them in their husband's murder. Sometimes these men were apprehended and punished for fornication, but other times they simply could not be found. While a dead end for the magistrate, the preservation of women's sexual histories within these cases may help us make sense of the sexual dissatisfaction expressed in the testimonies of other young married women, especially those in the previous section.

One takeaway from these cases is the resentment sexually experienced women felt when their husbands accused them of being non-virginal. As we shall see, although the cases under review in this final section reveal that men (husbands and their fathers) placed value on women's virginity in marriage, even "virginal" brides had a sexual past to report. Chastity, defined as sexual loyalty to one's husband, was both integral to Qing gendered order as well as important to many women who lived during this period.⁶⁹ Virginity, on the other hand, abstinence from sexual intercourse altogether, was not a prized social virtue for its own sake. Women were expected to marry and give birth and there was little social adoration for the celibate woman, as was more often the case in Europe during this time. In late imperial China chaste widowhood or maidenhood was the venerated practice, not celibacy as women were expected to marry and give

⁶⁹ Janet M. Theiss, *Disgraceful Matters: The Politics of Chastity in Eighteenth-Century China* (Berkeley: University of California Press, 2004).

birth to a son to continue their husband's patriline.⁷⁰ Still, there is no denying the interconnectedness of these concepts. Ideally, virginity was imagined as the precondition to chastity. However, there was no customary practice or method of "testing" or confirming a young woman's virginity before marriage, other than the reputation of her family and her youth (young age being suggestive of a greater likelihood of sexual purity). Thus, it was not that young brides from good families *were virgins* in the sense that they had never physically engaged in sexual acts before entering their husband's households (although this certainly was an expectation) but that the marriage agreement meant that the bride would be regarded and treated as such by their husband and his family almost unquestioningly. Yet as the following cases show, some young husbands felt emboldened to exploit the fragile myth of their wife's assumed virginity for their own personal ends at a cost to the stability of the patriarchal family.

As we have already seen, young women entered marriage with a sexual past. When Woman Wang was asked to relay her sexual history in the case explored above, she emphasized a clear demarcation between premarital and extramarital sex, and it also stands to reason that she, and other women like her, saw a difference between the transgressive meaning associated with the two types of illicit sexual behavior as well. Men's suspicions about their wives' sexual pasts created unnecessary tension in otherwise good marriages. It seems that conflict could have been avoided altogether if these young husbands had not problematized their young wives' virginity. In the following cases, I explore cases of newlywedded women who killed their husbands after they accused them of not being a virgin on their wedding nights. When brought in for questioning, each of these women later confessed that they were in fact not a virgin, just as their

⁷⁰ Eugenio Menegon, "Child Bodies, Blessed Bodies: The Contest between Christian Virginity and Confucian Chastity," in *Nan Nü: Men, Women and Gender in Early and Imperial China* 6, no. 2 (January 1, 2004): 192.

husbands had alleged. Yet these women's premarital sexual experiences did not stop the hurt and anger they felt when their husbands shamed them. Irrespective of the social expectation of virginity, it is clear from their testimony and their aggressive actions that these sexually experienced women did not consider themselves unworthy for marriage. Just the opposite, in their view (as well as that of their family, and remarkably enough, even their husband's family), sexual experience did not mean that they could not fulfill the role of loyal and "chaste" wife, and they sought violent retribution against the men who dared to look down upon them.

While first time wives were expected to have not engaged in sex before marriage, "virginity" only became a matter worthy of concern when a husband decided to make it a problem. Eighteen *sui* Woman Zhang Xiao-Sun of Anhui told the court that her husband named Zhang Zhuo (aged sixteen) had taken issue with her virginity on their wedding night.⁷¹ "On December 28th we were married. On the night of the 29th we slept together (*tongshui*). My husband saw that I had already lost my virtue (已是失身) [and] questioned [me] about the adulterer.⁷² I bowed [my] head. On the 30th my husband quarreled [with me] all day saying I was a despicable creature (不是好东西) [and] at night [he] did not sleep with me." Zhang Zhuo's mistreatment of Woman Zhang Xiao-Sun continued to escalate. The next day he went out to celebrate the new year and when he returned, he again scolded her recklessly. Woman Zhang Xiao-Sun told the Qing court, "[He] grabbed a vegetable knife and threw it on the table and said to me, 'In the future [I] will kill you!'" Woman Zhang Xiao-Sun's aunt came by and stopped the fighting. She asked Zhang Zhuo about what was going on, but he refused to say anything about

⁷¹ XKTB, 02-01-07-2113-007. Woman Zhang Xiao-Sun (18 *sui*). Anhui, Hezhou Prefecture. JQ 5, LC. (题为安徽和州张小孙氏与张加经通奸撻死本夫张琢拟凌迟处死事).

⁷² The term *Shishen* (失身) is translated as either "lost virtue" or "lost virginity or chastity." Literally translated, it can be read as "forfeit one's person" or "lose one's life."

it. That night he got drunk and continued to harass Woman Zhang Xiao-Sun. She continued, “[He] also said, ‘If tomorrow you don’t reveal the adulterer, you’ll wish you were dead!’ [and] he went to sleep.” Thinking him likely to make good on his threat, Woman Zhang Xiao-Sun strangled her husband with a belt that night as he slept. However, she never admitted any sexual wrongdoing to her husband. Only once arrested did she confess that she had sex with her husband’s distant relative, sixteen *sui* Zhang Jiajing (same age as her husband), a few months before her wedding when her aunt and husband were both out. She had sex with him again a second time just four days before her wedding day. Neither her aunt nor her husband knew about it.

Like Woman Sun, twenty *sui* Woman Li’s husband, Huang Chunbo (aged seventeen), also challenged her virginity on their wedding night.⁷³ She told the court, “That night, my husband said I was not a virgin (不是處女) [and] questioned me about who [I] had illicit sex with. I denied [it]. My husband was angry and slept in another bed in the room [and] repeatedly beat, scolded, and questioned me [about it]. I always refused to tell the truth.” After her arrest, Woman Huang said that about six months before her wedding she had in fact had sex with a neighbor named Chen Yaqi (aged twenty). She described her sexual encounters with him like this. “I walked into the courtyard toilet when Chen Yaqi passed by and saw. [He] entered the toilet and flirted with me and [we] had illicit sex. The next day [we] had illicit sex once more in the toilet. My father knew nothing about it.” She explained that since then, she and her father had moved, putting over three miles between her and Chen Yaqi, and they never saw each other again.

⁷³ XKTB, 02-01-07-1847-003. Woman Li (20 *sui*). Enping County, Guangdong. QL 57, LC. (题为广东恩平县人李氏谋死亲夫黄纯伯议准凌迟处死事).

Around two weeks after the wedding night confrontation, Woman Li said that her husband got drunk and began interrogating her again about the man who had taken her virginity, demanding to know his name. When she still refused to say, he threatened to kill her and went to sleep drunk. She continued in her testimony, saying, “I thought since my husband saw that [I] was not a virgin [he] was resentful [and] unwilling to let it go [and] planned to kill [me]. I suddenly got the idea to kill my husband and commit suicide.” Woman Li then described how she climbed on top of her husband in the bed and clutched his throat with her right hand. He awoke and struggled to get her off him, but as she explained, “My husband was drunk, weak, and breathless.” Thinking him dead, she searched for a belt to hang herself when she heard him yell. She went and squeezed his scrotum hard until he finally died. Her father-in-law entered the room just in time to save her from suicide, but nothing could be done for his son. The magistrate, now in possession of the name Woman Li had refused to admit to her husband, sentenced Chen Yaqi to one month in the cangue for fornication.

What inspired these men to doubt their wives’ virtue? If they had no knowledge of their wives’ sexual pasts, what made them so sure they were not virgins? Perhaps rumors had spread, someone had seen them, or the young adulterous men involved boasted about the encounter to others. Maybe virginity was not the issue at all. Perhaps these young husbands simply did not like their wives, thought them ugly or simply desired someone else, and considered this a way to get out of the marriage. Unfortunately, the case reports do not provide us with any clear insight into this question. All we know is that these men’s allegations occurred immediately following their first sexual encounter with their wives. Because these men happened to be “correct” based off their wives’ later admissions in court, the impression is that these young men detected their wives’ non-virginal status at the point of penetration. Qing authorities had a method for testing

virginity in the courtroom, bringing in midwives to perform genital exams on women such as in cases of alleged sexual assault, but did husbands have the authority to judge virginity in the bedroom? It seems not. If a murder had not taken place, it is unlikely that an accusation of licentiousness based on a husband's experience with his wife on their wedding night would have been validated by the Qing court.

Moreover, even young men's family members, their own fathers, doubted the validity of their sons' claims. In the above case, Woman Li's father-in-law had no desire to pursue his son's allegation. After their first night together, Woman Li's husband, Huang Chunbo, confided in his father, telling him that he believed his new wife was not a virgin, and that he had confronted her but that she refused to tell him the truth. In response, his father told the court, "I persuaded my son [to let the matter rest], saying that if you make it known that daughter-in-law is not a virgin it won't look good for either family. [She] resides in my house now, and if I keep [her] within strict bounds here there is no need for [you] to fear that something else might happen with her. [I] did not think my son harbored resentment in his heart..." While Woman Li's virginity clearly mattered to Huang Chunbo, it did not matter to his father, at least not in the same way, and he declined to help his son bring the matter to light.

The next case shows just how reluctant family members were to stir up trouble over young men's claims about non-virginal wives. Eighteen *sui* Woman Sun-Jiang of Guizhou described the accusation her husband Sun Zhi (also aged eighteen) made against her virginity.⁷⁴ She told the Qing court, "On the 12th of December I was married off to the Sun family and my husband and [I] consummated the marriage. The next day my husband told his parents that I had

⁷⁴ XKTB, 02-01-07-1790-016. Woman Sun-Jiang (18 *sui*). Pu'an Prefecture, Guizhou. QL 54, LC. (题报普安州民妇孙姜氏谋杀亲夫孙志身死拟凌迟处死事).

already been deflowered (已經破身)⁷⁵ [and] that [I] must have had illicit sex with someone [and he] questioned me [about it]. I swore an oath [and] bowed [my] head but my husband wanted to report [me] to the yamen and return [me].” As with the former two cases, the challenge Sun Zhi made to his wife’s virtue came immediately after their first sexual intercourse. That day Sun Zhi told his father that his new wife was no virgin (並非處女) and he wanted the marriage annulled. But his father hesitated. Before taking any action on behalf of his son, he went to Woman Jiang’s father, Jiang Hongxuan, to hear what he had to say on the matter. Jiang Hongxuan told his daughter’s father-in-law the following. ““The doors of the rooms in my house are closely guarded [and] nothing of this sort [could have happened]! If reported to the yamen, your reputation will also fall into disgrace!”” After hearing this, Sun Zhi’s father told the court, “Not being sure if an illicit affair had actually taken place and fearing that my son did not know what he was talking about, I sided with [Jiang Hongxuan] and returned home.”

With this, Sun Zhi’s father ignored his son’s complaint and let the matter of his daughter-in-law’s virginity rest, or so he thought. He, like the father in the previous case, underestimated his son’s distress over this issue and did not anticipate the impact it would have on his daughter-in-law. Life at home with the couple grew increasingly tense. He told the court, “Suddenly my son and daughter-in-law were on bad terms all the time. My son was disgusted with her [and] beat and scolded her constantly.” Woman Sun-Jiang described the abuses she suffered after it had been decided that she would remain with the Sun family, saying “[My husband told me] that I had been bad while at my natal home and he knew it and couldn’t stand it. For days on end that year my husband looked for things to beat and scold me about. On the 14th, in the evening, my husband returned home drunk and called for me to make him tea. After drinking it he yelled [at

⁷⁵ *Poshen* (破身), literally translated as “broken body” or “damaged person.”

me] loudly, hurling insults, [and] grabbed a wooden rod and approached me saying, ‘I will eventually kill you and remarry a proper woman (正經女人)! At that time, my mother-in-law came in and broke things up [and] my husband entered the bedroom to sleep.’”

Woman Sun-Jiang did not offer up a specific explanation for what transpired between them on their wedding night to cause Sun Zhi to doubt her virtue. But as with the other cases, he was not wrong. Pressed to disclose all past sexual experiences that might have occurred before marriage, upon her arrest Woman Sun-Jiang gave the following testimony. “A man called Yang Shunyuan had come to my father’s house to help with farm work...[and] one day when I was alone in the house while my parents were both at the neighbors for dinner [he] visited and flirted with me [and we] had illicit sex. [We] were sitting together talking and laughing when my parents suddenly returned home [and] caught us. Yang Shunyuan quickly ran away [and] I shoved off to the garden to pick vegetables and walked away. My father never asked me any questions [about it]. Later when it was convenient, Yang Shunyuan and [I] had illicit sex two more times. My parents did not know [about it].” As it turned out, the doors of Jiang Hongxuan’s house were not as closely guarded as he claimed. The man whom Woman Sun-Jiang had been sexually intimate with, Yang Shuyuan, was never apprehended because he could not be found. He had lied to Sun Zhi’s father and told the court that he married off his daughter to the Sun family despite seeing her with the laborer that day.

With his daughter’s confession, he now admitted all this to the magistrate, saying “I did suspect that my daughter and Yang Shunyuan had had illicit sex [but] the Sun family welcomed the marriage [and I] feared that if [they] were made aware of this it would get out and [we] would be disgraced, so for this reason I did not ask my daughter [about it].” As we know, Jiang Hongxuan even went as far as to refuse to admit having any knowledge of his daughter’s sexual

history when Sun Zhi's father confronted him about it directly, choosing to defend his daughter's virtue against Sun Zhi's accusation even though he knew it was suspect. Thus, it was not that Woman Sun-Jiang's father, or her father-in-law for that matter, were interested in defending Woman Sun-Jiang's virginity *per se*. Instead, they were both deeply invested in defending not virginity itself but a fragile myth of female virginity integral to their own sense of masculine social respectability, which they both held a shared interest in maintaining for the sake of their families' reputations, and the investigation into Woman Sun-Jiang's sexual past that her husband desired could only serve to disrupt it.

Yet this did little to comfort her husband who appeared to value his wife's virginity in a different way. As long as *he* believed her to not be a virgin and this mattered to him, Woman Sun-Jiang was not going to do well as his wife. She continued in her testimony, saying "I cried in the main room thinking that since marrying him it was like [I] had no family. All day I suffer his beatings and scolding. It would be best to commit suicide. But I also thought that since my husband had treated [me] with such vicious cruelty I ought to kill him then commit suicide. Instantly I got an idea and lit a lamp. After my mother-in-law entered the room to sleep, I entered my room [and] in the middle of the night after I could hear that my husband was in a deep sleep snoring, I grabbed a knife and used it to cut [his] throat."

Without these women's confessions it would have been impossible for the court to confirm their husbands' suspicions. Viewed in isolation, these reports read as almost cautionary tales about righteous husbands who suffered tragic fates at the hands of their wicked wives because their fathers neglected their grievances. As we have already seen, it was not necessarily unusual for women to enter marriage with sexual experience. Thus, when read within the larger record of women-initiated homicide, these cases are not indicative of young men's innate ability

to detect non-virgins, but are examples of women, compelled by the court to speak about their sexual pasts because their husbands just so happened to problematize their “virginity,” and consequently happening to get “caught.”

Conclusion

Thinking about women as sexually knowledgeable helps to illuminate the frustrations some young women spoke about in earlier sections. While some women may have indicated that their first sexual encounters occurred with young men they had grown up with and seemed to have felt affection for, the experiences of others were much more predatory. At other times, when their husbands either denied them sexually or resented them because of their sexual pasts, whether as a form of punishment or not, young wives felt out of place and unjustly punished, and went to extreme lengths to stand up for themselves. However, concerns about conjugal sex appear to fall by the wayside in the testimonies of wives married for many years, often with young children. In the following chapter, I move beyond the bedroom to spaces both in and outside the home to reconstruct the working lives of non-elite married women.

Chapter 2

Women's Work and Working Women:

Marital Conflicts Over the Management of the Household Economy

Summer

In this chapter, I investigate the day-to-day domestic conflicts that arose between married couples over the management of the household economy, exploring the tactics women employed to navigate and persist in marriages with less-than-ideal patriarchs, men whom they characterized as wastrels, alcoholics, and idlers. The testimonies of married women in midlife, those judged to have either premeditatedly, accidentally, or inadvertently killed their husbands, place special attention on such arguments, revealing not only the quotidian struggles of mothers dealing with poverty and impending economic decline, but also their tenacity in the face of insurmountable obstacles.¹ As we shall see, these women depicted themselves as actively maintaining the economic stability of their households, and many identified themselves as the sole supporters of their families. They pushed back against what they believed were poor financial decisions of their husbands and understood and valued their own work. They had a sense of when their household or other labor had been exploited, as well as how to make the most of their situation to protect themselves and their children.

Women's Labor and the Qing Gendered Economy

In recent decades, Qing scholars have sought to better understand women's contributions to the household economy, focusing mainly on their role as domestic textile producers and the

¹ By "midlife" I am referring to women with at least one adolescent child, under the age of 14-15 *sui*, which generally refers to women in their mid-to-late twenties to mid-to-late forties. Childless women are also included in this chapter. While many of these cases involve women in midlife, the chapter also incorporates details from women who fall outside of this age category and builds upon evidence presented in Chapter One.

impact this labor had on their status inside the family. Ideally, family members were expected to work together to earn a living. Yet, within this collaborative vision were prescriptions about proper gendered division of labor within the household, epitomized by the classic adage, “men plow, women weave (男耕女織 *nan geng nü zhi*).”² Such ideals placed women in a circumscribed, yet nonetheless vital, economic and social role within the Qing empire. Scholars and officials linked women’s spinning and weaving of cotton cloth and silk (and to some extent embroidery) inside the home not just to the economic success of the household, in which such work could safeguard families against periods of financial hardship, but also to moral respectability. Susan Mann has revealed the ways Qing elites imbued these forms of women’s work with new moral significance in their writings, stating, “Womanly work, in these men’s eyes, was an emblem of woman-as-wife-and-mother, the anchor of the household and the moral center of the family.”³ Moreover, Kenneth Pomeranz has demonstrated the significant economic value attached to women’s domestic textile work. His data suggests that the income earned by some women weavers rivaled that of male agricultural workers, and therefore he contends that in some households, women textile workers may have outearned their husband’s wage labor.⁴

Expanding our conception of the gender ordering of daily life and women’s economic relationship to the outside world, Francesca Bray has challenged prevailing assumptions that foot binding, in addition to other gendered practices that incentivized women’s domestic seclusion,

² Susan Mann, *Precious Records: Women in China's Long Eighteenth Century* (Stanford, Calif.: Stanford University Press, 1997), 153.

³ Susan Mann, *Precious Records*, 149.

⁴ Kenneth Pomeranz, *The Great Divergence: China, Europe, and the Making of the Modern World Economy* (Princeton: Princeton University Press, 2009), 102.

diminished women's access to the economy.⁵ Making an important distinction between "womanly work," as typified by the moral cultivation of feminine identity through the simple practice of spinning and weaving espoused in elite rhetoric described by Mann, and what she calls "women's work," any form of work women carried out that resulted in a recognized commodity, Bray argues that the products of such forms of productive work, such as mats, hats, and umbrellas, in fact transcended perceptions of separate inner and outer economic realms altogether, inexorably linking women to the broader economic world through their production and consumption.⁶ She suggests that the economic value placed on women's textile work, which she contends was just as valuable as grain for tax purposes, likely bolstered women's status in the family just as textile production moved out of the home and largely into the hands of men at the end of the eighteenth century.

Whether or not women's 'productive' work for their families inside the home made their lives easier or more difficult remains an open question.⁷ Expanding upon Francesca Bray's argument about the inextricable link between productive "women's work" and the broader Qing economic world (as opposed to the morally imbued 'womanly work' explored by Mann), I focus

⁵ See Francesca Bray, *Technology and Gender: Fabrics of Power in Late Imperial China* (Berkeley: University of California Press, 1997). I have yet to come across a case that references a woman's bound feet, let alone a woman who complained about having bound feet or described it as an inhibiting factor in their working lives. This does not suggest that these women did not have bound feet, but instead that the practice may not have inhibited their ability to work as much as we have thought. And we will encounter women who engaged in physically intensive labor, such as going into the hills to chop firewood.

⁶ Francesca Bray, *Technology and Gender*, 256.

⁷ For a discussion of scholarly debates about whether women's increasingly valuable economic work resulted in them having any greater autonomy, see Kenneth Pomeranz. "Women's Work and the Economics of Respectability," in *Gender in Motion: Divisions of Labor and Cultural Change in Late Imperial and Modern China*, eds. Bryna Goodman and Wendy Larson (Lanham, Md.: Rowman & Littlefield Publishers, 2005), 240-243.

in this chapter on a wider range of women's productive labor, including but not limited to food preparation, raising of livestock and children, cutting firewood, mending clothes, and textile production.⁸ While not always for market consumption, women's productive domestic labor, such as cooking and repairing shoes, proved vital to the sustainability of their households. Within this list, textile production (namely spinning and weaving of cotton cloth for both market and household consumption) makes up just one, albeit a crucially lucrative, component of married women's working lives. Wives' production of cotton cloth became not only a vital source of support for their families in times of need, but also an avenue of autonomy for themselves and from their husbands. Moreover, case records also reveal that the pressure placed on women to produce cloth also led to their exploitation, with some women going to extreme lengths to protest such injustices. Much of this holds true for other forms of women's labor as well.

Homicide records are an underutilized source of information about women and the economy in Qing China. The major significance of this source base lies in the fact that homicide reports are the only source available for the study of the period that preserves traces of ordinary women speaking, and for the purposes of this chapter, speaking about their work and property. As with all other sources, archival bias and judicial editing complicated these cases. Yet judicial sources allow us to move beyond elite attitudes toward women's work by providing a rare glimpse at the testimonies of women who made up the majority of China's female labor force. We can assess what impact, if any at all, official rhetoric had on their lives. These documents

⁸ Francesca Bray, *Technology and Gender*, 256.

allow us to consider, perhaps for the first time, how women themselves viewed their work and property as we observe the great lengths they went to defend what was theirs in life.⁹

The cases explored in this chapter demonstrate that women's work remained an important lifeline of support for households throughout the eighteenth and early nineteenth centuries, continuing to link women to the outside world as chief investors in the stability of the family, even when their husbands did not uphold their part of the arrangement. Preexisting scholarship about women's work in modern China has assumed that the husband was a meaningful contributor to the household economy. In the case reports under review here, however, husbands are presented as either economically unproductive or destructive elements in the household, while mothers in midlife, often with young children, were left to manage their households on their own.

The argument presented in this chapter epitomizes the broader methodological approach of this dissertation in which I argue that through an examination of the extraordinary, extreme, and unexpected (such as wives supporting their husbands) we gain unprecedented access to some of the most mundane, ordinary, and everyday yet nonetheless fundamental dimensions of human experience (in this chapter, the significance of women's work in the household). Past explorations of women and economic history in China have benefited from such an approach. For example, in her work on married women's property rights in Qing and Republican China, Kathryn Bernhardt states that it is only upon looking at cases of "daughters and wives in the absence of men" that the implications of patrilineal succession are clearly discernable.¹⁰ In many

⁹ Susan Mann raises questions in which she considers non-elite women's attitudes toward their work while acknowledging the limitations of her source base composed primarily of elite writings. See Susan Mann, *Precious Records*, 147; 169.

¹⁰ Kathryn Bernhardt, *Women and Property in China: 960-1949* (Stanford, Calif.: Stanford University Press, 1999), 3.

ways, Bernhardt's observation strengthens my own methodological claim for using husband-killing reports (in which men often are or will soon become absent) to discuss the role of women in the Qing economy as well as other aspects of their lives.

I argue that only once the variable of the assumed productive husband is removed from the equation can we finally see clearly what women contributed to their household economies. When we encounter these desperate households within the confines of a husband-killing case, in which wives worked to support their husbands and husbands failed to provide for their families, we gain a clear sense of the ways in which women not only contributed to but in fact could, and often did, provide the essential work needed to sustain their household economies, placing in stark clarity the power of women's labor in Qing China.

The Problem of the Idle Husband: Drunks, Wastrels, and Poverty

When households confronted poverty, women were often the first to suffer its consequences. Twenty-eight *sui* Woman Su had been married to her husband for over ten years and yet she had “only given birth to a girl (只生下一女).”¹¹ Her in-laws had since passed away and their small family resided together in Pingli County, Shaanxi. She explained that her aggression toward her husband was ignited by not just his cruelty but also the poor economic conditions of their marital life in which he allowed her to suffer. Her testimony reads as follows: “[My] husband's family is poor [and] [he] makes a living as a casual laborer (*chen gong du huo* 趁工度活). I often starved and quarreled with him [about it] and he beat and scolded [me]. In Qianlong 35, 10th month, 20th day, there was nothing to eat in the house. I said a few words to him [about it]. He yelled saying that [he] wanted to sell [me] in marriage and then left [the

¹¹ XKTB, 02-01-07-1172-011. Woman Su (28 *sui*). Pingli County, Xiang'an Prefecture. QL 36, LC. (题报兴安府平利县民苏氏口角砍伤亲夫唐土方身死议准凌迟处死事).

house]. In the evening, [I] don't know where [he] had been drinking, [but] he returned home and scolded me again before going to bed alone. I did not argue back [with him]. [I] took off [my] clothes and went to sleep [but] he kicked [me] out of bed. I went to put back on [my] clothes but he wouldn't allow it, even saying 'freeze to death you despicable creature! (凍死你這賤東西).' I sat on the ground near the fire freezing till 2 *geng*. [I] thought everyday [I] starve and he beats and scolds me, and I became enraged. Seeing him sleeping soundly, I suddenly got the idea to kill him and grabbed an axe on the floor and hacked his neck two times. He yelled out and rolled around. [I] then hacked him recklessly four to five more times." After this, Woman Su reported that she got dressed and went to a nearby relative's house and told them that robbers had come and killed her husband. What might have been a credible story, especially given the extreme violence inflicted during the murder, was soon undercut by spots of blood discovered on Woman Su's clothes, which she had not thought to conceal.

Reminiscent of newlywed women's testimonies explored in Chapter One, Woman Su highlighted the sexual ostracization of married women denied access to the marital bed, signaling loss of wifely status in the home. Yet this is just one dimension of her narrative of abuse. Prolonged starvation and denial of warmth appear center stage in her testimony. She had at least one pair of clothes, which as we shall see, was more than other women reported having, and yet she was denied access to her clothes when she needed them most for physical protection against cold.

While the entire family surely suffered under the poor economic conditions they confronted, it is clear from women's testimonies that they were often left to fend for themselves inside the home, even if their husband was not as overtly cruel as Woman Su's. While wives were left hungry at home and suffered the brunt of poverty, husbands, on the other hand,

seemingly procured food or found places to eat (or at least drink) outside the home. In a similarly violent case, thirty-two *sui* Woman Xiao-Li, also struggled with the challenges of being married to an abusive alcoholic who did not provide for her, but always seemed able to procure alcohol for himself.¹² She told the court, “[My] husband often drinks and loses [his] temper. Every time he comes home drunk, he beats and scolds me. I was badly tormented by him and we did not sleep together in the same bed.” The couple remained childless despite having been married for over ten years. Left with nothing to eat, she stole some food while her husband was out drinking. She continued, “In Qianlong 32, 10th month, 6th day, [my] husband went out. I starved and stole three *sheng* of buckwheat (*qiao mai* 苕麥) to eat. In the evening [my] husband returned home drunk. [He] saw some of the buckwheat and asked me [where it had come from]. I said that I knew nothing. [My] husband hurled insults [at me] non-stop. I ignored him and went to my bed on the west side [of the house], taking off [my] clothes to sleep.” Upon seeing that she had gone to bed, her husband beat her with a log of firewood, threatening to kill her the next day if she did not reveal how she came to have the food, so that night Woman Xiao-Li picked up the hatchet that had been used to cut the log her husband beat her with, and hacked him to death.

Within the interrogation questions preserved in this case, the magistrate expressed his shock that a marriage as long lasting as theirs had ended in such violence. He seemed dismissive of Woman Xiao-Li’s dire economic situation, suggesting that such a predicament was insufficient motivation for a wife to commit such a gruesome murder of her husband. She explained that not a day had gone by that she did not suffer his torment, and because of this, they had long slept separately and thus were emotionally separated as well (*wu fuqi qing* 無夫妻情).

¹² XKTB, 02-01-07-1046-008. Woman Xiao-Li (32 *sui*). Yunlong Prefecture. QL 33, LC. (题报云龙州民妇小李氏砍死亲夫张绳拟凌迟处死事).

The attention placed on the couple's sleeping arrangement is meant to provide further evidence of how Woman Xiao-Li could harbor such profound enmity for a man whom she had spent many years with, but in reality her husband's cruelty over her desperate efforts to procure her own food may have been for her sufficient motivation alone, despite the magistrate's reluctance to acknowledge it as such.

The most widespread complaint in these women's testimonies is their husbands' idleness.¹³ Whether caused by alcoholism, physical maladies, difficulty finding work, or simply a general disregard for their wives and children, these women describe their husbands as having altogether divested themselves of their husbandly responsibilities, leaving them and their children in precarious economic situations in which their labor was often required for the entire family's continued survival. What was a married woman to do if her husband was not just unproductive but seemingly destructive to the sustainability of the household? We shall see that women struggled to rein in such men while working to provide for their families. These women were not only aware of the precariousness of their economic situations, but actively worked to improve them. However, such women generally proved unsuccessful in efforts to convince their husbands to change their ways and invest their time and effort into their family's well-being.

Some women simply could not motivate their husbands to do any work. Twenty *sui* Woman He told the court that her husband was physically weak and unable to earn a living and she had never been able to rely on him.¹⁴ During their initial years of marriage, her natal mother

¹³ It is perhaps noteworthy within this discussion about the idleness of men to point out that the notion of the "parasitic" and "idle" woman—not man—in traditional Chinese society would become the subject of much discussion and critique amongst 20th century reformers, such as Liang Qichao. See Joan Judge, *Republican Lens: Gender, Visuality, and Experience in the Early Chinese Periodical Press* (Oakland, California: University of California Press, 2015), 100-101.

¹⁴ XKTB, 02-01-07-0694-003. Woman He (20 *sui*). Wuwei County, Gansu. QL 23, LC. (题为甘肃凉州府武威县民妇贺氏砍伤本夫议准凌迟处死事).

supported them until she remarried. After that, the couple's support came from her husband's aunt, but in time this aunt also remarried and was no longer able to help them. Explaining the extent of their precarious economic situation, she told the Qing court, "I never thought [my] husband would run about here and there (東跑西走), never caring about the family (總不顧家). Last year, in the 5th month, [my] husband even sold his house to cover expenses, [and] so with no means of earning a livelihood, [he] did odd jobs at the stables...[But] the money he earned in one day was not even enough to cover that day's expenses. The weather became increasingly cold [and] the clothes on my body were thin and ragged, [I] could only pick grass to make a fire."

Lacking clothes, warmth, and presumably food, Women He not only complained about her standards of living, but she also portrayed this existence as something outside of her own expectations of married life. The phrase, "*zong bu gu jia*" (總不顧家) translated as "never cared about the family" or "never took the family into consideration," appears as a reoccurring stock phrase in these types of cases, accompanying a disparaging account of men's personal investment in the family and falling short of state expectations of manhood.¹⁵ Ideally, it was a wife's responsibility to remonstrate with her husband and lead him down the correct path, as a good official might do with the emperor.¹⁶ Doing so seemed to cause further problems, however. Continuing in her testimony, Woman He described her attempt to help her husband keep the little

¹⁵ However, I have found one case in which a husband described his wife as being *zong bu gu jia*.

¹⁶ Prescriptions on proper relations between husband and wife propagate a wife's docile compliance to her husband's wishes but also recommends that a good wife remonstrate with her husband when necessary. For example, Song Ruozhao states, "Listen carefully to and obey whatever your husband tells you. If he does something wrong, gently correct him. Don't be like those women who not only do not correct their husbands but actually lead them into indecent ways." See Song Ruozhao, "Analects for Women, A.D. 8th Century" in *Sources of Chinese Tradition*, compiled by Wm. Theodore de Bary and Irene Bloom, 2nd ed., vol. 1 (New York: Columbia University Press, 1999), 827-831.

work he could obtain. “[He] brought some tobacco for us [to smoke]. Upon evening, he told me that [he] wanted to smoke again. I told him the tobacco was gone... Understanding that his tobacco had been smoked up, he scolded me one time. I dared not argue with him. At around 5 *geng*, [My husband’s employer/master] Wang yelled by the courtyard gate for [my] husband to get to work. He refused. I told master that [my husband’s] clothes needed mending and that he’d be back to work the following morning.” She told her husband about the excuse she had made for him, but instead of being grateful for help evading chastisement from his employer, he got upset with her, and threatened her with a kitchen knife. After she dodged his blow, he cooled down and went back to sleep and she picked up the knife and went into the courtyard. Contemplating her poverty and her husband’s threat, she said, “Now I’m pregnant [and] if [we] have a child needing to be clothed and fed [we] won’t survive!” Notably, her husband seemingly could afford tobacco, even though they were so desperately poor that she was starving at home.

Similarly, thirty *sui* Woman Deng from Xiajiang county, Jiangxi, was also unable to motivate her husband to engage in work. Pregnant at the time of interrogation, she was married to her husband for seventeen years, since the age of thirteen, and had given birth to a son (eight *sui*). While professing to have not harbored any longstanding resentment toward her husband during their years together, the domestic dispute that inspired her to take his life centered upon his failure to provide. She described him as a man who was lazy and did not engage in farm work (丈夫素性懶惰不務耕作).¹⁷ She told the court, “Qianlong 39, 4th month, 18 day, [my] husband and I were sitting at home. It was late in the harvest-rice season and no firewood or grass had been gathered so there was nothing to burn [for a fire]. I got into an argument with [my] husband

¹⁷ XKTB, 02-01-07-1341-017. Woman Deng (30 *sui*). Xiajiang County (Jiangxi). QL 39, ZLJ. (题报峡江县民妇邓氏殴伤亲夫徐广善身死拟斩立决事).

[about this]. [My] husband then grabbed the firewood axe and left. I thought he had gone out to cut grass [but] upon evening he had not yet returned. [I] thought he had [likely] gone to a relative's [house] to sleep. On the 19th, I heard people saying that husband was at a tea shop in the city drinking tea and eating fruit. I knew he had no money on him. [I] recalled that there was 100 copper cash hidden in the wheat barrel, [but] upon checking, [the money] was gone. [I] knew [my] husband had taken it. On the 20th, I called laborer Hu Guisheng to go to the city to buy a pickaxe [and] urged [him] to look for [my] husband, telling him that when [he] returned [he] could have [my husband's] remaining money. Hu Guisheng returned in the afternoon and said that [my] husband had already spent all the money.”

Woman Deng's husband did not return that evening. The following day, a neighbor from their village who had just returned from the city told Woman Deng that her husband had cheated someone gambling and owed 100 copper cash, the precise amount she had surmised he had on him. The next day, when her husband finally arrived home, Woman Deng did not restrain herself from expressing her discontent over her husband's financial decisions. She told the court, “I had already eaten dinner and cleared things away in the kitchen when [my] husband said he wanted to eat dinner. I said that he was gluttonous and lazy (*haochilanzuo* 好吃懒做) [and] had secretly taken [our] money and spent it eating and also cheated someone out of [their] money to spend [on himself]. [My] husband was enraged and scolded me saying that I was a worthless whore (*pojian changfu* 潑賤娼婦) and what business did I have managing him?!” The heavy insult her husband lobbied against her, in addition to all his other misbehavior, inspired her to pick up a nearby laundry rod and whack him twice on the right side of his head.

Reconstructing Non-Elite Women's Working Lives

As we have begun to see in this and the previous chapter, testimonies given by wives on trial for husband-murder readily include details about their work. The culminating incident in Woman Deng's case took place after she just made dinner. Woman He mentioned struggling to find raw materials for even a fire to emphasize her economic precarity, while young newlywedded Woman Wang whose case opened this dissertation overcooked her husband's midday meal. No matter these women's ages, their stage in reproductive life, or whether their crime was deemed to be premeditated or accidental, regardless of whether illicit sex was involved or not, their testimony will generally have a description of their working lives. This is because for women to speak about their marriages almost always meant speaking about their work. The two were inextricably linked. Entering a new household in marriage meant work for these women. For some, it may have been work they were familiar with, having engaged in textile production at home in their natal families, but sometimes it meant work entirely new and unfamiliar. Thus, it is perhaps unsurprising to find that in describing to the magistrates what issues had been the cause of their marital discontent, wives almost always had to speak about their working lives.

In the next portion of this chapter, I take an in-depth look at four realms of dispute in women's working lives: prepare, repair, supply, and raise. Rather than focusing exclusively on women in midlife, I incorporate women of all ages, including some of the young women in Chapter One, and instead center my analysis on specific work tasks. Through these reports we will learn about women's role as food preparers, their responsibility for washing, mending, and producing clothes and shoes, their complaints over the physically taxing labor of supplying firewood and water, as well as the contentions that arose over the raising of children and

livestock (particularly pigs). The details gleaned from these reports are by no means exhaustive, and there is indeed more to include and say about the forms of labor that might be found in each category. But these tasks are by far the most prevalent in the case record, which I argue tells us that these common work tasks in ordinary women's lives were significant sites of marital contention. The work tasks explored in this section often appear as one factor among others rather than a central motivation for the homicide investigation at hand. Thus, amidst narratives of impending violence, we gain new insight into women's attitudes toward and experience of a wide range of labor activities that broadens our previous understanding about gendered divisions of labor and what constituted "women's work" in Qing China.

Prepare: Food Preparation

Perhaps the domestic conflict most frequently encountered in these reports, outside women's ubiquitous complaints about physical and mental abuse, arose over food preparation. In Chapter One, we saw the trouble that could arise in a marriage over a wife's cooking. Recall the detailed account of Woman Wang's mounting marital frustrations brought about in part by her husband's callous remarks about her cooking. She told the Qing court, "I overcooked lunch and my husband became angry and refused to eat. He scolded me, saying, 'you have been raised by a donkey and you are a useless thing, you can't even make food! How are you going to manage the house!? What do I keep you for?!'"¹⁸ The significance women, in addition to the recording officials, placed on arguments over the preparation of food in these reports indicates that this type of conflict was not merely insulting, but that the preparation of food was tantamount to the survival of the household and women were responsible for taking charge of this part of life, and

¹⁸ Ibid., XKTB, 198.3/209.16. Woman Wang (19 *sui*), Shaanxi, QL 17. (Janet Theiss' private collection, University of Utah).

an accusation of her inability (or unwillingness) to do so undercut her identity and position in the family.

Disputes over food production, however, were not only confined to the households of young and inexperienced wives. For instance, Woman Geng, aged thirty-nine *sui*, had remarried after her husband's death and reported that her new husband had beaten her following her willingness to argue with him over his disapproval of her cooking. She explained, "I got water to cook with, but because the water was dirty, he hated the food and scolded me. I argued with him [about it] for a while. Husband then grabbed my hair from the back of my head and punched me twice in the back. I cried and did not eat."¹⁹ On the other hand, Woman Yang-Dai, aged thirty-nine *sui*, who had also remarried later in life, put up opposition to her new husband's demands over her labor in the kitchen, refusing to cook because of the poor quality of the food he had provided her. She told the court, "In the evening, [my] husband went to market and bought a loach fish (*niquiu* 泥鳅). Upon returning home, [he] told me to boil [it] for us to eat, [but] because the fish smelled rotten, I refused to boil it. Husband scolded me recklessly. I scolded [him] back. Husband then grabbed me by [my] underclothes wanting to beat me..." She meant to save both of them from illness, but his pride was at stake, and so her reasons did not matter.

Others, it seemed, cooked too slowly. Woman Dong-Li, aged thirty *sui*, who was married for eleven years and had a newborn daughter, told the Qing court, "[My husband] had been hoeing in the fields and returned [home] saying I'm late with the preparation of supper (做飯遲延). I then quickly started preparing [our food]. He scolded me. He grabbed a small wooden rod and beat me on the side of the head. I then grabbed the small wooden chair that I sat on and

¹⁹ XKTB, 02-01-07-1347-005. Woman Geng (39 *sui*). Nanyang County, Henan. QL 39, ZLJ. (题为河南南阳府南阳县民妇耿氏殴打伊夫刘兴身死议准斩立决事).

knocked him on the knees. He then beat me again with the rod...I didn't dare speak [to him]. [I] hastily prepared food for [us] to eat.”²⁰ Her husband was in a disagreement with his father, who had decided to bar his son from further management of his lands, in addition to not repaying his son for the loan he had given him. Woman Dong-Li believed that this conflict had inspired the aggression he showed to her and her work that night. She continued, “In the evening, [my husband was in the garden spinning thread (*fangxian* 紡線) by the moonlight.²¹ I was holding [my] child. At around 2 *geng* everyone came in to sleep. Husband sat on the floor outside [our] room and rested. I was sleeping on the bed in the room. [My] child awoke when [he] came into the room so [I] turned over and breastfed [her] in the bed. Before even taking off [his] clothes my husband again brought up that [I] had been late preparing food, babbling and scolding [me] about it. Hearing this I said, ‘You are venting out [your] frustrations with father on me [and you] shouldn't! He then cursed my parents, and I scolded him back.”

Men's perception that women were intentionally dallying in their cooking responsibilities are indeed pervasive in the case record. But women often had good reason for the delay. In the case of forty-seven *sui* Woman Wen-Long, who had remarried and brought two young children with her, she and her new husband were married a total of four years and four months. She explained that he ordered her to prepare food, but because it had rained, the wheat grass was wet (*maicao bei yu* 麥草被雨) and would take longer to cook. Her husband was not content with this explanation. They argued with each other until he picked up a hoe and hit her and she then picked up a piece of wood and hit him back. Her husband ended up committing suicide over the

²⁰ XKTB, 02-01-07-1286-005. Woman Dong-Li (30 *sui*). Meng County, Henan. QL 38, LC. (题为河南孟县民妇董李氏砍伤伊夫董思敬身死议准凌迟处死事).

²¹ Note that in this late Qianlong case we encounter a man engaged in textile production, which suggests that the gendered division of labor was not so strict.

dispute.²² In another example, thirty-three *sui* Woman Yao-Zhang, who was married over ten years and had one daughter, said her husband made a living as a farmer but sometimes she made money for them by selling grass.²³ She said he was often drunk and did not give her one day of comfort, saying, “I always hated [him] but had no alternative but to endure [him]” (小婦人原是怨恨的也無可奈何只得合忍). She understood that she was supposed to prepare dinner, but she had been busy with another task that day which postponed their meal. She said, “At the time, I had just been collecting grass by the lake and returned home without cooking. Husband said I was late preparing [our] meal. He picked up a rod to hit me with [but] I grabbed the rod from [him] and [he] did not hit [me]. He then punched me in the face.” In another similar case that documents women trying to juggle their husband’s numerous demands for their labor, forty-nine *sui* Woman Chu-Song denied her husband’s request for her to prepare tea for him, saying that it was too early to boil tea and she was going to continue in her work constructing shoes out of grass.²⁴

The perceived “slowness” with which husbands reportedly believed their wives were skirting their cooking responsibilities does at times come across as resistance in these women’s testimonies. As we have just seen, women themselves usually had a ready explanation for why

²² XKTB, 02-01-07-2866-016. Woman Wen-Long (47 *sui*). Santai County, Sichuan. DG 5, JJH. (题为四川三台县民妇文庞氏与伊夫文代鳌口角致死夫自缢身死议准绞监候事). Husband-suicide.

²³ XKTB, 02-01-07-1520-004. Woman Yao-Zhang (33 *sui*); Shuyang County [Jiangsu]. QL 43, LC. (题报沭阳县民妇姚张氏同弟将伊夫捆推溺死拟凌迟事).

²⁴ XKTB, 02-01-07-2253-004. Woman Chu-Song (49 *sui*). Liping County, Guizhou. JQ 10. (题为贵州黎平府民陈宋氏口角致夫陈燦基跌伤身死一案议驳事). Notebook case. It should be noted that in this case the husband died from the injuries he sustained in the affray with his wife, but the magistrate decided to adjudicate according to the statute on husband-suicide rather than unintentional husband-murder, which would have provided Woman Chu-Song with a lighter sentence. Her testimony reads as follows: “...小婦人正在房內邊編打草鞋將要完工又因吃飯尚早沒有起身下廚...”

dinner was not prepared, such as the food being bad, needing to wait for wheat to dry, etc. Other times, however, it seems to have been a way for them to protest mistreatment. For example, forty-one *sui* Woman Wang-Yi, a mother to one son, who described her husband as a physically abusive drifter (*you dang*) who provided her with neither clothing nor food, explained that one day when he had returned home he ordered her to prepare him tea to drink but she refused. She offered no explanation for why she did this, other than her general discontent with his failure to support her and their young son. She also reported that upon her refusal to boil tea, her husband called her lazy (*landuo*) and threatened to sell her in marriage. But she was not moved by the threat. He had no other choice but to go into the kitchen and boil himself some water. Woman Wang-Yi continued in her testimony, “I told my son to go to bed. At three *geng*, I grabbed a hemp rope and tied one end to the kitchen door and placed the noose of the other end around husband’s neck and with all [my] strength and used both hands to strangle [him].”²⁵

Young women also seemed stubbornly opposed to engaging in their cooking tasks, not due to a failure of guidance, but as a form of willful disobedience to get out of marriage. Described as a “shrew” (*sapo* 撒潑) by her mother-in-law, twenty-two *sui* Woman Yuan refused to prepare any food and she was returned to her natal family after she attempted suicide at her husband’s home.²⁶ Her father told her to return, but her mother-in-law would no longer have her. Her father finally convinced her husband’s family to re-accept her, but her mother-in-law’s abuse continued. Soon her husband began to join in as well. Woman Yuan wanted to remain with her

²⁵ XKT B, 02-01-07-2238-011. Woman Wang-Yi (41 *sui*). Wenjiang County, Chengdu Prefecture, Sichuan. JQ 9, LC. (题为四川成都府温江县民妇王易氏口角勒毙亲夫王世美弃尸不失议准凌迟处死事). I observe from my research that if no bruises were left on the body, there was a reasonable chance that the death could pass as an ordinary suicide as opposed to a homicide.

²⁶ XKT B, 02-01-07-1825-003. Woman Yuan (22 *sui*). Zhengding Prefecture, Zhili [Hebei]. QL 56, LC. (题为直隶正定府元氏县人张氏谋死伊夫时孝成议准凌迟处死事).

natal family, but they were not willing to keep her. She told the Qing court, “I thought there is no peace at my in-law’s house [and] my father won’t allow [me] to return to [my] natal home. [I] had no way out.”

Woman Wen, aged twenty-one *sui*, told a similar story of isolation brought on by her failure to engage in the kitchen work expected of a wife. She said her first husband had divorced her because she was “lazy and unfilial” (*landuobuxiao*). Her father remarried her the following year, but her new husband seemed to hate her just as much as the previous one, due to her laziness (*landuo*), and he beat and scolded her frequently. She continued in her testimony, “In the 4th month, I returned home and told my father [about it]. Father scolded me for being unwilling to learn to be disciplined by [my] husband [and] told me to change [my behavior] and that [he] would no longer permit [me] to return to [his] house. I could only endure [this situation] and went back [to my husband’s home].” It is only upon her return to her husband’s home that readers of the report are given a specific example of young Woman Wen’s “laziness.” She continued, “In the 6th month, 24th day, I was slow preparing food [and] husband used a bamboo rod to beat the back of my left side, [my] hands, and back in multiple places, also scolding me saying [I] was a treacherous shrew (潑賤) and [he] will sell [me] in marriage somewhere far away.”

Men’s perceptions of women’s willful disobedience in food preparation are perhaps most evident when considering the testimonies of wife-killers whom the Qing Board of Punishments granted leniency. Married for three years, Li Wenzhong, aged eighteen *sui*, explained that his wife had refused to prepare food for him after he had returned home from working in the fields, saying, “I told [my wife] Woman Chen to boil some extra tea while [she was] at home and when I returned, [I would] give [the tea] to the men working [with me] in the fields. In the afternoon, I

went home to retrieve the tea and saw that Woman Chen was still sitting enjoying the coolness [of the day] and had not prepared any tea. I argued with [her] a while and she scolded [me]. In that moment, I got angry and grabbed a wooden post and hit [her] left cheek.”²⁷ Li Whenzhong, who was originally sentenced to strangulation for the unpremeditated killing of his newly wedded wife Woman Liu, and received a pardon during the autumn assizes. In another example, thirty *sui* Zheng Wenkun killed his wife, Woman Wang, after she refused to cook rice for his elderly and sick mother to eat instead of beans.²⁸ He told the magistrate that his wife spoke back to him, saying, “Everyone in this family eats beans. Don’t tell me that your mother won’t!” Zheng Wenkun became so angry upon hearing these words that he suddenly grabbed a vegetable knife and without thinking stabbed his wife twice in the back. She continued to yell and he stabbed her a few times more. He did not intend it, but she died from the injuries. Zheng Wenkun was also sentenced to strangulation after the Autumn Assizes. Upon review of his case, the official described Woman Wang as a “fiercely disobedient and unfilial wife (*hanni bu xiao zhi qi* 悍逆不孝之妻).” Zheng Wenkun’s actions were viewed worthy of compassion (*kejin* 可矜), and he was released from prison.

Repair: Mending Clothes and Making Shoes

Like food preparation, the mending of clothes, especially shoes, was an everyday part of women’s working lives.²⁹ In the moments before impending domestic conflict arose, women’s testimonies position them throughout the home constructing and repairing shoes. For instance,

²⁷ XKTB, 02-01-07-0016-011. (题为河南息县人李文中打伤伊妻陈氏身死拟绞监候事). QL 1. Wife-killing. The report states, 但事犯在恩赦以前應請免罪等. . .

²⁸ XKTB, 02-01-07-1895-010. Sichuan. QL 58. (题为四川潼川府遂宁县人郑文坤砍伤伊妻王氏身死议准绞监候事). Wife-killing. This case is in the following Assizes document, 02-01-007-024552-0006. (题为秋审四川省所有可矜人犯郑文坤等).

²⁹ See Susan Mann, *Precious Records*, 156.

Woman Lin, aged thirty-five *sui*, mentioned that she sat atop the *kang* making shoes when her brother-in-law came and sat down beside her.³⁰ In another example, Woman Zhang, aged twenty-two *sui*, reported that she was in the kitchen making shoes when her daughter ran into the room crying.³¹ Woman Qin-Yang, aged twenty-nine *sui*, briefly noted that she had been in the house making straw shoes (做草鞋) as her infant son (aged two *sui*) cried beside her, because she had not yet found the time to nurse him.³² Laboring men's shoes wore out quickly, and women in these cases were constantly at work mending shoes in their spare time, sometimes to the detriment of other household responsibilities.

Yet women's work making shoes often proved to be an especially volatile source of marital strife. For instance, Woman Zhao-Sun, aged twenty-three *sui*, seemingly jealous of her husband's attachment to his own mother, a woman whom she said "never liked her", was convinced that the two of them had purposely intended to make her work life harder.³³ She told the court, "I sat atop the bed making shoes. [I] wanted the pair of shears to cut the cloth with but couldn't find [them] so I asked husband [about them]. Husband said he sold them. I thought why would husband sell [the shears]? [He] certainly gave them to his mother! I had to cut the cloth with a kitchen knife [but] the knife was blunt and could not cut [and] ruined [the cloth]. I was irritated and thought mother-in-law was a mean person and husband was stupid!"³⁴

³⁰ XKTB, 02-01-07-0122-010. QL 5. (题报莱州府即墨县人崔守金调戏崔守柱之妻林氏致氏夫妇自缢身死拟绞监候事).

³¹ XKTB, 02-01-07-0586-011. Woman Zhang (22 *sui*). Sichuan; QL 20; ZLJ.

³² XKTB, 02-01-07-07502-010. Woman Qin-Yang (29 *sui*). Jiangchuan, Yunnan; QL 45, LC.

³³ XKTB, 02-01-07-1027-009. Woman Zhao-Sun (23 *sui*). Shanghai, Songjiang Prefecture (Jiangsu). QL 32, LC.

³⁴ I have purposefully left out the possessive adjective "my" that I usually add when translating testimony, the original reports rarely contain these types of adjectives.

Women were expected to keep their husband's shoes in good repair, which became an impossible task when they were not provided with the raw materials to do so, mirroring issues with food preparation. For example, Woman Feng described how her husband had continued to criticize her work after she had refused to boil him water for his bath (which he ended up attending to himself).³⁵ When he came upon her busy at work sewing but also saw that his shoes were still tattered, he scolded her for taking up such work before mending his shoes, to which she replied, "You can't afford any shoe material! How about [you] go bother someone else?!" He then grabbed her needle work and threw it to the ground saying, "Seeing that you treat me so poorly, it would be better for me to cut my queue and become a monk!" To which she callously replied, "If [you] wish to go, no one here will keep you!" Seemingly devastated by his wife's remark, he clipped his queue before drowning himself.

Another woman, aged thirty and a member of the Zhuang minority, offered similar reasoning for why she could not follow her husband's orders to make him shoes, saying "[I] told [him], you have no money to buy cloth. How can you expect me to make you a pair of shoes?! We argued a while [and] he slapped me twice."³⁶ This was Woman Zhuang-Li's second marriage. She married her original husband at eighteen *sui*, and he returned her to her natal home because his mother-in-law had found her to be "disobedient" and "unfilial." As we can see, she proved herself to be no more 'obedient' in her second marriage. In her testimony, she expressed

³⁵ XKTb, 02-01-07-1880-001. Woman Feng (*sui* unknown). Jiangxia, Hubei. QL 58, JLJ. (题报江夏县人冯氏逼迫其夫吕远得缢死拟绞立决事). Notebook. It should be noted that the magistrate in this case increased Woman Feng's sentence to "immediate strangulation" which is a heavier punishment than the standard of "strangulation after the assizes" recommended for compelled husband-suicide in the Qing Code. It should also be noted that the couple had uxorilocally married (*zhaozhui* 招赘), meaning that her husband was brought into Woman Feng's family.

³⁶ XKTb, 02-01-07-1379-002. Woman Zhang-Li (30 *sui*). Shouguang County, [Shandong]. QL 40, LC. (题报寿光县张李氏砍伤伊夫张景云身死拟凌迟处死事).

discontent over the fact that her second husband was poor and did not own his own land and house but instead had to rent a house for them. During their ten-day marriage, she constantly found herself in arguments with him. Not being able to make him a pair of shoes out of thin air, she ignored his other instructions, refusing to “fold the bed quilt and wash the shutters” (折洗被窗), and he scolded her when he arrived back home upon seeing that she had done none of what he had asked. Woman Zhang-Li tried to reason with him, saying “Since I arrived at your house there is little to eat and nothing to wear. You only want [me] to do work for you and be beaten and scolded by you. This is a difficult life. In the morning, you should return me [to my natal home].”

Women’s shoe production, an important form of practical work that equipped male members of the household to do their farm work, also appear in these cases as a meaningful source of sentiment and affection. In Chapter One, women made shoes for their lovers, the gift implying her affection. In the same way, husbands would see their wife’s failure to provide them with shoes as not just implication of her ‘laziness’ but her disaffection for him.

Supply: Chopping Firewood

When considering what a woman in Qing China might be expected to supply her husband’s family, the first thing that likely comes to mind is children, specifically sons. There was of course a great deal of pressure on women to produce an heir, and there are numerous testimonies of sonless post-menopausal women that suggest that such a failure often created an insurmountable rift between husband and wife.³⁷ But for young and middle-aged women,

³⁷ I plan to explore these testimonies in a later publication. One brief example is the case of fifty-two *sui* Woman Liao who described how her husband prevented her from attending the celebration of a newborn child in the family because, as she relayed from her husband in her testimony, “I was a person remarried and without a son of my own, and it would be unfit for him

supplying her husband with children was less of a matter of concern than being able to effectively raise them (see the “Raise” section).

Peasant women in the early and middle stages of life, however, were also expected to engage in the essential labor of supplying their husband’s family with needed daily resources, such as cloth, food, and water; however, no resource is more prevalent in these women’s cases than firewood. Testimonies indicate that venturing outside the home to cut, chop, and gather firewood in nearby mountains or hillsides was a common form of work demanded of peasant women. The regularity at which complaints about this work emerge within the homicide case record indicates that this physically intensive form of labor began to push the boundaries of women’s work and the degree to which husbands could exploit women’s physical labor.

Seventeen *sui* Woman Zhao, from Chapter One, who hacked her husband to death with an axe, lobbied a damning complaint about her husband’s excessive use of her physical labor to chop and carry firewood. She told the Qing court, “I went with him to the mountains to chop firewood. He refused to carry any [firewood himself] and just told me to carry [it all] back to the house. If [I] did not carry enough or walked slowly [he’d] beat and scold [me].”³⁸ Willful disobedience often proved costly for these women, but some simply refused to carry out the grueling physical task. Woman Lin, who complained about her second husband withholding her access to cloth to make herself some clothes, reported that he had done so only after she had refused to chop firewood for him. She told the Qing court, “[He] called me gluttonous and lazy. I hated him! [My] first husband was better [than him]. I told [him] that I’d had been married to the

to allow me to attend.” XKTB, 02-01-07-1121-001. Woman Liao (52 *sui*). QL 34, ZLJ. (题报东安县人廖氏殴伤亲夫杨茂溶身死拟斩立决事).

³⁸ Ibid., XKTB, 02-01-07-0867-011. Woman Zhao (17 *sui*). Neixiang, Henan. QL 28, LC.

wrong man! He scolded me recklessly and beat me.”³⁹ On the other hand, Zha Shenji, twenty-four *sui*, willingly went to chop firewood but suffered her husband’s criticism anyway, saying, “I brought a knife with [me] into the hills to cut firewood. In the afternoon, [I] was carrying the firewood down the hills and sat by the roadside to rest. Husband (aged 13 *sui*) walked by and said, ‘Why are you sitting here?! [You’re] always lazy! And scolded me. I scolded him back and he slapped me.”⁴⁰

Yet women’s work procuring firewood provided them access to spaces outside the confines of the home to encounter people outside their family, especially men, which could be a double-edged sword.⁴¹ Testimonies of young women indicate that they first met their lovers in the mountains or hillsides where they chopped firewood. In Chapter Four, we will read about the case of Woman Yang who met a man whom she would come to “truly love” while chopping firewood in the mountains.⁴² In another example, Woman Xiao-Yu, aged seventeen *sui*, had sex with a man in the spot where she gathered firewood in the mountains, and she later plotted to run away with him.⁴³ While mountains and hillsides offered lovers a place to go to “work” that concealed other illicit sexual activities they might engage in, this workplace also left them

³⁹ Ibid., XKTB, 02-01-07-0957-015. Woman Lin (20 *sui*). Zhenping County, Guangdong. QL 31, LC. (题为广东镇平县民妇林氏毒死伊夫议准凌迟处死事).

⁴⁰ XKTB, 02-01-07-2756-004. Zha Shenji (24 *sui*). Xining, Gongchang Prefecture, [Qinghai]. JQ 25, LC. (题报巩昌府西宁县民妇扎什吉口角砍伤亲夫常命保身死拟凌迟处死).

⁴¹ In comparison to the task of chopping firewood, it is worthwhile to note that I have encountered far fewer examples of women working in the field. One exception is the case of young Woman Wang from Chapter One who reported that at the age of fourteen she worked in the fields, and this is where and how she became acquainted with her soon-to-be lover. See XKTB, 02-01-07-1208-007, Woman Wang, Yunnan, QL 36. I have encountered even fewer examples of women speaking about gathering water, which ought to have been a routine daily task.

⁴² XKTB, 02-01-07-0192-003. Woman Yang (20 *sui*). Xuzhou Prefecture, Sichuan. QL 7, LC. (题为四川叙州府民妇杨氏与郭文秀通奸杀死本夫拟凌迟处死事).

⁴³ XKTB, 02-01-07-1591-009. Woman Xiao-Yu (17 *sui*). Zunyi County, Guizhou. QL 44, LC. (题报遵义县民妇萧喻氏商同奸夫谋杀亲夫拟凌迟事).

vulnerable to sexual assault and the potential for allegations of promiscuity to cloud a woman's reputation.⁴⁴ One case (explored in detail in Chapter Five) shows the extent to which it was common knowledge that the mountains were a place to engage in illicit sex. In this case, a twenty-two *sui* husband named Qu Fucheng attempted to convince the court that he had righteously killed his wife and daughter because one was an adulterous and the other a bastard. He knew this because, as he stated, “[My wife] often went into the hills to chop firewood.”⁴⁵

For some women, however, the chopping of firewood became not only an essential daily task for supplying the home but also the primary source of income for the family. Woman Zhang-Deng, aged twenty-six *sui*, also remarried, explained that her husband had fallen upon hard times following the division of family property that landed her with the burden of chopping firewood to earn a living for them all, saying, “I chop and gather firewood for a living. (小婦人砍柴挑擔度活).”⁴⁶ In another case, Woman Zheng, aged fifty *sui*, who had entered her husband's family at just nine *sui*, had lived alongside her husband (aged fifty-three *sui*) for most of her life. During her over thirty-year marriage, she gave birth to two sons, the eldest being only 10 *sui*. She said that her husband's family was poor, and because of this, he gave no care to whether they had food or clothes, and like the woman above, she cut firewood for a living. She told the court, “Every day I work chopping firewood in exchange for rice to live on (每日砍柴做工換米度日). Yet they still suffered from hunger. She told the Qing court, “I hated my life but never quarreled with husband [about it] (只恨自己的命從不與丈夫爭鬪).” The emphasis

⁴⁴ For an example of a woman experiencing sexual assault while laboring outside the home, see Janet Theiss, *Disgraceful Matters*, 18.

⁴⁵ XKTB, 02-01-07-0011-003. Qu Fucheng (22 *sui*). Linqing Prefecture, Shandong. QL 1, JJH. (题为山东临清州民曲付成杀死妻女拟绞监候). Wife-killing (daughter also killed).

⁴⁶ XKTB, 02-01-07-1222-008. Woman Zhang-Deng (26 *sui*). Zhenping County, [Henan]. QL 37, LC. (题报镇平县民妇张邓氏毒死亲夫拟凌迟处死事). Childless.

placed on Woman Zheng's obedience separates her case from those of the younger girls explored above, and therefore it might not be surprising to learn that she did in fact receive some leniency in her punishment.⁴⁷

The following case documents the dangers that firewood chopping could present in the lives of women within the window of fertility as the demands on their physical labor conflicted with the demands of their reproductive labor. Woman Liu, aged twenty-nine *sui*, had been married to her husband for thirteen years and the couple had one daughter (aged 9 *sui*) and she had recently given birth to a second daughter.⁴⁸ She became ill after giving birth, but despite needing time to physically recover, her husband continued to press her to go to the mountains and chop firewood. She told the Qing court, "I told him that after being sick [I] had no strength [and] was not able to do [this type of] work. Husband was dissatisfied [with this response]. [He] scolded me and slapped me twice. Having no alternative but to go, I managed with some difficulty up the mountains, [but] because I had just recovered from giving birth, I truly did not have the strength to chop much firewood. When I returned, husband saw [how little I had chopped] and said, 'You've been gone half the day but only chopped a few logs! What use is there for a lazy person like you?!' [He] then beat me ruthlessly until mother-in-law came in and persuaded [him] to stop." Woman Liu tried earnestly to satisfy her husband's request for

⁴⁷ XKTB, 02-01-07-0265-006. Woman Zheng (50 *sui*). Cangwu County, Wuzhou Prefecture, [Guangxi]. QL 10, ZJH (decapitation after the assizes). (题为梧州府苍梧县人郑氏殴夫身死议准斩监候事). It should be noted that the standard punishment for this crime is immediate decapitation, while Women Zheng received decapitation after the assizes, meaning that the magistrate provided her some leniency. Based off the cases I have read, I have an impression that older women are able to emphasize their service and obedience to their husband over years and receive less severe sentences than younger wives; this may be in part a matter of older women having a better sense of how to present themselves to the Qing court.

⁴⁸ XKTB, 02-01-07-0491-001. Woman Liu (29 *sui*). Luoding, Guangdong. QL 17, LC. (题为广东罗定州民妇刘氏毒死亲夫议准凌迟处死事).

firewood, but she did not have the strength to yield the results he demanded. Soon, this work became a matter of life and death for her.

Woman Liu continued her testimony, “On the morning of the 9th, husband once again pressed me to go to the mountains to chop firewood saying that if I returned again with only a few [logs] he’d beat me to death. Truthfully, because of [my] sickness caused by a difficult labor [I could not chop much firewood]. [I] could not help but cry.” Woman Liu, fearful of her husband, once again managed the arduous journey into the mountains but afraid of further torment, she began to contemplate a new strategy. “In the mountains, [I] thought to suffer this type of fierce torment from husband nonstop is truly a miserable life. In that moment [I] stupidly got an idea to poison [him]. Because I am often in the mountains chopping firewood, I could [easily] recognize mountainous poison-grasses. [I] gathered some and put it within the [bundle] of firewood [I had gathered] and returned [to the house]. That night, husband saw that there was much firewood and did not beat or scold [me]. I then kept the poison-grass concealed within the pile of firewood [but] did not carry out the crime then. [The next day], while I was eating breakfast, [my newborn] daughter suddenly fell out of bed. Husband scolded me for not looking after [her] better. I said [to him], ‘Am [I] not supposed to eat?!’” Woman Liu’s husband beat her for making such a remark, but her father-in-law had quickly come in and put a halt to the physical altercation. Her husband exited their home, but before doing so, he threatened to finish what he started when he got back. Woman Liu got scared and decided to make use of the poisonous grass she had procured from the mountains.

Raise: Livestock & Children

Case reports reveal that the raising of small livestock, particularly pigs, was a responsibility often left to women. During her initial months of marriage, eighteen *sui* Woman

Lu's husband placed a piglet in her care.⁴⁹ She told the Qing court, "Husband went to market and bought a small pig for two hundred copper cash and gave it to me to raise. I had it for three days when unexpectedly on the fourth night the weather turned so cold that [the pig] froze to death. Husband scolded [me] half the day, [and] still angry, [he] grabbed a piece of furniture to beat [me] but I dodged [his] blow." In another case, twenty-two *sui* Woman Yang struggled to prioritize her many domestic duties, saying "Husband told me to feed the pigs but because I was squatting on the ground washing clothes [I] ignored [him]. Husband got angry and scolded [me]. I scolded him back."⁵⁰ When forty-four *sui* Woman Long's husband castigated her for disciplining their daughter, she was suddenly reminded of her duties to the pigs.⁵¹ She said, "[I] had boiled some grain and wild vegetables in a pot [but] had not yet fed the pigs. [I] got up and placed the [food] in their pen. Husband once again scolded me, calling me lazy and saying what have you been doing all day!?"

The raising of pigs was one of the most pervasive forms of work peasant women engaged in, besides the gathering and chopping of firewood, and the labor they put into this work was vital to their family's long-term welfare. As with the above case of young Woman Lu, the monetary investment the family placed into the purchase of a pig could suddenly be lost if a wife did not manage her pig properly. Thus, women's pigs are often at the center of domestic disputes, because they held significant economic value, and women seemed to have regarded them as being not only under their jurisdiction but also a product that was theirs because they

⁴⁹ Ibid., XKTb, 02-01-07-0267-009. Woman Lu (18 *sui*). Xiaochuan County, Henan. QL 10, LC. (题为河南洧川县人路氏杀死伊夫沈法议准凌迟处死事).

⁵⁰ XKTb, 02-01-07-2709-009. Woman Yang (22 *sui*). Lingyun County, Guangxi, [Guangdong]. JQ 24, ZLJ. (题为广西凌云县民妇杨氏殴伤伊夫冉瑞贵身死议准斩立决事).

⁵¹ XKTb, 02-01-07-0276-003. Woman Long (44 *sui*). Suining County, [Hunan]. QL 10, ZLJ. (题报靖州绥宁县民妇龙氏致死伊夫田忠明拟斩立决事).

had produced it, not unlike cloth. In the next section, we will encounter cases that clearly reveal the extent to which women asserted authority over the sale of their pigs, the production of which had involved so much of their energy and time. Husbands may have provided the money to purchase these animals, but wives tended and cared for them, which is what made the animal a valuable commodity. Thus, they desired a say in its sale and wanted to experience the benefits of their labor themselves.

Deadly incidents of marital abuse also arose over the raising of children. For instance, the previously mentioned Woman Liu's husband, was quick to chastise his wife for not taking care to stop their newborn daughter's fall. Children, while often present in the household, often play a small role in domestic homicide reports. Their existence is mentioned in the report to both gain a general sense of the marriage as part of the perpetrator's biography and then also, if old enough, to provide testimony in order that they might be cleared of blame at the end of the report. However, I have identified a handful of reports detailing marital arguments about childcare, which are suggestive of a father's role in the day-to-day management of their children.

Ironically, given the extent to which these reports document men's physical abuse of women, women's testimonies suggest a pattern of husbandly disapproval of the ways in which their wives physically disciplined their young daughters. For example, Woman Long, aged forty-four *sui* and a mother of three, including one married out daughter, a five *sui* son, and a three *sui* daughter, spoke about her husband scolding her for beating their daughter.⁵² She first explained that her husband worked as a day laborer and was quick to blame her for his financial woes, saying, "In Qianlong 8, 11th month, 13th day, [my] husband had gone to labor at a house and returned saying that a man on the road there demanded [he] repay a debt. [He] had no money to

⁵² Ibid., XKTB, 02-01-07-0276-003. Woman Long.

repay him [and] then said that it was my bad luck that made him suffer. I replied [to him] saying, ‘I came to your house at the age of 13 *sui*! Why do you now blame me [for your misfortunes]?!’ I argued disobediently with him a while.” A few days later he would also find fault with her as a mother. She continued, “On the morning of the 15th, husband went to ask for [his] wages. In the evening, [I] did not know where he had gotten drunk, [but he] returned and blamed [me] again, scolding me. I was angry [and] daughter began to cry. I hit daughter two times. Husband said I was taking out my anger on daughter and scolded me again. I was disobedient. He then took daughter to bed.”

Similarly, Woman Zhang, aged twenty-two *sui* and a mother to two young girls, reported that her husband had been critical of her parenting skills.⁵³ She said in her testimony, “My husband returned from work and saw that [our] eldest daughter was standing atop the windmill (風車) playing. Fearing she would break the windmill, [he] yelled for [her] to come down. Daughter then went into the kitchen crying. I was in the kitchen making shoes [when she came in] and [I] beat the girl a few times. [My] husband scolded me, saying not to beat her. I said that the girl should be beaten for crying (女孩兒哭是該打的). [My] husband then walked into the kitchen and grabbed my hair. Throwing [me] to the ground, [he] punched my arms and legs wildly. Mother-in-law came in and dragged [him] away.” It is difficult to ignore the tragic irony at full display in this case in which a husband beats his wife for beating his daughter, venting his disapproval of his wife’s use of physical discipline with more physical discipline, highlighting a disturbing cycle of violence against women, with which Woman Zhang, although young, was likely by then all too familiar. Her decision to enact physical discipline as a method for teaching

⁵³ Ibid., XKTB, 02-01-07-0586-011. Woman Zhang (22 *sui*). Sichuan. QL 20, ZLJ. (题为四川资州民妇张氏戮伤伊夫身死议准斩立决事).

her daughter not to cry when scolded, was likely intended to prepare her for the harsh reality of marriage for women that her husband could never fully understand.

In yet another case, Woman Li, aged twenty-nine *sui*, reported that her husband (aged 39) had scolded her for beating their daughter (aged 8).⁵⁴ She said, “After breakfast, I beat the girl because [she] had been naughty. Husband scolded me and grabbed a kitchen knife thrusting [it] at me saying, ‘If you’re going to beat her like that, you might as well kill her!’” After a neighbor had come to break up their fight, her husband picked up the child and went outside into the street. Angered by her husband’s chastisement that day, and describing her life as one in which she was often abused mentally and physically, Woman Li took advantage of her location in the city of Beijing and decided to take her chances on a life begging.⁵⁵ She put on a jacket and packed a bowl, a pair of chopsticks, and a small mirror into a leather trunk and made her way out into the capital, leaving both her husband and daughter, behind.⁵⁶

For other women, the trouble that arose in their marriages over children had little to do with parenting skills, but rather with survival. How were women supposed to feed their children when they barely had enough to eat themselves? Recall the case of Woman He who feared her

⁵⁴ Ibid., XKTB, 02-01-07-1271-010. Woman Li (29 *sui*). Beijing. QL 38, JJH. (题为京城民妇李氏背夫逃走改嫁议准绞监候事). Case of a runaway wife, no homicide.

⁵⁵ We have already seen how for those women living in or near urban environments (i.e., the case of a woman giving clothing to another), the potential to earn money begging in the streets offered the most desperate a lifeline to escape the confines of domestic abuse and starvation.

⁵⁶ This new life was cut short. While Woman Li had successfully evaded her former marriage, fraudulently marrying herself to a night-soil cart pusher (with the help of a group of older women she met while begging), she made one big mistake: staying in Beijing. After a year or so, her husband caught sight of her and reported her to the authorities. Woman Li was sentenced to death, but unlike every other woman discussed in this dissertation, she is the *only* woman to have suffered such a fate for a non-violent offense, for she did not kill her husband or cause his suicide, she just simply ran away from him. This case is also discussed in a prior footnote in this dissertation.

pregnancy because a child meant that she would have even less to eat.⁵⁷ Mothers faced with poverty had the burden of caring for children with limited resources and their testimonies express these frustrations, as they outline their futile effort to bring these concerns to the attention of their husbands, who either did not or could not do anything about it.

Most commonly, conflicts broke out over the rationing of food between husband, wife, and child. Wives, as food preparers in the home, describe their attempts to manage this. For example, fifty *sui* Woman Zheng, who one will recall described herself as having fully supported her family of four through her labor cutting and selling firewood, expressed her dismay at her husband's attempts to acquire his son's portion of food for himself.⁵⁸ She told the Qing court, "When I had returned from chopping firewood in Qingcao, [I] went and borrowed one *sheng* of rice from [my] neighbor to cook breakfast for Diwan (son's name) and [myself] because there was already no rice in the house [and] Diwan is young and cannot go hungry. I kept a bowl of rice [aside] to appease his hunger in the afternoon. Normally, husband left in the morning and returned in the evening. [I] did not think he would return [home] that afternoon and eat the rice upon seeing [it]. I said that this evening [we] have no rice to prepare and that [I] had saved that one bowl for Diwan to eat, [and I] wrongly took the food [away from my husband]."⁵⁹ [My]

⁵⁷ Ibid., XKTB, 02-01-07-0694-003. Woman He (20 *sui*). Wuwei County, Gansu. QL 23, LC. (题为甘肃凉州府武威县民妇贺氏砍伤本夫议准凌迟处死事).

⁵⁸ Ibid., XKTB, 02-01-07-0265-006. Woman Zheng (50 *sui*). Cangwu County, Guangxi. QL 10, ZJH.

⁵⁹ When we encounter women describing their disobedient actions as "wrong" or saying that they have "wrongly" done something, it should not necessarily signal to the reader that she was in fact sorry or felt that she had done something wrong. It is a discursive pattern in homicide reports, showing an acknowledgement of wrongdoing that might support leniency for a perpetrator. We have no way of knowing if this woman truly felt that it was "wrong" for her to take the food away from her husband; it simply serves as an admission of wrongdoing relating to a material fact of her case.

husband grabbed it back and ate it. I said, “You are a husband who doesn’t provide food for his wife and son but instead takes [his] son’s food for [himself]!””

Twenty-seven *sui* Woman Wang-Zeng, who had been married for eight years, painted a similarly bleak picture of home life.⁶⁰ She described her husband as a poor agricultural worker who did not earn enough to support her and their young son. She explained that one day because her son was crying out in hunger she went and picked roots and boiled them for him to eat. Her husband arrived home that day with some rice, and subsequently scolded her for feeding the roots to their child instead of selling them; however, the amount of rice her husband brought home was not enough to appease the young boy’s hunger and he continued to cry out. She told the Qing court, “I complained to husband saying that [he] couldn’t even feed his son [and] that it would have been better to have never had [him]!” (他連兒子都養活不起不如不生兒子乾淨的話). Her harsh words, undoubtedly fueled by her inability to quell her child’s cries, seems to have been felt deeply by her husband. He suddenly grabbed the little boy in his arms and ran outside. She continued, “Mother-in-law and I followed [after them] yelling for help till [we] reached the area of Huangkun. [I] saw husband throw [himself] into the reservoir holding [our] son.” She jumped into the water after them, trying to pull them out, but the water quickly became too deep. A passerby came and rescued her, but her husband and son were lost.

Confronted with the challenge of raising not one but seven children, thirty-four *sui* Woman Xiong-Hu struggled much like the mothers above to feed her large family off of a

⁶⁰ XKTB, 02-01-007-027934-0004. Woman Wang-Zeng (27 *sui*). Huayang County, Sichuan. JQ 22, JJH, (题为会审四川华阳县民王曾氏因家事口角致夫王芳盛抱同伊子投水自杀一案依例拟绞监候事).

laborer's income, saying, "[We] have many children [and] food is hard to come by."⁶¹ Besides her eldest son who had been adopted by her brother-in-law, all of her remaining six children (three boys and three girls) were still young. She expressed her frustrations over her husband's ability to procure food for *himself* but not any of his children, let alone her. She said, "...father and brother-in law invited husband to eat lunch with them. I told husband to ask to borrow rice from them so that [I] can cook porridge for the children and appease their hunger. Husband agreed and left. [I] waited till evening when [I] saw that husband had arrived [home] drunk and empty handed. I grumbled with husband [about this] because the children were starving and crying. Husband was drunk and scolded [me]. I scolded [him] back. Husband then grabbed a log of firewood to beat [me]. I grabbed the log away from him and went to hit him, suddenly hitting him in the right ear. In that moment husband yelled out and fell to the ground."

Emboldened Breadwinners: Women's Control Over Work, Property, and Production

The women we will encounter in this final section claimed ownership over their property, the products of their labor, and many will describe themselves as the sole supporters of their households. They struggled to maintain control over their household economies and the property that their work produced, and they pushed back against their husband's financial decisions, especially when their labor had made the enterprise a success. In each case, a woman's homicidal rage occurred in the wake of their husband's refusal to take her economic concerns into account, revealing the full extent of women's active role in the day-to-day running of the household. It is in these particular cases, in which husbands either could not or did not provide

⁶¹ XKTB, 02-01-07-1141-014. Woman Xiong-Hu (34 *sui*). Ningzhou, Jiangxi. QL 35, ZLJ. (题报宁州人熊胡氏殴伤亲夫身死拟斩立决事).

for their families, that we can see clearly women's essential role in the sustainability of the household.

Women with unproductive husbands struggled to get by, but in many cases, we find that problems arose not simply because men were depending upon their wives for support, but because he was in fact a destructive influence operating counter to her efforts. Twenty-six *sui* Woman Zhang-Deng (previously discussed) struggled to keep what little cloth she could in her new marriage to her second husband after the first had died from illness.⁶² Recall her complaints about the poverty she faced in her marriage to her new husband, in which she reported that he ordered her to chop and carry firewood to earn a living for them. In addition to taking advantage of her physical labor, her husband also claimed jurisdiction over her textile work, making it difficult for her to clothe their family. She told the Qing court, “In the Spring of the 36th year, [my] husband pawned my one bolt of indigo cotton cloth (丈夫拏小婦人藍布一疋當了). In the 11th month, I borrowed 710 copper cash from my former mother-in-law to redeem [my indigo cloth]. [I then] made a jacket (衫子) for mother-in-law, and with the remaining [cloth], [I] made a jacket and head scarf (頭帕) for myself. Husband asked for the remaining cloth [but] I said that there was none left. He then beat me.” However, in the months that followed, her headscarf became an increasingly contested site as their economic situation became drastically worse after she could no longer chop firewood. She continued, “In the 37th year, 1st month, 3rd day, husband told me to fetch water to wash [his] feet. Because the water was cold, [he] kicked [me] at the waist. [I] was unable to carry [firewood after that] and [we] had no rice, every day we had only greens (青菜) to eat to appease our hunger. On the morning of the 16th day, [my] husband

⁶² Ibid., XKTB, 02-01-07-1222-008. Woman Zhang-Deng (26 *sui*). Zhenping County, [Henan]. QL 37, LC. (题报镇平县民妇张邓氏毒死亲夫拟凌迟处死事). Childless.

once again wanted my cloth headscarf. I refused [to hand it over] (丈夫又要小婦人頭帕布小婦人不肯). He then beat me again. [I] went and walked besides the mountains thinking that [my] husband is poor and often beats and scolds me and [I] became angry and in that moment, I got the idea to poison him.”

Unable to stop her husband from selling her cloth, with the help of her first husband’s mother with whom she was clearly on good terms, Woman Zhang-Deng was able to redeem the pawned item herself. She quickly went to work turning the raw material into items of clothing that she (and her former mother-in-law) needed, which seemed to have stifled her husband’s ability to pawn the items. Perhaps the most interesting part of her testimony is her insistence on keeping her headscarf. The small piece of cloth used to cover her head may not have made the difference between life and death or have been paramount for her survival like a jacket or pair of trousers, but it meant something to her.⁶³ In a world in which she clearly had very little, not even food, this item was hers and she was not about to hand it over to her husband, who would likely pawn it and give her no share of the money.

Woman He-Chen, a thirty-eight *sui* mother of two, from Xiuwen County, Gui Zhou, had been married to her husband for twelve years. The couple had a six *sui* son and two *sui* daughter.⁶⁴ Her husband had inhaled smoke the previous winter. She told the court, “[He] was unable to work and wanted me to pull weeds to support him. I suffered bitterly and often argued with him.”⁶⁵ If this increased demand to provide food for him, herself, and their children was not enough of a strain on her, she became even more discouraged when her husband started to cause

⁶³ The value of this item may have been sentimental, but it is also possible that the headscarf served as an important form of sun protection.

⁶⁴ XKT B, 02-01-07-1160-014. Woman He-Chen (38 *sui*). Xiu Wen County, Guizhou. QL 35, LC. (题为贵州修文县人何陈氏杀死伊夫何衿议准凌迟处死事).

⁶⁵ Woman He-Chen’s testimony here reads as follows: “...不能做活要小婦人空蕨做活養他...”

trouble for them with their nearby relatives. She continued, “I had gone out to pick weeds [and] my husband stole over 2 *sheng* of rice from brother-in-law He and when questioned about it my husband lied. When I heard [about what had happened], [I] was both ashamed and frustrated and scolded [my] husband. [I] persuaded brother-in-law He to let the matter rest.” It is likely that her husband’s dishonest actions were motivated by genuine hunger, but Woman He-Chen did not approve; they were struggling but she was working to support them. She chastised him about his stealing rice again one day when they were alone, and he picked up a rod and beat her.

In a similar case, forty-four *sui* Woman Zhang-Mao described herself as the supporter of the household alongside her husband’s sons, saying “Recently, my husband is sick and cannot make a living. The two eldest sons and I support [us] all.”⁶⁶ Married once before, she entered her second marriage childless. Her husband had two sons from a previous marriage and she ended up having two daughters of her own. However, despite economic strain, the main point of tension that led to homicide was not necessarily this division of labor in the household, but her husband’s selfishness. Woman Zhang-Mao told the Qing court, “I borrowed some bean curd from aunt Woman Zhang-Rong and divided [it] amongst my daughters and husband to eat. After my husband had eaten [his share], he grabbed my daughters’ portions. My little girls were crying and so I took [the] food back from [him]. [He] became enraged and punched me once. I did not dare hit [him] back. I walked to the stove to boil water.” Her husband followed her, and the physical altercation escalated. She ended up throwing the hot water on him. She dared not return for some time, but when she did come down from the hills, she found her daughters in tears. “My daughters were crying, saying that my husband would not allow them to enter the gate. I led my

⁶⁶ XKTb, 02-01-07-1394-008. Woman Zhang-Mao (44 *sui*). Xiaogan County, [Hubei]. QL 40, ZLJ. (题报孝感县张毛氏殴伤伊夫张谟备身死拟斩立决事).

daughters to the house and saw that the chicken was missing from the basket and questioned my husband. He said that [he] had slaughtered and ate it. I complained [to him] saying, ‘This chicken was reserved for eldest son Zhang Chenxian’s marriage ceremony. How could [you] slaughter and eat [it]?!’” Angered by her words, he came to beat her but she fled, escaping to a nearby room and shutting the door. However, he soon pried open the door and chased her into the courtyard where they both fell to the ground fighting. Her husband suffered a wound to his stomach from a rock on the ground when he fell, and he died within a few days.

As discussed in the earlier section, women were responsible for raising pigs for their families to sell. However, arguments about this important form of work did not just take place over the day-to-day duties of raising pigs, but also when it was time to sell the animal. While women put in the work raising the animals, husbands typically oversaw the sale, taking the pig to market and fetching the best price. Conflicts arose when a husband wanted to sell a pig that his wife wanted to keep in her possession, however. For example, in one case a woman’s husband came to her saying that he needed money for firewood and rice and wanted her to give him the two pigs she had raised to repay the debt.⁶⁷ She told the Qing court, “I had gone through the hardship of raising the pigs, so [I] only allowed him to sell one [of them] and [I] kept the other.” After telling him this, he got mad and left. Her husband had married into her family, and based on the other details of her testimony, this departure from the predominant marriage pattern seems to have altered the gender dynamics of the marriage entirely. Yet, such attitudes of ownership over the animal a woman had raised are not just found among instances of uxorilocal (*ruzhui* 入赘) marriage. In another case, a woman married for eight years with two young children told the

⁶⁷ XKTB, 02-01-07-1880-001. Woman Feng (*sui* unknown). Jiangxia, Hubei. QL 58, JLJ. (题报江夏县人冯氏逼迫其夫吕远得缢死拟绞立决事). Notebook.

Qing court, “My husband went to buy cloth and took the little pig that [I] had raised to sell at market... On the 9th [my] husband returned around breakfast, I asked him for the money from the sale of the pig, my husband said that he had already sold the pig [and] had only five copper cash left over from [its sale] after repaying a debt. I was upset and grumbled [to him] and we argued for a while....”⁶⁸ Thus, women in such cases described themselves as invested in the returns of their labor and concerned with what their husband might do with the money earned from their product.

This sentiment is best observed in the following case. It is one of the most descriptive cases I’ve encountered involving a marital dispute over a pig sale. Woman Wang, a mother of three in her early thirties from Jianyang County, Fujian, had a lot to be proud of. She had not only given birth to three sons, ranging in age from sixteen, thirteen, and just six months, but also seemed to take specific pride in raising pigs.⁶⁹ Unlike in other cases, in this case Woman Wang described herself as overseeing the pig sale, not her husband. She told the court, “I called for butcher Lu to take the pig I had raised to sale. My husband (51 *sui*) wanted to keep one leg of pork for the New Year. I said, “I raised this pig! It’ll cost you 500 *wen* to buy this pork leg [from me]! (小婦人說這豬是我餵養的你須出錢五百文買這豬腿)” As one might expect, such a

⁶⁸ XKTB, 02-01-07-3403-010. Woman Li-Chen (27 *sui*). Puding, [Guizhou]. DG 26, JJH. (题报普定县民妇李陈氏因与夫口角致夫自杀身死拟绞监候事). Notebook. Husband-Suicide.

⁶⁹ XKTB, 02-01-07-1336-002. Woman Wang (31 *sui*). Jianyang County, Fujian. QL 39, JJJ (reduced, explained below). (题为福建建阳县人王氏因夫妇口角逼迫伊夫服毒身死议准绞立决事). It should be noted that Woman Wang’s sentence was decreased from immediate strangulation (the most severe punishment for husband-suicide) to the much lighter sentence of 100 beatings of bamboo and three years penal servitude. The report reads as follows: 照妻妾逼迫夫致死者绞例量减二等杖一百徒三年具详审转等情. This punishment is remarkable given that officials agreed that this was indeed a case of compelling “逼迫” husband-suicide rather than that of a husband who took his life lightly “轻生”. I believe this case may mark the beginning of a negative shift in official attitudes towards this suicide as a proper performance of husbandly prerogative.

retort from his wife inspired an argument that spoiled their New Year's festivities. "On the 30th when we were having New Year's dinner, my husband said, '[Since] you demanded money for the leg of pork, why eat meat [now]?!' I was angry and argued with [him] before going to bed without finishing dinner."

In addition to the dispute over her pig, Woman Wang described an argument that had transpired between them the following day concerning some tangerines and a handful of melon seeds. She told the court, "On the 1st month, 1st day, of last year [I] gave birth to [my] third son and according to village practice, [I] bought tangerines and went to the ancestral temple and distributed them to relatives. [I] returned home with just over 1 *jin* [of tangerines]. Husband picked up five or six of them to eat. I said, '[I] still want to distribute [these tangerines] to [our] neighbors. Don't gobble them up!' Husband scolded me, threw the tangerines to the ground, and walked out." The tangerines held specific significance for Woman Wang, as the fruit was a symbol of her achievement as a mother and producer of sons. Not unlike her pig, these tangerines were hers to keep and hers to give, but her chastisement of him in these moments, while appropriate to her, conjures images of the henpecked husband, which will eventually prove instrumental to the case being mounted against her by the magistrate. Moreover, Woman Wang's chastisement of her husband did not end there. She continued in her testimony, saying, "In the afternoon husband returned and entering the bedroom [he] grabbed some melon seeds to eat. I saw [what he was doing] and said, 'Those were bought as a treat for guests! [They] are not to be eaten by us! Some grown men are still like little children. They only care about food!' (有年紀的人還同小孩子一樣只管要吃嗎). [My] husband then scattered the melon seeds on the ground."

This final insult culminated in a physical brawl between the couple. Woman Wang yanked at his clothes. He pulled her hair and hit her in the head six times. She punched him in the chin. When their physical altercation was at last broken up, she said that she sat in the room unable to move, but she went into the kitchen when he came in the room to sleep. She waited a while before joining him there as well. Woman Wang noticed her husband's snoring, testifying, "hearing my husband shout in pain [I] only thought his old illness had flared up again and so [I] ignored him because he had beaten [me]. In the middle of the night, husband fell to the floor from atop the bed. At that time, I got up and tried to wake him and my two sons helped [me] lift him to the bed. Husband finally said that he had eaten arsenic (砒霜). My sons and I cried out and husband's brother came and tried to save him, but husband was already not breathing. By morning husband was dead."

Despite building a strong narrative of a domineering wife who had henpecked her husband to death, the reviewing magistrate was left unconvinced by the argument presented to him by the county magistrate. He remained skeptical that this was in fact a suicide compelled by another person and not instead a more ordinary example of, as the report states, "an ignorant person who took life lightly" (愚民輕生). In other words, reviewing officials did not believe Woman Wang's behavior as described was in fact sufficiently egregious to be responsible for her husband's death. No matter how unfeeling her words and actions may have been, they had a hard time believing that a husband would be shamed enough by her actions that he would poison himself over such small matters. It seemed to them a series of trivial matters.

Woman Wang was requestioned, but her testimony remained largely the same, with a few notable differences. She told the Qing court, "[My] husband often suffers from a heart condition and cannot work and take care of the family. Everything in the household is managed by me. I

have a bad temper [and] seeing [that he] was of no use [I] often argued with him.” Woman Wang continues by explaining the disagreement over the sale of the pig and then follows with her scolding of him over the tangerines and melon seeds. However, before they dispersed after the physical altercation, a line of testimony is added in which Woman Wang testified, “My husband said I was an unworthy person [and] I replied to him saying, ‘You are incapable of supporting our family! [You] only eat gluttonously! It’s best if [you] died early!’” It was this, telling her husband to go kill himself, and not the previous arguments about food that was cited as causing her husband to commit suicide.

Despite determining that Woman Wang had compelled her husband’s suicide with this specific callous remark, undoubtedly built up with the previous accounts of disrespect, the Qing court decides to show her a generous amount of leniency. Escaping the death penalty altogether, Woman Wang’s sentence is decreased by two degrees, and she received a punishment of one hundred strokes of heavy bamboo and three years penal servitude.⁷⁰ Thus, despite Woman Wang having been built into the archetype of a henpecking wife, her punishment clearly reflects judicial disdain regarding husband suicide over domestic matters.

In addition to the pigs they raised, women also claimed ownership of their children as well, enough so to attempt to thwart their sale. For example, forty-five *sui* Woman Luo and her husband (aged forty-eight *sui*) had been married for many years and she had given birth to two sons, one who was an adult who labored at his uncle’s farm, while the other was still young.⁷¹ She told the court, “My youngest son, Tang Chier, just turned six *sui*. I’ve always treasured

⁷⁰ This is the most lenient sentence for a wife or concubine accused in any husband-killing case that I have come across.

⁷¹ XKTB, 02-01-07-2627-012. Woman Luo (45 *sui*). Xingning County, Guangdong. JQ 21, LC. (题为广东广州府兴宁县民妇罗氏谋杀伊夫汤炳利议准凌迟处死事).

[him].” She also said that she and her husband never got on well and that he had a bad temper and they often argued with one another. His recent inability to work placed greater stress on their marriage. “In the 20th year, husband contracted an illness that affected his feet which made [him] unable to work. He gradually sold off my clothes and accessories in exchange for money to live on. I tried to dissuade [him] and was repeatedly beaten.” As we have already seen earlier in this chapter, women complained not only of starvation, but of a husband’s refusal to clothe them or his decision to pawn what remaining clothes they may have had. Woman Luo may have brought these items into the marriage as her dowry, and as we have seen in other cases, women seem to have been expendable when it came to distribution of clothing, and to be the ones who would suffer the consequences of the family’s financial downturn. But it was his decision to sell her beloved son that led her to take extreme action.

She continued, “In the 21st year, 4th month, husband had no money to use [and] wanted to sell son to a man as a slave. I did not agree [and] argued [with him about this]. 5th month, 28th day, husband again wanted to take son out and sell [him]. I still refused. Husband then took Tang Chier in [his] arms [and] left home. I caught up [and] seized Tang Chier back [from him]. Husband refused, scolding [me] saying that it is not a crime to sell a son because of poverty. Tomorrow [he] will be sold. I argued [with him] until the wife of husband’s cousin Tang Yang came and broke it up. Husband had sold all of my clothes [and I] suffered daily beatings and scoldings, [he] has always had an evil heart [and] now seeing that he deliberately sells [our] son, in that moment of resentment, [I] got the idea to kill my husband to save my son and avoid suffering from his abuse.” Woman Luo collected some poison grass (斷腸毒草) in the mountains and added it to her husband’s dinner that night.

It is perhaps not surprising that mothers would oppose their husbands' decisions to sell their children, given emotional attachment, but from a legal perspective women had no jurisdiction over the fate of her own children if their husband was still living. As Matthew Sommer has shown in his work on wife-selling, if a woman was divorced from her husband she would be separated from her children because, as Sommer states, "a basic principle of patrilineal descent, codified in law, was that children belonged with their fathers."⁷² How were mothers to oppose their husbands' decisions to sell a child? For example, forty-nine *sui* Woman Liu said that her husband (aged forty-two) "never took the family into consideration." She had given birth to six children during her twenty-year marriage, five sons and one daughter. However, at the time of her interrogation, only two children remained, one son and one daughter.⁷³ The rest had been sold by her husband. As with other women's testimonies, Woman Liu explained that her family was poor, and her husband had trouble finding work and because of this he wanted her to go out and beg for food for them to eat. She told the Qing court, "I told [him] that this was something [I] won't again do. Husband then scolded me and got up and kicked [me]." It seems that Woman Liu may have once engaged in this type of work before but was unwilling to do so again. That night, at around 5 *geng*, her husband woke and said he was hungry and told her to go into neighboring fields and steal some grain for them to eat for breakfast. Woman Liu continued in her testimony, "I said I'd rather starve to death than become a thief!" Husband then got up wanting to beat me but because little daughter started crying husband went back to sleep. I

⁷² See Sommer, *Polyandry and Wife-Selling in Qing Dynasty China*, 213. The lengths to which the Qing court would go to abide by this fundamental principle will be at full display in Chapter Five as I explore how the paternity claims of adulterous women convicted of husband-killing determined child custody.

⁷³ XKTB, 02-01-07-0484-008. Woman Luo (48 *sui*) Chenqiu County, [Henan]. QL 17, LC. (题报沈邱县民妇刘氏砍伤伊夫身死拟凌迟处死事). Notebook.

thought husband never took family into consideration, he had already sold many sons, and now [he] also compels me to beg for food and become a thief! What kind of life is this?!” Angered by these thoughts, Women Liu got up and grabbed the knife used for cutting grass and stabbed her husband in the stomach.

Spinning, Weaving, and the Power of Cloth

Placed in financial predicaments, women’s textile production was an important source of income that could sustain their families through hard times and potentially provide mothers and their children with some financial independence from their husbands and fathers. Textile producers also complained about the exploitation of their labor.

In a case that will be discussed at length in Chapter Three, thirty-seven *sui* Woman Li-Wang complained to the Qing court about her husband’s gradual mismanagement of his inherited land and that the family’s survival depended on her.⁷⁴ Woman Li-Wang married her husband at the age of fourteen. The couple had spent a total of twenty-three years together and she had given birth to one daughter. In describing her frustrations with her husband, Woman Li-Wang highlights her continued obedience despite her legitimate frustrations with her husband’s behavior and actions that resulted in additional stress on her as a laboring unit of the family. As she stated in her testimony, “Our family made ends meet with the little money made from the

⁷⁴ Ibid., XKTB, 02-01-07-1462-003. Woman Li-Wang (37 *sui*). Zhengding County, Zhili administrative region [Hebei]. QL 11, LC. (题报正定府正定县民妇李王氏口角用信谋毒亲夫李顺身死拟凌迟处死事). See chapter Three, the first case in the subsection entitled, “Making Ends Meet: The Plight of Newly Poor Wives.”

sale of cloth I spun and wove throughout the day (是小的遂日紡花織布賺幾個錢來大家苦度).”

Despite the continued struggle caused by her husband’s seemingly intentional neglect, one of the more striking aspects of Woman Li-Wang’s testimony is evidence of her contribution to the household through textile production. Her work may have allowed for the family’s continued survival if her husband had not constantly thwarted her efforts. She told the magistrate, “In the 41st year, 1st month, 24th day, I took the six bolts of cloth I had [wove] last winter and asked my husband to sell them at market. Unexpectedly, my husband was gone two days and when [he] finally arrived home, [he] was empty handed. I asked him about the money received from the sale of [my] cloth, [and] he said [the money] had been spent. In unbearable anger I began to cry. [My] husband spent the money and did not care for [his] family.” Having drained the family of the funds she herself had produced, the family was brought to the point of starvation. She testified, “On the 27th day, because we had nothing to eat in the house, I washed one cotton bed quilt [and] told my husband to pawn it for money to buy food. [I] found out he pawned [it] for 200 copper cash [and] first spent 110 copper cash, only returning home with a savings of 90 copper cash.”

Woman Li-Wang struggled to maintain some control over the household economy despite her husband’s best efforts. Her textile production stands out, not only because it is the imagined ‘womanly work’ taken up by women throughout the empire, but because it did indeed remain a bulwark of survival against misfortune. Cotton, used for both weaving and spinning, comes up in these women’s testimonies frequently, while silk production is far less frequent. Although it is at times difficult to tell what material was being used from the language included in the case report, I have seen many specific references to cotton, but not one to silk. And as we

have already seen, women engaged in not just textile production, but also other menial tasks, spoke about the financial wellbeing of the family falling to them. Thus, while textile production may have been more lucrative, it was not the only means by which a woman might support her family.

Most importantly, women understood that what they produced in the home held value and were interested in following up with the profit of their work, and thus would become upset if their husband took advantage of their contribution. In other words, these women had internalized the value of their work, not only as something that benefited the family, but also as something of theirs that held value. Twenty-three *sui* Woman Zhang-Gao told the court that she had been married for six years and given birth to a three *sui* son.⁷⁵ “[We] are usually on good terms...My husband Zhang Erhua and I live in Zhangdonglida [and] live in a rented house. [He] has no inheritance and makes a living as a laborer. Because he is fond of drinking and lazy at doing work [he] never has any wages when he returns home. I can only rely on the excess of my spinning and weaving (*fangzhi* 紡織).” It seemed that the money she was earning was insufficient in her husband’s eyes and her husband realized a more lucrative way for her to support him and their son as a “whore” (*changfu* 娼婦).⁷⁶ Woman Zhang-Gao told the Qing court, “In Qianlong 22, in the 3rd month, I don’t remember what day, my husband came to me and said, ‘work is hard and wages are limited and the money is not enough to live on.’ [He] wanted to take me to south garrison port at Horse Head to locate some clients and make money

⁷⁵ XKTB, 02-01-07-0683-001. Woman Zhang-Gao (23 *sui*). Boping County, [Shandong]. QL 23, ZLJ. (题报博平县民妇张高氏划伤伊夫身死拟斩立决事).

⁷⁶ This line of Woman Zhang-Gao’s testimony reads as follows: “...他要逼小的到南鎮去做娼婦小的不依...”

to live on. I refused. After that my husband often quarreled with me and looked for things to beat and scold [me about].”

Woman Zhang-Gao turned to her mother-in-law for support against her husband’s intentions to make money off her body. “In the 5th month, I went and told my mother-in-law about this. [She] called for my husband and scolded him [but] my husband never gave up on the idea. In the evening of the 13th day, 7th month, [he] returned home from the outside and we went to sleep together but before the lamp was out my husband again said to me, ‘South garrison...is an attractive place where there is money to be made! [We] can eat and dress well [there]. Tomorrow [I] will take you there.’” Woman Zhang-Gao replied to her husband’s words of enticement with the following statement. “I am a daughter of a good family. How can [I] do this degrading thing?!” I scolded him saying, “[you] are shameless! I’d rather die than go [with you]!”” He then got up and went and slept in front of the door, blocking her exit. Woman Zhang-Gao recounted how her husband had threatened to kill her if she refused, and she then got out of bed and continued to argue with him. She continued, “My husband then stood up to scold [me]. Near the door was a knife for cutting weeds. My husband said, ‘are you looking to die?’ I’ll stab you with this knife. My husband reached out to stab me, but I dodged him.” Wrestling the knife away from him, Woman Zhang-Gao struck him in the cheek.

Another case, while not a conflict between husband and wife, instead involves the working relationship between wife and concubine, providing important insight into the exploitation of women’s textile labor. Woman Jin-Zhuang had been sold at the age of eight *sui* to another family and could not recall the names of her birth parents nor any natal relatives. At

eighteen, she became Jin Wen's concubine.⁷⁷ Now at the age of forty *sui*, Woman Jin-Zhuang was a mother of three, including a daughter who had already been married and two young sons who lived with her and her husband's wife, Woman Jin-Tang (aged fifty-eight *sui*), who remained childless. Following "the patriarch's" death, as she referred to her husband in her testimony, together the two women sold the cloth they wove to support themselves (*shou zhibu duri* 守織布度日).⁷⁸ Despite "getting on well together" while their husband was alive, Concubine Woman Jin-Zhang felt that Woman Jin-Tang began to take advantage of her labor. She told the Qing court, "[In] Qianlong 42nd year, 2nd month, 5th day, after breakfast, chief wife told me to brush cloth till evening. After dinner, chief wife again told me to go weave saying, 'tonight you must finish weaving one bolt of cloth because tomorrow morning [it] will be sold for money for us to use.' I dared not disobey. I went to the loom (布機) and began to weave till dusk. [At that time], [my] two sons entered the room to sleep. I weaved till around 1 *geng*. [I] had worked tirelessly day and night and because of this [I] fell asleep against the loom. Chief wife walked in and seeing [me] like this said that I was lazy and slept [instead of working], hurling insults at [me] nonstop. I replied saying, 'I am worn out and had just dozed off for a moment. Why [do you] curse me so?!' Chief wife then said I ought not argue back. [She] came and grabbed [me] by the clothes and pulled the cloth from the loom. Standing at the opposite side of the loom, [she] slapped my left cheek three or four times, grabbing me again. I begged for mercy wanting [her] to release [her grip on my] hair so [I] could break free. Chief wife grabbed

⁷⁷ XKTB, 02-01-07-1521-005. Woman Jin-Zhuang (40 *sui*). Jiading County, [Jiangsu]. QL 13, ZLJ. (题报嘉定县民妇金庄氏殴伤正妻金唐氏身死拟斩立决事). Concubine killing wife case.

⁷⁸ In another case involving thirty-nine *sui* Woman Li-Yang, she was accused of killing her elderly mother-in-law; the two women survived on the money they made spinning (紡績賺錢) while the patriarch worked away from the home as a laborer in Sichuan. See XKTB, 02-01-007-024060-0017. Macheng County, Hubei. QL 54, ZLJ.

my hair again saying that [she] wasn't finished beating [me]. [She] wanted to take me into [her] room so that [she] could grab something to beat [me] with again." Replacing the role of husband in widowhood, the chief wife Woman Jin-Tang's treatment of Concubine Woman Jin-Zhuang ranged from overwork to unjust physical discipline. Concubine Woman Jin-Zhuang struck back. Woman Jin-Tang released her grip on her hair for a moment, and she got away and quickly grabbed a wooden rod and, as it is recorded in her testimony, "accidentally lost control of my hand," and hit "chief wife" and the woman ended up dying from her wounds.

Many cases include reports of wives complaining about being overworked. At the age of fifty-one Woman Luo remained childless in her four-year marriage to her second husband.⁷⁹ She had an illness that impaired her right leg, making it difficult for her to walk and make a living. Her second husband knew about this difficulty before he married her, and arrangements were made so that he would have someone else to "look after his home." Woman Luo, however, was unaware that her new husband had a bad temper which did not fully reveal itself until around two years into their living together. She told the Qing court, "In 12th month, 10th day, that night I was in the kitchen spinning thread (*fangxian* 紡綫) till past one *geng* [and] my husband still would not allow [me] to go to bed. I told [him] that I was in bad shape [and] can no longer sit [like this]. [He] refused and hit me twice. I spun thread while my husband sat watching [me]. After [I] had been spinning for some time, my husband fell asleep on a grass mat. In [my] heart I thought [my] husband only torments me [and] he'd soon kill me. The more I thought the angrier I got until I thought it would be better to beat him to death in order to avoid his torment." The magistrate remained skeptical that she could have harbored such resentment against this man after only four

⁷⁹ XKTB, 02-01-07-1151-014. Woman Luo (51 *sui*). Songzi County, Hubei. QL 35, LC. (题为湖北松滋县人罗氏谋死伊夫张泰珍议准凌迟处死事).

years of marriage, pressing her to expose her lover and admit that a desire for illicit sex was the true motivation behind her homicidal actions. She replied saying, “I am an old woman of over fifty *sui*! What business would I have with matters of illicit sex!?” This reasoning satisfied the court. Her age established that for her, a lover was indeed unlikely, and the matter was dropped. Instead, Woman Luo reaffirmed that her motivation was linked to her husband’s gradual yet continual physical and mental abuse that had brought her to a breaking point when he “forced [her] to spin thread.”

Woman Luo’s case brings up the matter of the gendered experience of disability among the working population. As one will recall, if husbands were not neglectful and alcoholic, womens’ shift into the role of chief breadwinner often came as a consequence of their husbands’ recent illness that impaired their mobility and thus their ability to earn money as a laborer. Women, however, seem to have been expected to work despite impairments. Even with the physical impairment Woman Luo describes, which would have put a man out of work, she was nonetheless able to continue spinning inside the home albeit with difficulty. Thus, despite characterizing herself as a woman who could not easily make a living on her own due specifically to her physical impairment, she was still able to contribute financially to the household.

We gain other insights into the conditions of women’s work as textile producers. Seventeen *sui* child bride Girl Yang-San (杨三姑) complained that the women in her betrothed husband’s family worked her too hard, saying “Everyday [my sister-in-law] Woman Wei wanted me to gather water and work the land. In [my] spare time, [she] also wanted [me] to spin cloth (紡花) [and] still disciplined and scolded [me]...In the afternoon of the 60th year, 10th month, 30th

day, it was freezing [out] and I could not spin cloth because my hands were too cold. [My betrothed husband] Li Zonger said I was lazy...”⁸⁰

One recently married twenty-two *sui* woman’s concerns lay not in her work but over fears that her husband had caught wind of her affair.⁸¹ Even so, the description of their interaction captures an ordinary moment of women’s working lives inside the home which often left women up late into the night while others slept. She stated in her testimony, “Seated, [my] husband stood up. Without casting a glance, I told him to go to bed. [He] said, ‘Why are [you] telling me to go to bed?!’ Upon hearing [him] say this, I thought that in evenings past when I weaved cloth (織布) [and] mother-in-law spun (紡花), [my] husband went to bed first without anyone having to tell him, [but] now when [I] tell him [to go to bed] he refuses, wanting to know why. [I] feared [my lover] had not kept quiet.”

Others resisted labor exploitation and mistreatment by simply refusing to provide their husbands with the textile products they desired. Twenty *sui* Woman Zhao-Zhang had been uxori locally married to her husband for around three years and while describing their marriage as “normally good” she complained of his laziness and fondness for alcohol.⁸² Consequently, she provided for the household. She told the court, “I had spun about one *jin* of cotton thread (*mianxian* 棉綫) [and] employed a craftsman (*jijiang* 機匠) [called] Yao Kaiyuan to come to [our] house to weave (*zhibu* 織布). On the 23rd morning, Yao Kaiyuan wove one bolt of cloth [but my] husband was not satisfied [and] complained. Yao Kaiyuan left. [My] husband then

⁸⁰ XKTB, 02-01-07-1993-007. Girl Yang-San (17 *sui*). Tianmen County, Hubei. JQ 1, LC. (题为湖北武昌府天门县民杨三姑谋勒未婚夫身死议准凌迟处死事).

⁸¹ XKTB, 02-01-07-0773-006. Woman Zhan-Peng (22 *sui*). Cai County, [Henan]. QL 26. (题报上蔡县民妇展彭氏勒死亲夫展石滚移尸拟凌迟处死事). Notebook.

⁸² XKTB, 02-01-07-2765-008. Woman Zhao-Zhang (20 *sui*). Shangzhou, Shaanxi. DG 1, ZJH. (题为陕西商州民妇赵张氏与其夫口角致夫赵有才自戕身死拟绞监候事). Husband-suicide.

exited [the house]. In the evening [he] returned home drunk, wanting to take the cloth and sell [it]. I would not hand it over to [him]...[saying] ‘What will [we] have in the future [if you sell it now]?!’”. Unlike the previous women discussed, rather than producing the finished product herself, Woman Zhao-Zhang gave this final step of production to a man skilled in the craft, but she made it her responsibility to manage and oversee this work, including making decisions about when the cloth should be sold (undoubtedly knowing about her husband’s intentions to spend the funds on alcohol). After making this remark, her husband came to beat her. Woman Zhao-Zhang ran off to her mother’s room where she hid until her husband’s rage had passed, likely holding the textile in her possession. After this incident, her husband committed suicide.

The next case demonstrates just how easy it was for women’s boldness as regards their textile work to place them in the line of danger. Married for just over two years, Wang Daou explained that he relied on his wife’s textile production for their livelihood. He emphasized his wife’s disobedient nature, saying that throughout their short marriage he had to retrieve her multiple times from her natal family. She hated life with him. They had no food and he gave her nothing to wear and because of this she would not do any housework. The night of the homicide he told her to weave, and she refused. He said that she called him a “poor scoundrel” (窮棍子), literally meaning “poor stick”. He became so enraged that he beat her to death.⁸³

Conclusion

In almost all the marriages explored in this chapter, husbands were either economically unproductive or destructive elements in their households. These men’s inadequacies as providers

⁸³ XKTb, 02-01-07-0014-007. Wang Daou. Wuyi County, [Hebei]. YZ 13, ZJH. (题报武邑县民王大殴伤伊妻身死拟绞监候事). Wife-Killing. Pardoned because it was a special date: 王大合依夫殴妻至死者绞监候律应绞监候但事犯在雍正十三年十一月十四日恩赦以前应请援免...

for their families—whether out of their own volition, due to alcohol abuse, or caused by some physical malady—placed greater economic strain on their wives than was ideal or likely typical in the common household. Yet a record of these women’s experiences in marriage nonetheless exists in which they struggled to compensate for their husbands’ economic failures and sought to do what they could to take an active role in the sustainability of their households.

The aim of this chapter is to propose that we can discover something new about the working lives of ordinary, non-elite women from records of economic dysfunction. Within these reports in which husbands failed to uphold their obligations to their families, the importance of women’s work and economic awareness as vital to the economic stability of the household and to their own dignity becomes clear. Much of the marital tension explored above resulted from wives trying to exert themselves into the economic decision-making process. The lack of hesitation around this shows that women expected the sustainability of the household to be a site of negotiation and recognition between them and their husbands, especially when their labor was essential. Yet it is also evident that these wives who were compelled to support their husband also saw their situation as outside of their expectations of the responsibility of a wife. Within this distortion, we see not only women’s contributions, but the way in which their economic role was vital. Some of these cases even suggest that the women’s work could sustain the household alone.

Another aim of this chapter has been to track, assemble, and analyze women speaking about their daily work tasks—no matter where the information might appear in their testimonies or how it might matter in the adjudication of the case. In so doing, rather than linking women’s work to specific tasks, such as cooking, tending to pigs, and mending shoes, I have found that conceptualizing women’s work-life experiences around the four active categories of “prepare,”

“repair,” “supply,” and “raise” reflects the responsibilities women held as wives. This organizational process has provided a glimpse of women’s attitudes towards their work and how these experiences impacted and shaped their lives. On one hand, the data provided here has shown the quotidian realities of everyday life for married women, but on the other hand, we also see the ways that their husbands’ excessive and seemingly impossible labor demands put these women in precarious situations in which they were almost destined to fail. For one cannot successfully cook a rotten fish, nor mend shoes without cloth, or expect to carry firewood after having just given birth.

In the next chapter, I expand upon much of the analysis presented here to explore more fully married women’s material lives through their management of property. This chapter will include a discussion of some of the same materials of value covered here, such as textiles, but also real property, particularly land. We will find wives not only at a later stage in married life than those discussed above, married for multiple decades and often with adult children, but also among two different levels of financial desperation. The first group of wives experienced dramatic economic decline in a short timeframe, what I call ‘riches’ to rags stories. The second group of women, on the other hand, seemingly always experienced poverty in marriage (for many different from life with their natal families) having at some point so little that they did not have sufficient clothing for basic life needs (one could say from rags to nothing). Through their testimonies, we come to see not only how women were producers of property, but also the clandestine efforts they employed to hold on to what they saw as theirs in life.

Chapter 3

What She Had:

Managing Property and Confronting Financial Collapse

Autumn

The woman who was industrious (*qin*) was also frugal (*jian*).
She created the surpluses and hoarded the savings that enabled her family to survive
or, with luck, move ahead.

– Susan Mann, *Precious Records* (p. 143)

Woman Peng Fights to Keep Her Land

“I didn’t kill him, he killed himself (小婦人並沒有打死他, 他是他自己死的)” is what Woman Peng, a thirty-seven *sui* mother of two, first told authorities when the body of her husband (aged thirty-six) was discovered buried not too far from their land.¹ She perhaps hoped that no one would miss, let alone go looking for, someone such as him, a man whom she would later describe as a wild drunk who ignored his household responsibilities. What she did know, however, was that no one would pass through that stretch of land for some time, due to its relative isolation and the muddiness of the ground brought on by rain. But within a couple weeks the shallow grave she had hastily dug caught the attention of a passerby who reported what he found to the *yamen*.

Unable to convince the magistrate of her innocence, Woman Peng attempted next to explain that her involvement in her husband’s death had been the unfortunate outcome of an ordinary domestic quarrel suddenly turned violent. Married since youth, she said that she and her husband typically got on well together throughout the years, during which she gave birth to a son (six *sui*) and a daughter (fourteen *sui*). But her husband also went out and drank to excess, and in

¹ XKTB, 02-01-07-0021-018. Woman Peng (37 *sui*). Jingmen County, Hubei. Qianlong 1 (1735), ZLJ 斩立决 (Immediate decapitation). Notebook 1.

such a state, when he returned home, he liked to argue with her. She claimed that it had been his fondness for alcohol that incited the trouble between them that night. In her revised testimony, she told the court, “He returned home drunk and quarreled [with me]. [He] beat [me] with a bamboo rod. I then grabbed the rod from him and hit him once in the head. I didn’t expect him to die later that night.” Afraid, she carried him on her back in the early hours of the morning as far as she possibly could, which ended up being only half as far as she had hoped, leaving him on a slope beside their land, after which she returned to the house and fetched a shovel. Thus, she explained that her husband’s death had been the result of her sudden panic, in which she grabbed the rod away from him and mistakenly injured him in the process.

This new admission of guilt provided the magistrate with both a plausible culprit and context for the murder, enough to put the case to rest. It would not have been unthinkable for a frustrated wife to accidentally strike down her inebriated husband during an altercation, considering that domestic violence was a common occurrence in many households.² But the magistrate remained skeptical, especially of Woman Peng’s physical ability to carry out the murder herself. Without calling direct attention to her gender, he questioned her ability to physically transport her husband, an adult male, to a new location some distance away from their house and then bury him, all without help. With this outstanding question, the magistrate pressed her to expose her lover in what he imagined had been a plot of premeditated homicide motivated by illicit sex. In her third and final version of testimony, Woman Peng provided some additional

² See Janet M. Theiss, “Explaining the Shrew: Narratives of Spousal Violence and the Critique of Masculinity in Eighteenth-Century Criminal Cases,” in *Writing and Law in Late Imperial China: Crime, Conflict, and Judgment*, ed. Robert E. Hegel and Katherine N. Carlitz (Seattle: University of Washington Press, 2007).

information but nothing about a lover. She instead revealed that the hostility between her and her husband that evening had in fact been spurred on by a dispute about the sale of land.

She told the court, "...[He] sold off all the property, including the land and cattle that my father had given me (將田產盡行賣了又將小婦人父親把與小婦人的田與牛也賣了). Last year, 3rd month, 23rd day, my husband went into town to drink. In the evening he returned home and told me to give him the land deed so that [he] could sell [the land] (叫小婦人取田約給他賣田). I told [him], 'My father gave me this land. [We] should at least save a couple *dou* to live on. [I] won't give you the deed.' (小婦人說父親把與我的田只剩得几斗留著養命不肯把約與他). He then grabbed a bamboo rod and came to hit [me]. I dodged [his blow] and he did not hit me...[but] seeing that [he] wanted to hit [me], in a fit of madness (*feng xie bing* 瘋邪病), [I] grabbed the rod [from him] and hit him in the head." The magistrate, seemingly confused by this new component of her narrative, questioned her again, saying, "That land deed was surely in your husband's charge, why would [he] involve you? (那田約自必是你丈夫掌管爲何尋你要呢). Woman Peng responded, "[My] father originally gave me that land to live on, so the land deed was in my possession. (那田原是小婦人父親把與小婦人養活的所以田約在小婦人手裏)." In other words, she had given him no other choice but to involve her. This property belonged to her, and thus she felt entitled to influence over it, no matter her husband's apparent beliefs otherwise.

While the above case report is transparent about Woman Peng's position on her rights of land ownership, it unfortunately does not explain precisely *how* this property came to be in her possession. Passed down to her through her father, as she reaffirmed in her testimony multiple times, this land (and cattle) could have been part of her bridal dowry. Although dowries were typically composed of commodities in the form of jewelry and clothing, as well as practical and valuable household items, it was not entirely uncommon for brides to bring such real property

into their marriages.³ If this was not the case, it may have been that Woman Peng benefited from her father's lack of sons, inheriting the property outright after his line of patrilineal descent had ended.⁴ Either way, it is clear from Woman Peng's testimony that she owned this property, not her husband, as evidenced not only by her words, but also her personal possession of the deed itself.

The confidence with which we encounter Woman Peng exerting agency over the ownership of her land holds true with much of what is known about married women's property rights in the Qing. A symbol of her prestige and that of her natal family, the wealth that dowered wives brought with them into their marriages was meant to safeguard them from financial hardship in their husband's households.⁵ Ideally, a wife's dowry was her own personal property, her "private room money" or "secret savings" (*sifangqian* 私房錢), excluded from patrilineal succession and could be spent and invested at her discretion (the precise value of which her husband was not *supposed* to know or inquire about).⁶ For those women fortunate enough to

³ More recent research had shown that women's dowries increasingly included land. See Mao Liping 毛立平, *Qingdai de jiazhuang* 清代嫁妝研究 (Beijing: Zhongguo renmin daxue chu ban she, 2007).

⁴ While married women's chances of inheriting were severely limited by the development of "mandatory nephew succession" among lineage families in the Qing, if the perfect conditions existed in which Woman Peng had no brothers or male cousins, she would have inherited the property. For more on laws of succession see Kathryn Bernhardt, *Women and Property in China, 960-1949*, 3-4. If Woman Peng's father had indeed been sonless, it is perhaps possible that Woman Peng's marriage to her husband was uxorilocal (*ruzhu* 入贅), meaning that her husband married into her family. Given her families' relative wealth (possessing both land and cattle), this seems likely, and may very well explain Woman Peng's strong feelings of entitlement to the land. This being said, the language used to describe Woman Peng's marriage in her testimony, which reads "I was married to [my] husband since youth, 小婦人自幼嫁與丈夫," is suggestive of the more normative marriage arrangement in which a wife was brought into her husband's family.

⁵ Susan Mann, "Dowry Wealth and Wifely Virtue in Mid-Qing Gentry Households," *Late Imperial China* 29, no. 1 (June 2008): 64-67.

⁶ *Ibid.*, Mann, "Dowry Wealth and Wifely Virtue in Mid-Qing Gentry Households".

enter marriage with some form of dowry—which included not only well-off families but also those among the lower ends of the economic spectrum who typically brought with them clothes and bedding that they themselves worked to produce—this personal property, as well as their management of it, could make the difference between life and death for them and their new families, if say, for instance, their husbands failed to provide. Thus, in vetoing her husband’s decision to sell the last bit of *her* land, Woman Peng acted firmly within her rights as property owner, as a final measure of fortification for her continued survival.

And yet, as Woman Peng’s report also illustrates, while women may have been entitled to agency over their personal property for their own economic security, this was not necessarily the reality that came to pass. In fact, women’s dowries may have offered more protection for their husbands than themselves. Ironically, the writings glorifying elite women’s frugality as shrewd financial planners expose the ways in which women were expected to deploy both their dowries, and whatever personal money they might have gained throughout the years, in the service of the patriarchal family, often for their husbands’ personal benefit at a great cost to themselves.

Take, for example, Susan Mann’s translation of two memoirs celebrating a woman named Tang Yaoqing for the thrift with which she persisted in a life of privation that allowed her husband to pursue an official career. Her husband’s friend wrote of her, saying,

“...she supported her family through needlework...Ordinarily she spent little on food and kept a frugal home so as not to burden her husband with household needs, leaving him free to pursue his studies...she scorned hairpins or earrings and any kind of greedy consumption...She was thrifty with the household budget so that she could entertain her husband’s friends and relatives in style...”⁷

While not making specific reference to dowry, as Mann herself notes in her analysis, an often-veiled component of such writings, the author presents a picture of Tang Yaoqing as a woman

⁷ Mann, “Dowry Wealth and Wifely Virtue in Mid-Qing Gentry Households,” 71.

who sacrificed everything for others, leaving nothing for herself, not even a hairpin, implying that whatever personal wealth she may have had, she spent it on her household rather than herself. Besides textile work, we are left to wonder where these women's incomes came from, if not from their dowries and their management over it. Tang Yaoqing's husband wrote of her too, praising her for the apparent contentment with which she suffered hardship for him and their family.

“...Faced with unexpected emergencies, [my wife] was always decorous and proper, cheerful and at ease. Even when she was suffering hardship, she did not allow it to show on her face, and she never spoke of her poverty to anyone...If at the end of the day she herself had no food to eat, she paid no attention...”⁸

Disturbingly, ideals about feminine virtue that espoused wifely frugality may have in many ways incentivized women to relinquish their personal property, encouraging them to spend all of what they had to support their husbands and deny themselves. Tang Yaoqing's years of thrift may have earned her recognition of virtue, especially in the eyes of her husband and his friends, but perhaps little else.⁹

Apart from appearing to have been married to men of quite different temperaments, much like Tang Yaoqing, Woman Peng had endured costly sacrifice for her husband, *allowing* him to sell off nearly all her personal property (her land and cattle), the profits of which had seemingly gone somewhere but without any lasting positive economic impact on their household. Unlike Tang Yaoqing, however, Woman Peng's attitude toward the dispensation of her property

⁸ Mann, “Dowry Wealth and Wifely Virtue in Mid-Qing Gentry Households,” 72.

⁹ This is not to say that Tang Yaoqing did not take pride in the sacrifices she made for her family, but instead to seriously question her husband's characterization of it. Had she *really* been so “cheerful and at ease” to suffer hunger, do away with materiality, and to entertain others at the expense of herself? Given the copious evidence presented in this chapter of women not only complaining of hunger and a lack of clothing, but also striving earnestly to maintain some control of what they had, it is necessary to question the sincerity of such writings.

preserved in her testimony does not reflect the same sentiment of willing self-sacrifice attributed to Tang Yaoqing in the memoirs about her. Rather, Woman Peng's account of the matter evokes begrudging loss. When her husband wanted to relinquish her property in its entirety, she openly challenged his authority so that she might keep at least something of what she once had, a small amount of land to safeguard her survival and that of her children, and perhaps even her husband himself. We might imagine Woman Peng's face, perhaps not so at "ease" or "cheerful" as that of Tang Yaoqing in her husband's memory, but instead worried and fearful at the prospect of hunger that the surrender of her final economic safeguard would only too likely bring to her doorstep.

Despite Woman Peng's objection, as a married woman with no natal family support to speak of, there was seemingly no real way for her to protest her husband's desire to sell her land. Yet she had nonetheless done so. By keeping the land deed in her possession, Woman Peng created a practical impediment to her husband being able to prove ownership over the property without her cooperation. Evidently her husband did not know the whereabouts of the deed himself, or he may have been able to retrieve the document and go through with the sale without ever consulting her. In denying her husband access to this essential document, necessary for any type of land sale, she kept her land in her hands and out of his. And when their inevitable confrontation over the matter escalated and he intimidated her with a threat of physical assault, she got the upper hand over him in this too.

The question of premeditated intent remained an open one in the magistrate's mind. He questioned her saying, "Obviously, since [your] husband often got wildly drunk and wanted the land deed [from you] to sell this land, you hated him and purposefully beat [him] to death." But Woman Peng managed to downplay any longstanding negative emotions she may have had

toward her husband over the incident, saying, “Although [my] husband is often drunk and argues [with me], he and I are husband and wife, [I] never harbored hatred for him because [he] wanted the deed to sell the land, it was nothing but drunkenness and quarrelling. I certainly did not intentionally [kill him]. I am sorry now and can only ask for mercy (丈夫隨是常吃酒吵嚷小婦人與他是夫妻再無懷恨他要約賣田也不過酒醉胡吵...). Although escaping dismemberment, the sentence of immediate decapitation that Women Peng did receive may not have been the form of “mercy” she envisioned.¹⁰

Ownership: A Nexus of Work, Property, and Autonomy

What did married women see as theirs in life? What value did they place in the things, activities, and people that made up their daily experiences? What, if anything, provided women with some sense of autonomy in marriage? Clearly, for Woman Peng, it was this land. *Her* land. The property not only belonged to her, but it was also clearly important to her, irrespective of the clever strategies she employed to downplay her feelings over it to the court. With her characterization of this marital dispute over the sale of land as an ordinary part of married life, and the credence given to her account by reviewing elites, her case, along with others like it discussed in this third chapter, sheds new light on another little-known realm of married women’s lived experience: their struggles to protect what was theirs in life through their clandestine management of property.

¹⁰ As a reminder, according to the Qing Code the standard punishment for a wife who unintentionally killed her husband was immediate decapitation (whereas intentional husband-killers received immediate dismemberment). In comparison, the standard punishment for a husband who unintentionally killed his wife was strangulation after the assizes, which offered up the possibility of leniency and reduction or dismissal of sentence. I have frequently encountered reports that such men were able to avoid the death penalty in the Qing Assizes records, meaning that they were either banished or had their sentenced reduced. For women, whether their crime was deemed intentional or unintentional, killing one’s husband almost certainly meant death.

Building upon my exploration of the topic of “women’s work” in Chapter Two, in Chapter Three I seek to understand married women’s conceptions of ownership as an extension of their working and material lives. In a society in which married women were temporary residents in their natal homes and outsiders to their husband’s families, owning nothing that could not be expropriated by the patriarchal family, not even their bodies, what could they claim domain over? What belonged to them? What were they willing to fight for? What would they kill for? I turn to women-initiated homicide to shed new light on the strategies women employed to exert control over what they conceived of as their personal and real property, whether it be the fruits of their own (re)productive labor, such as in the form of textiles or children, or something endowed to them in marriage, such as land. With these reports, we see where women placed their self-worth outside the realm of conjugal or even extramarital sex, as we encounter them doing what they could to claim ownership over their property.

Take, for example, the case of newlywedded Woman Yan, aged twenty *sui* from Qianjiang County, Hubei, who was judged to have premeditatedly stabbed her husband (twenty-one *sui*) to death following a dispute about the whereabouts of her personal money upon returning to his home after a couple weeks away tending to her ill father.¹¹ She told the Qing court, “I originally had four-hundred copper cash stored inside my clothes trunk. [I] wanted some money to spend so I opened [my] trunk to take some money out [but] there was only two-hundred copper cash, two-hundred less than [what I had]...I first asked mother-in-law [about my missing money] and she said that she hadn’t seen anything. Next, I asked husband [about my missing money] multiple times. Husband would not answer [me]. I feared someone had taken

¹¹ XKTB, 02-01-07-05380-005. Woman Yan (20 *sui*). Qianjiang County, Hubei. QL 21, LC (Immediate dismemberment). (题为会审湖北潜江县民妇严氏因钱被拿用纠纷砍伤亲夫何进思身死一案依律凌迟处死请旨事).

[my money] and so I argued with him in the room a while. Husband then turned and grabbed a rod to beat me...”

Frustrated with her husband’s silence, and seemingly suspicious of him as well, Woman Yan picked up a knife and threatened him. She explained that she had not intended to kill him, only scare him, hoping that the threat of violence would inspire him to talk. It had no such effect, however. Instead, her husband then decided to turn the rod on the source of their discontent: her personal possessions, her clothes trunk. Seeing this, she acted hastily once more, telling the court, “I feared that the [bottle of] hair comb oil (*shu tou you*) inside [my] clothes trunk would break, and the oil would spill and stain [my] clothes. (小婦人因箱內放有梳頭油怕打潑油污了衣服.)” As she lunged behind her husband to rescue her personal property from further defilement, he suddenly turned, running into her knife. Perhaps it was precisely women’s personal connection to their dowry, their personal property (*sifangqian*), which they themselves often contributed to through the creation of clothes and bedding throughout their adolescence, the material items that were the only companions that accompanied them from one family to the next, that instilled in them such a strong sense of entitlement over property.

What is most revealing about these cases is perhaps not that women were managing or claiming ownership over property, but the covert methods by which women would do so. If such situations had not occurred in the context of a legal case, they would never have been documented. Even in the context of elite women and their management of property, we often are not sure where their money was coming from or how they were able to accrue it; these factors were shrouded in mystery.¹² Here, exploring the testimonies of women lower on the economic

¹² This is an observation made by Susan Mann in her analysis of biographies about elite women’s management of household finances in which she states, “...these narratives are pointedly vague

spectrum, we not only see that women managed valuable commodities for their households, but also *how* they were doing it. For example, we see Woman Peng's efforts in the opening of the chapter to physically maintain the secret of the contract's location in order to maintain control of the underlying property.

Thus, while the women we will encounter in this chapter at times appear selfless, as they were often compelled to sacrifice greatly and manage with little, there is no mistaking the strong sense of self at full display in their testimonies and actions. These reports provide a picture of women's sense of ownership, rooted in the patriarchal family often to a greater degree than that of their husbands, but nonetheless distinct and worthy of protection from the patriarch himself if he was intent on destroying it.

Making Ends Meet: The Plight of Newly Poor Wives

The following cases document instances of dramatic financial decline, "riches-to-rags" stories, that outline the struggles and frustrations of newly poor wives. The women in these cases complained about the bad economic choices of their husbands that led them to fall from positions of relative wealth to literal rags in just a matter of years.

Recall from Chapter Two the complaints of thirty-seven *sui* Woman Li-Wang who expressed shock at the quick mess her husband had made of his inheritance, saying in her testimony, "In Qianlong 28, [my] great aunt Woman Li-Zhang died [and] my husband inherited a remaining 30 to 40 *mu* of land.¹³ To my surprise, without anyone to manage [him], my husband

about the size, scale, actual value and contents of the dowry, as well as the precise market transactions that convert dowry assets into savings, investments, and profit for women and their families." See, Susan Mann, "Dowry Wealth and Wifely Virtue in Mid-Qing Gentry Households," 70.

¹³ *mu* (畝) is a traditional unit of land measurement roughly amounting to six *mu* per acre. Moreover, in comparison with her husband, Woman Li-Wang's testimony indicates Widow Aunt

did not attend to [his] proper household duties (*buwuzhengye*), [he] wasted money on alcohol [and] loitered about all day. I tried to persuade him [against this] many times, but [he] never listened [to me]. It didn't take but three years before [he] had sold off all his inherited land.”¹⁴

Woman Li-Wang had, at least for a short while, belonged to a family of some means prior to her husband's mismanagement of their finances. They had a sizeable plot of land as well as additional properties. Once her husband had received his inheritance, however, her family's survival quickly depended on her textile production, as she told the Qing court, “Our family made ends meet with the little money made from the sale of cloth I spun and wove throughout the day (是小的遂日紡花織布賺幾個錢來大家苦度).”

Providing further description of her husband's gradual fall from financial stability, she spoke of an argument that transpired between them following their need to satisfy his debt collectors. Woman Li-Wang continued in her testimony, saying, “In the 40th year, 11th month, 26th day, [my] husband owed debts to people [and they] pressed [him] for repayment. [At that time,] [my] husband went to visit relatives...and before he had gone he said to me, ‘After I leave, sell the two dilapidated houses in the east and use the money to repay my debts, whatever money remains you can keep to live on.’” It is not clear if her husband simply wanted to avoid his personal encounter with the collectors, or if his visit to relatives was a covert plot to acquire additional funds, but he left the sale of these properties to his wife. However, upon his return, he was dissatisfied with the way she had carried out these tasks. Woman Li-Wang continued, “I told him about the sale of the houses and [my] husband quarreled with me about the remaining

Li-Zhang had done a good job of managing the land. Once the land fell into his hands, it slipped away.

¹⁴ Ibid., 02-01-07-1462-003. Woman Li-Wang (37 *sui*). Zhengding County, Zhili administrative region [Hebei]. QL 11, LC. (题报正定府正定县民妇李王氏口角用信谋毒亲夫李顺身死拟凌迟处死事).

money. Neighbors came [and] persuaded [him] to stop. [Soon] after this, I heard that my mother-in-law was ill and I told him to take the remaining 200 copper cash and gift it to mother-in-law. [I] never imagined that [my] husband would not be able to deliver the cash because he had already spent it! After realizing this I was angry and quarreled with him a while. My husband did not let [me] off easy and from then on, he lived apart from me. It was only at New Years that he and I shared a small meal together.” Despite the continued struggle caused by her husband’s seemingly intentional financial neglect, as discussed in Chapter Two, one of the more striking aspects of Woman Li-Wang’s testimony is evidence of her contribution to the household through textile production which may have allowed for the family’s continued survival if her husband had not constantly thwarted her efforts.

With this testimony, Woman Li-Wang provided not only evidence of her husband’s patriarchal failure but also of her own investment in the well-being of the family. It was only at this extreme point that Woman Li-Wang formulated a desire to poison her husband, saying, “[my] husband had not only failed to earn a living, [he] also takes the money from the pawning of things and uses it all [on himself]. With this type of life, how can one keep on living?! I wanted to commit suicide many times but [I] could not leave my daughter. I thought it was better to kill my husband.” Having seen that her husband could not be trusted to come back with the money earned from the products given to him, Woman Li-Wang at last took control of the situation, taking over her husband’s role in the sale of goods. She told the court, “I got by on my own until...29th day...I took the couple copper cash remaining from the pawned quilt to the market myself and bought grain for food.” It was during this trip that she encountered a purveyor of goods and used the remaining money to purchase rat poison. But she did not use it that night.

She had cooled off on the idea; however, the following evening tension rose again when Woman Li-Wang was attempting to obtain some food to prepare dinner.

She continued, “On the 30th, we only had half the grain left at home and it wasn’t enough to cook dinner. Because of this, I said to my husband, ‘can [you] go somewhere and get some grain for [us] to cook. I could not have imagined that my husband would reply saying, ‘There is no place I can go [to get grain]. There’s no need [for you all] to eat, just starve to death!’ With these words [he] walked out and left. Upon hearing this I was enraged and was intent on poisoning him.” She used the small amount of grain that she had left to make three vegetable pancakes, adding the poison to one of them, which was quickly consumed by her husband. She professed to know nothing about how her husband had come down with such an illness so soon after eating, only revealing the “truth” after her husband’s relative threatened her with corporal punishment.

Woman Li-Wang’s case is more detailed than most, providing multiple specific episodes of conflict over the household economy that she struggled to maintain despite her husband’s best efforts. However, her textile production stands out, not only because it is the imagined ‘womanly work’ taken up by women throughout the empire, but because it did indeed remain a bulwark of survival against misfortune.

In another case, forty-four *sui* Woman Wu-Zhang from Linjin County, Shanxi, who was just four months pregnant with her first child at the time of interrogation, blamed their steady loss of land on her husband’s gambling habits, saying, “[My] husband (aged 57 *sui*) was ordinarily idle with no real occupation (平日游荡不务正业)...When [we] were [first] married [he] still had over ten *mu* of land which has now gradually been sold off and the money spent. There is only about three *mu* of land left. Because life at home was increasingly difficult, I tried

to persuade [my] husband many times [to change his ways], but he never would listen [to me]. [He] sold half a *mu* [of land] for 5,000 copper cash and [bought] only 2 *dou* of wheat (*maizi* 麥子). When [he] returned at New Year's, [he] took the remaining money [with him]."¹⁵ Woman Wu-Zhang explained that it would be nearly two weeks before her husband returned home on the thirteenth, and she questioned him about their finances. "I inquired about the remaining money for the sale of the land. [My] husband said he had lost it all gambling while [he] was out. I said, '[Our] family is so poor! [And you] still want to gamble!?' He scolded her for trying to "manage him", which is something wives often report their husbands saying in response to their efforts to insert themselves in the management of the household finances, and they argued for a while.

The following day, Woman Wu-Zhang said that her husband had left home as he always did and did not return until the sixteenth, during which she protested his misbehavior by withholding her labor from him. She said, "[He] returned in the evening and did not speak to me and quickly went to sleep...[When he awoke he] told me to prepare a meal. I said, 'There isn't much wheat left over [to cook]. Why are [you] only concerned with going out to loiter [and] don't care for what there is to eat at home?!' [My] husband got angry and said, '[You] don't manage these things!' I said, 'If [my] husband won't manage the house, I need not serve [him] (男人既然不管家裡小婦人不犯伏侍).' [He] was angry and walked out the door...I never thought [my] husband would be short-sighted and drown himself in a well after I argued with him."

¹⁵ XKTB, 02-01-07-2594-005. Woman Wu-Zhang (44 *sui*). Linjin County, Pu Prefecture, Shanxi. JQ 21; JJH (strangulation after the assizes). (题为山西蒲州临晋县民妇吴张氏与伊夫口角致夫投井身死议准绞监候事).

The word “idle (*youdang* 游蕩),” also translated as “loiterer” or “wanderer,” is another frequently encountered descriptor for the husbands in these cases, suggestive of not only their lack of employment and productivity but also their absence from the household. More importantly, it is presented as a choice men made, meaning that it was not that Woman Wu-Zhang’s husband could not find work, but that he chose not to engage in any. For Woman Wu-Zhang, however, the real source of the problem, was her husband’s gambling, which lost them his land and her safety net.

In another case, Woman Li-Zhang’s husband also had a gambling problem. Married for twelve years, she described him as a “dishonorable loiterer (不成人在外游蕩)” who “sold off their house and land (把宅地花光了)” leaving them in a similarly desperate economic situation in which her labor became paramount for their survival.¹⁶ They argued a great deal about money. She told the court that she beat her husband to death, with her natal mother’s help, after he spent all of the money she had earned for them, saying, “In the 1st month, 23rd day...[he] took the one bolt of cloth I had woven (小的織布) and sold [it] for 1,500 copper cash and spent the money.” Now without this money, she explained that her husband had then forcibly pimped her out for sex, earning 1,000 copper cash from her sexual labor. She, however, seemingly tricked into it the first time, refused to participate again. However, they still needed money. As a result, her daughter was married out as a child bride for a bride price of 1,000 copper cash, which as Woman Li-Zhang notes in her testimony, she collected and held on to.

¹⁶ XKTB, 02-01-07-0393-003. Woman Li-Zhang (unknown *sui*); Yanggu County, Shandong. QL 14, ZLJ. (Immediate decapitation). (题报阳谷县民妇刘张氏同母张赵氏殴伤亲夫刘现身死拟斩立决事).

However, her husband soon demanded it from her, but she refused, saying, “[My] husband questioned me wanting this money. Because he would waste [it] I refused to give him [the money]. He argued with me [about it] half the day. In the evening, when he was asleep, I lit a lamp near [him] and he began arguing with me [about the money] again [and did not stop] till morning.” Not unlike with her bolt of cloth and her body, once again her husband was trying to reap the profits of her labor, her child, and given his track record of money management, she knew better than to place the money in his hands. Having finally had enough of her husband’s arguing, Woman Li-Zhang began to scold him back, and he beat her. Woman Li-Zhang’s testimony then details a moment of introspection in which she thought about the money her husband had kept for himself from her sex work. He was not only making trouble for her because she did not want to engage in that kind of “disgraceful” work, but now he beat her to get his hands on the money from their young daughter’s sale. Having had enough of his exploitation, she then picked up the rod her husband had used on her and beat him to death.

Much like Woman Li-Zhang above, Woman Zhou-Guo (aged forty-five *sui*), a member of the Zhuang minority and a mother to three sons, also complained that she had married an idle alcoholic with no real occupation (歇酒間蕩不務正業). Unsurprisingly, he had sold off all his property (把家產花盡), depleting their family resources to the point that he had a history of thievery.¹⁷ She told the court, “In Jiaqing 14, [my] husband stole Father Weng’s coffin and sold [it]. Father Weng found out that he had used the money [and] beat his legs [with a rod]. After this [my] husband continued to be idle and never changed.” As with the other women, Woman Zhou-Guo tried to guide her husband toward a different path in life, but he paid her no mind. Six

¹⁷ XKTb, 02-01-07-2575-014. Woman Zhou-Guo (45 *sui*). Xining County, [Qinghai]. JQ 20, ZLJ. (题报西宁县周郭氏砍伤伊夫周愷齐致周愷齐自缢身死拟斩立决事). Zhuang minority.

years later, she caught him stealing from his own family. She told the Qing court, “[My] husband returned home drunk. He knew that my son’s wife was not home. [He] had a wood chopping axe on [his] belt. [He] walked into daughter-in-law’s room and took the cotton-padded quilt (*mianbei* 棉被) and walked outside. I knew that [my] husband was going to pawn [the quilt] and spend the money. [I] hastily went behind him and grabbed the cotton-padded quilt back [from him]. [My] husband turned around and knocked me to the ground and got on top of me. [My] son tried to get him to stop.” Eventually freeing herself from beneath her husband, Woman Zhou-Guo got on top of him. She could see that he was trying to access the axe from around his waist. She wrested the weapon away from him. She told the court, “Originally I wanted to only stab him a couple times so that he would never again waste money.” However, she ended up striking him a few times more than that, but still he did not die. She convinced the magistrate that after the physical altercation, her husband went and committed suicide, because as she told the court, he was often angry and spoke of doing so many times.

Material Desperation: Wives Without Cloth or Clothing

Food, as a basic necessity for survival, is almost always at the top of women’s complaints about their poor economic situations. It is clear from their testimonies that they starved at home while their husbands were out drinking, gambling, thieving, and doing whatever else, other than providing for them. When their husbands at last returned home, they were often empty handed, demanding of them the impossible task of preparing a meal out of nothing. Yet, equally prominent are women’s complaints about having no clothes or bedding. While providing people with a sense of dignity, status, and fashion, the value these women placed in clothing was foremost as a barrier of protection from the natural elements, especially cold. Just as Woman Zhou-Guo in the above case wrestled the cotton quilt away from her husband, households

weighed the costs and benefits of selling or pawning their home textiles in exchange for cash and keeping the items for their own personal use. Woman Zhou-Guo's husband had decided that the valuable cotton-padded quilt should be pawned. Woman Zhou-Guo, on the other hand, was confident that neither she, nor anyone else in the family, would gain access to the money her husband received from the pawning of the quilt, and so it was better to keep the item with them. Thus, one of the most tragic yet clear emblems of reality obtained from these case reports is that women inside the home, although the traditional producers of cloth, would often be the first to be deprived of proper clothing.

It is clear from testimonies that many young brides did not imagine marriage would mean living in extreme poverty. Seventeen *sui* Woman Zhou told the Qing court, "On cold days [my husband] wouldn't even give me a cotton-padded jacket to wear."¹⁸ Although refusing to chop firewood for her husband, twenty *sui* Woman Lin felt that he had unnecessarily withheld cloth from her. She told the court, "I saw that my husband had one bolt of cloth. [I] asked him if I could have it to make some clothes. [He] refused saying that lazy women ought not think about clothes."¹⁹ In yet another case, twenty-one *sui* Woman Cai, married only three years, suffered from malaria (瘧疾) and reported her husband's callous disregard for her health in which marital contentions arose over access to cloth (and food). She told the court, "I suffer from malaria and my sweat soaked the bed quilt that my husband slept with. He tore the quilt away telling me to stop sweating and feigning illness. I argued back, 'Will [I] not be sick tomorrow?!' He then

¹⁸ Ibid., XKTB, 02-01-07-0867-011. Woman Xu-Zhao (18 *sui*). Neixiang County, Henan. QL 28, LC. (题为河南内乡县民妇徐赵氏砍伤亲夫徐江身死议准凌迟处死事).

¹⁹ Ibid., XKTB, 02-01-07-0957-015. Woman Lin (20 *sui*). Zhenping, Henan, Guangdong. QL 31, LC. (题为广东镇平县民妇林氏毒死伊夫议准凌迟处死事).

picked up a knife wanting to kill me. In fear I did not say a word.”²⁰ According to her, this had been a culmination of a broader pattern of neglect, and most importantly, she understood that what she was experiencing was not in fact a marriage. She continued, saying, “After [my] husband was asleep, my body was hot with fever. [I] could not rest. [I] saw that the lamp on the table had not yet gone out and got up looking for tea to drink but the tea was all gone. I thought that there are others who have husbands who provide them with enough to eat and enough to wear and there is some marital affection between [them]. I married a husband who never had anything [for me] to eat or wear nor were there any good days between [us]...now although [I] clearly have a serious illness he does not take the least bit of pity [on me] but instead says that I’m pretending to be ill...Clearly, kindness is dead (良心死) [in him]. [We] are absolutely not husband and wife, [we] are lifetime adversaries (絕不是夫婦是幾世積下的冤家了). As Woman Cai’s case makes clear, women expected their husbands to provide them with an adequate amount of food and clothing; this was an unspoken part of the arrangement, and if he did not, the marriage was effectively nullified in their eyes.

Complaints about the lack of clothing and food can be found in the testimony of many of these women regardless of age; however, for women in midlife, who often had the added responsibility of caring for children, the consequences of poverty become less sentimental and even more practical in tone because the entire family’s survival was at stake. For example, despite her husband’s mismanagement of their household resources, thirty-four *sui* Woman Yao-

²⁰ XKTB, 02-01-07-0207-004. Woman Cai (21 *sui*). Zhongyang County, Hubei. QL 8, LC. (题为湖北安陆府钟祥县民妇蔡氏砍伤亲夫田士举身死拟凌迟处死事). It is worthwhile to note that the magistrate in this case asked Woman Cai, saying, “Also [you] say [your husband] wanted to kill you but in the end, he did not kill you. Why then did you kill him?! There was certainly another reason [for this] or someone else helped you!” And her introspection comes only after she has been tortured.

Fu had managed to raise two sons (aged 11 *sui* and 7 *sui*) during their marriage of over ten years.²¹ Characterizing her husband as lazy and gluttonous, she reported that he regularly beat and scolded her and “never took her clothing or food into consideration (全不顧管小的衣食).” She explained further that their family now resided in an inn because he had sold off all their property, and because of this, he now engaged in thievery, stealing chickens, melons, and vegetables from other households, and did not pay any attention to whether or not she, her children, and her natal mother were provided for. She told the Qing court, “In the first month of this year [my] husband only cared about going out and thieving while mother starved the entire day without enough clothes to conceal [her] body.” She pled with her brother to help her avoid starvation by killing her husband, saying “[My] husband does not care whether or not I or [our] mother has anything to eat or wear! [We] suffer cold and starvation, and often suffer his beatings and scolding.”

While cloth scarcity put women’s lives in danger, it also restricted their mobility and impinged upon their dignity.²² Thirty-three *sui* Woman Xu-Wu, a mother to two young girls, contested her husband’s decisions to loan out the little money they had to a friend rather than using it to purchase the raw materials needed for her to make herself some new clothes.²³ She

²¹ XKTB, 02-01-07-1137-009. Woman Yao-Fu (34 *sui*). Zhengyang County, Henan. QL 35, LC. (题为河南正阳县人姚傅氏等谋死亲夫姚贵议准凌迟处死事).

²² It is noteworthy to consider the limitations lack of clothing placed on married women’s mobility within the larger context of historical discussions about foot binding as possibly an intentionally physically restrictive practice meant to harness women’s textile labor inside the home. Because while the degree to which the practice of foot binding severely restricted women’s movement has been debated, the reports under review here certainly suggest that lack of proper clothing certainly inhibited married women’s ability to leave the home. Yet I have encountered one report in which a wife fled her home naked to escape physical assault (See the case numbered 02-01-07-0623-010 of Woman Wang-Zhao below).

²³ XKTB, 02-01-07-1191-013. Woman Xu-Wu (33 *sui*). Weining Prefecture, Yunnan. QL 36, ZLJ. (题报威宁州民妇徐吴氏砍伤伊夫徐献珑身死拟斩立决刺字事).

explained that their entire family made a living farming, noting that she left home to work alongside him. They had recently sold one of their daughters as a child-bride, collecting 10,000 *wen* from her sale; however, all but 1,100 *wen* of the total sum went to the repayment of debt. Woman Xu-Wu insisted that they use the remaining money to replace her worn-out trousers, saying, “I spoke with [my] husband saying that my trousers were horribly tattered [and] that [I] wanted to take this money and purchase cloth so that [I] could sew two replacement pairs [of trousers].” She, however, never received an answer on the issue from her husband and he had soon invited over a friend to drink, at which time he loaned the man 500 *wen* (which left them now with only 600 *wen*). Woman Xu-Wu said that she disagreed with her husband’s decision to loan out the money, but she also dared not argue with him about it.

However, the problem of Woman Xu-Wu’s worn-out trousers remained. She continued in her testimony, saying, “After husband finished drinking [that night], I brought [him] food and he told me to eat with him. I told [him] that daughter had still not recovered from the measles, saying, ‘You [should] quickly call for [Pan Yuanbai] to come [look at her], I feel worried and do not want to eat.’ [My] husband scolded [me], saying, ‘If you’re so worried why don’t [you] go out to see him?’ I said, ‘The clothes on my body are tattered. How am I to go visit a relative’s home without losing face!?’” Upon hearing this, Woman Xu-Wu’s husband beat her, pulling her hair and kicking her, and she said he did not let up until late into the night. Seeing that she continued to cry, he held her down and hit her in the face with a log of firewood. After he had beat her with “both hand and foot,” she became so enraged that she “stupidly” grabbed a nearby axe and stabbed him in the back.

Woman Xu-Wu maintained that she had not wanted to kill her husband, she just hoped that the wound she inflicted would put a pause to his violence. Fearing that he would start up

again (and not aware that the injury had been fatal), she dropped her axe and grabbed her daughter and ran out of the house. Even at this bitter point in the account, the quality of her clothing continued to be a limiting factor for her. She continued, “[I] wanted to walk to relative Pan Yuanbai’s house but because it was raining, and the road was slippery, [I] rolled and fell. [My] trousers became even more torn such that it would not have been good for me to go to a relative’s house like this.” Instead, she and her daughter went and hid out in an empty shed, concealing themselves with a pile of hay. The owner of the shed, a man called Miao Er, discovered the pair of them there, and called for them to come out, but Woman Xu-Wu refused, saying that she was afraid that her husband would beat her. Her relatives were then called to address the situation and came to where they were, still concealed in the shed, and told her that her husband had been killed. Even at this point, Woman Xu-Wu would not come out from the shed, saying, “I would not come out due to [my] tattered trousers.” It would not be until one of her relatives brought her a replacement pair of trousers that she and her daughter finally came out from their hiding spot. Despite having used a violent weapon, with the restraint she showed in striking him just once and refraining from arguing with him, in addition to her descriptions of the ordinariness of the domestic conflict, Woman Xu-Wu was judged to have accidentally killed her husband.

Not unlike Woman Xu-Wu, twenty-six *sui* Woman Shang, a mother to two young children (a six *sui* son and newborn daughter) struggled to maintain her dignity and get by with one pair of clothes.²⁴ She told the Qing court, “I wanted to wash my clothes but because I had no other pair to change into [I] could only wear my son’s cloth shirt [while I went out to do the

²⁴ XKTb, 02-01-07-2309-014. Woman Shang (26 *sui*). Jianshui county, Yunnan. JQ 12, ZLJ. (题报临安府建水县民妇尚氏口角殴伤亲夫张谷禄身死拟斩立决事).

washing].” Resistant to venturing out in her young son’s meager shirt, which ought to have been barely enough to cover her body, Woman Shang suddenly broke down in tears at the comment her mother-in-law made upon seeing her. She told the court, “[My] mother-in-law saw [me in my son’s shirt] and said [my] clothes were so small that [she] feared [they] would rot right off [of me]. I cried saying that I had no one to look after [me] and had no clothes to change into [while I did laundry]. My husband was beside the gate and heard [what I had said]. [He] then grabbed a thatching vine and whipped my hands and back wildly. [I] still have the marks.”

Nakedness seemed to be a constant worry for Woman Wang-Zhao, aged twenty-eight *sui*, who was in a childless marriage with her abusive husband for nine years.²⁵ In contrast to nearly every other woman’s testimony discussed so far, her husband had employment. He made a living as a beekeeper. She also reports no record of starvation or not having enough food to survive on; instead, she focuses primarily on the way her husband would physically abuse her, leaving her naked. She told the court, “Before [me], he was married to a woman [and] he wore her down till [she] died. After that he married me. Everyday [my] husband beats and scolds me. Everyone in the village knows of it. In Qianlong 19, 8th month, 25th day, he said that I was lazy and ripped off [my] clothes [and] beat [me].” Angry, she fled to a nearby village to beg where she encountered another begging woman named Xie. She continued, “[We] began to talk, and got on well together. She saw that I wasn’t wearing clothes, she took off a piece of [her own] clothing and gave it to me to wear. [She] regarded me as a sister. I told her that at home my husband beats and scolds [me]. She listened to [my] unjust treatment, and then went with me begging. In the

²⁵ XKTB, 02-01-07-0623-010. Woman Wang-Zhao (28 *sui*). Wen County, [Henan]. QL 21, LC. (题报温县民妇王赵氏口角与张谢氏商谋勒死本夫王成林拟凌迟处死事).

evening, [I] went and stayed at her house. From then on [we] lived with each other. Sometimes I stayed at her house, and sometimes she would stay at mine.”

One is immediately struck by the camaraderie between the two women and the strong juxtaposition of their friendship with Woman Wang-Zhao’s miserable marriage. The generosity Woman Xie showed Woman Wang-Zhao, a stranger, in offering up some of her own clothing to her was by no means a small act, especially given that we soon learn that Woman Xie supported herself and her disabled husband through begging. As we have just seen, cloth was valuable and so many women went without. With these clothes, Woman Xie gave Woman Wang-Zhao back a sense of dignity that her husband had so cruelly attempted to take away, and when his abuse of Woman Wang-Zhao continued, Woman Xie stepped in to help her plot his murder.

The final section, which consists of an in-depth analysis of one complex case, documents the existence of a previously little understood subversive world of women-run economic networks. As we shall see, this network, which granted one woman access to economic support outside her husband’s control, operated not at the margins, but in fact at the very center of society, and yet would be impossible for the historian to detect if its existence had not somehow become entangled in the net of a husband-killing report.

Woman Yin-Sun Invests in Land to Protect Her Future

On the eve of her husband’s birthday, Woman Yin-Sun found herself in a rather unexpected place.²⁶ She had taken shelter in the house of a nearby neighbor having just narrowly escaped her husband’s wrath. She ran from him through the house out into the courtyard as he wielded first a rod then a knife, shouting that she had been unfaithful to him (丈夫說我有了外心

²⁶ XKTb, 02-01-07-0864-008. Woman Yin-Sun (47 *sui*). Laoling County, Shandong. QL 28, LC. (题报乐陵县民妇殷孙氏谋杀亲夫殷勤身死拟凌迟处死事).

).²⁷ Their daughter, in addition to a few party guests, did what they could to slow him down. It was not until late that night, when her daughter came to report that the guests had gone and her husband was at last subdued, having finally drunk himself to sleep in the study, that she made her way back home.

This was likely not how Woman Yin-Sun ever imagined her husband's birthday celebration would end, even given the marital tension that existed between them, and the trouble was not yet over. What did she do to arouse such violence in her husband that day to the point that he willingly disrupted his own birthday festivities with a public airing of marital dysfunction? Perhaps she had been keeping a lover? This more commonly encountered scenario would have provided a predictable explanation for the subsequent actions her husband took against her that night, especially in the eyes of the court, for whom the deception of women often stemmed from such illicit liaisons. Yet, Woman Yin-Sun's transgression was of a different sort, irrespective of what her husband, and perhaps even the adjudicative officials, may have been inclined to believe. Her infidelity had not been sexual, but in fact, financial.

Woman Sun was just seventeen when her parents married her off to a son of the Yin family. The couple spent the next three decades together in Laoling county, in the northwest of Shandong province, during which they raised two children to maturity. She gave birth to a girl just a few years following her own entrance into the household. It would be almost another twenty years, however, before their son's birth, when she neared forty, the late-in-life pregnancy itself some indication of the pressure placed upon women to produce a male heir. Yet, despite

²⁷ Her husband reportedly said to Woman Yin-Sun when she fled from him. While the connotation of the word *waixin* (外心) translated as "unfaithful" or "disloyal" may not be inherently sexual, when spoken between husband and wife *waixin* implies sexual disloyalty and can be translated as "to be unfaithful to one's sexual partner."

advancing age and some delay, she succeeded in what was considered the foremost duty of a wife, and produced a healthy son for her husband's patriline (and perhaps herself), without the intrusion of a concubine. Thus, when we are first introduced to Woman Yin-Sun through her testimony, she is a forty-seven *sui* married mother of two nearing the later stage of life, who lived at home with her husband and her son (aged 9 *sui*). Her daughter (aged 28 *sui*) had since married and established herself in a different household, just as Woman Yin-Sun herself had done many years prior. But her daughter remained close enough to make it convenient for her to travel back home now and again, such as on the occasion of her father's birthday.

Despite strong indicators of marital accomplishment, if not also happiness, which included many years together, a married daughter, and a son, when brought before the court Woman Yin-Sun revealed her marriage to be anything but a picture of wedded harmony. Woman Yin-Sun's testimony focuses on the issue behind the couple's undercurrent of marital friction, namely their differing attitudes toward the management of household finances. She described how her husband's predilection for amusement and his wastefulness had gradually come to place undue financial strain on their family. She told the court, "[My] husband is an alcoholic who wastes money and is fond of meeting up with friends. I have always been fond of frugality (小的自來愛省儉). Seeing that [my] husband was unwilling to manage the household affairs (*zuo jia*) and wasted money, I tried to persuade him [against such behavior], but [he] would not listen [to me], [and] even said I was stingy and not a decent person (还说小的小家子不爱脸面). Because of this, [he] and I did not get along [and we] often argued and fought."

With this, Women Yin-Sun cast herself in stark opposition to her husband. What is more, in describing herself as "frugal 省儉 *shengjian*" she portrayed herself as not only different from him, but in fact a model of feminine virtue. While expectations of female chastity, sexual loyalty

to one's husband, have often dominated discussions about ideal Chinese womanhood, expectations of frugality, to which the concept of chastity itself is related, ranked highly amongst elite ideals about womanly behavior. As Susan Mann has shown in her exploration of Qing elite discourse about women's work, scholars and officials thought frugal women were essential to the well-being of the household economy, as she states, "The woman who was industrious (*qin*) was also frugal (*jian*)...She created the surpluses and hoarded the savings that enabled her family to survive or, with luck, move ahead."²⁸

The existence of this positive self-attribute in Woman Yin-Sun's testimony indicates the influence she had in shaping her own testimonial narrative for I have never seen another husband-killer described as such before, although the actions of many certainly suggest that they too valued frugality. While no equivalent form of officially recognized "righteous indignation" existed for wives it did for husbands in the Qing to justify spousal homicide, this case preserves a clear record of righteous wifely anger aligned with values of ideal femininity. Woman Yin-Sun is depicted as a good wife, a "frugal" wife, especially in juxtaposition to her husband's wastrel like behavior.

I would, however, also argue that the inclusion of this officially recognized virtue in Woman Yin-Sun's testimony was by no means accidental. It was in fact integral to the judicial strategy employed to incriminate her, hanging her by her own words. This is because this positive characterization did nothing to mitigate her punishment as it might have done for an otherwise "good husband" who killed his misbehaving wife in a fit of "righteous anger."²⁹

²⁸ Susan Mann, *Precious Records*, 143.

²⁹ The clearest example of this in the Qing Code is the statute on "killing the adulterous lover" in which husbands were not punished for killing both a wife and lover upon catching them in the act of illicit sex. See Jones, *The Great Qing Code*, 271.

Evidence of what *seems* to be narrative sympathy for women who killed their husbands in legal reports does not signal actual institutional sympathy for them during sentencing, but just the opposite. The testimonies elicited are but the result of judicial struggle to understand and thereby reconstruct women's personal reasons for committing the extreme crime of premeditated husband-murder, especially without the involvement of a lover. Thus, detailed portrayals of otherwise "good" and legitimately wronged wives among the ranks of husband-killers almost always signal the most severe sentence, death by dismemberment.³⁰ The judicial reasoning being that only this type of wife could have harbored such mounting enmity against her misbehaving husband to be capable of plotting his death. Only such a 'frugal woman' as Woman Yin-Sun would have been so invested in the financial well-being of her household to possess motivation and anger needed to kill her husband because of it. Moreover, while labeled "frugal," Woman Yin-Sun's performance of frugality fell outside elite expectations of the virtue. For instance, one will recall that celebrated wife Tang Yaoqin sacrificed all she had so that "she could entertain her husband's friends and relatives in style" while Woman Yin-Sun specifically references her husband's entertainments to disparage him.³¹

Next, Woman Yin-Sun further explained the financial difficulty her husband's spending habits were creating for her and their family and the fate she knew awaited her if it continued. She told the court, "Out of the over 2 *qing* 頃 (200 *mu*) of land [my] husband inherited, [he] sold

³⁰ In addition to the case of Woman Yin-Sun, other clear examples of this contradictory judicial strategy in which sympathy is built for a woman culprit only to elicit a more incriminating motivation from her for husband-murder include the case of Woman Wang the younger that opens Chapter One (Ibid., XKTB, 198.3/209.16), and the case of Woman Wang the senior in the Epilogue (Ibid., XKTB, 02-01-07-0031-009).

³¹ This translation of Tang Yaoqin's memoir can be found in Mann, "Dowry Wealth and Wifely Virtue in Mid-Qing Gentry Households," 71.

over 1 qing (頃).³² There was no hope that [my] husband would change his habits (男人仍不收心) [of wasting money and being an alcoholic]. Clearly, I knew that in the future the land would surely be gone and we would have nothing to eat [and] starve.” While this is far from the only account of rapid financial decline encountered in this chapter, what sets Woman Yin-Sun’s case apart from others is its documentation of her financial foresight and the proactive measures she undertook to ensure a livelihood for herself and her son outside her husband’s control.

Women Yin-Sun next detailed the plan she devised with the help of her close friend and neighbor, Woman Song-Zhou (aged 72 *sui*), to protect herself from her husband’s likely continuing decisions to sell their land and waste their money. She told the court, “Woman Song-Zhou lives two houses apart from me. [She] and I always get on well together. In Qianlong 24, I entrusted Woman Song-Zhou to loan out the 3,000 copper cash I had accumulated from spinning and weaving in order to guarantee my future [living expenses] (我把紡織積下的三千錢托她拿去生放想預備著自己防后).³³ In the 7th month, of the 26th year, [with the interest on the loans,] [I] had amassed a sum of 6,000 copper cash over two years.”

³² The amount of 1 *qing* is equal to 100 *mu* or 16.474 acres of land. This is a sizeable amount of land, indicating that this family was originally not among the “peasant class” but perhaps actually modest landlords. There are also other indicators of their relative wealth, such as the fact that the husband falls asleep in their study (書屋), which indicates that the family had books and that the husband may have been well-educated.

³³ A payment of 3,000 copper cash for Woman Yin-Sun’s textiles might strike readers as low, especially considering Pomeranz’s high estimations about the potential earning power of women’s textile production during the Qing. See Kenneth Pomeranz, *The Great Divergence: China, Europe, and the Making of the Modern World Economy* (Princeton: Princeton University Press, 2009), 99-103. But in this specific example, it is important to note that the reports provides details about how long it took Woman Yin-Sun to produce these textiles or the precise amount of cloth that she loaned out. Yet despite these unknowns, what is clear from this report is that it was initially the textiles that Woman Yin-Sun has amassed that made it possible for her to pursue a future of financial independence from her husband. Thus, her testimony provides us with yet another powerful example in this chapter of the value of women’s textile work, revealing it to be a potential realm of economic autonomy for women inside marriage.

Having efficiently made a sizable profit, Woman Yin-Sun decided next to invest her newly found money by purchasing some land of her own. A man named Yuan Wen, who had apparently come upon hard times, was looking for someone to purchase cultivation rights of his farmland. Woman Yin-Sun was interested in the opportunity, likely presented to her by Woman Song-Zhou herself, but at this point their gender presented somewhat of an obstacle, albeit not an insurmountable one. Although moneylending has not typically been thought of as a woman's enterprise, Woman Song-Zhou seemed to have been well connected in the world of finance, having preexisting channels and relationships with people that allowed Woman Yin-Sun a fast return on her initial investment. However, even if Woman Yin-Sun had the money, a woman could not sign the land contract, as a man's name was needed to legitimize the deal. Thus, Woman Yin-Sun was going to need additional help, this time from a man. She could not turn to her husband, because the whole point of the endeavor was to have something that was hers and not his, something that he could not control. In this regard, Woman Song-Zhou once again proved herself to be especially useful, for she had a son who was willing to do their bidding.

Woman Yin-Sun continued, "I then also asked Woman Song-Zhou to let her son, Song Zhijin, serve as the creditor of Yuan Wen's five *mu* and two *fen* of land on my behalf (叫他儿子宋之进出名押了袁文家五亩二分地). I also asked Song Zhijin to cultivate this land [for me] (就交宋之进承种) and he paid me rent. As for the rent [paid in grain], I still asked Woman Song-Zhou to hold and store it [for me], loaning it out to get me interest (分的粮食依旧叫宋周氏替小的收存生息). In other words, Yuan Wen mortgaged his land to Song Zhijin, signing his name to the contract, but Woman Yin-Sun put forth the 6,000 copper cash, interest on the sale of her textile work, that funded the purchase, with the understanding that the land cultivation rights were in fact owned by her. However, her dealings with Song Zhijin were not over. She owned

the land cultivation rights but then rented it out to Song Zhijin who either did the actual labor of cultivating the land himself, or perhaps more likely, rented it out to someone else.

Although she had already established a sizeable nest egg for herself and her son outside her husband's authority, Woman Yin-Sun's financial ambitions did not stop there. As it so happened, Yuan Wen's economic situation seemed to have gone from bad to worse.³⁴ He now wanted to sell the land outright, meaning that he was looking to sell the subsoil ownership, and Woman Yin-Sun was interested.³⁵ She continued her testimony, saying, "In the 12th month of the 27th year, Woman Song-Zhou came to speak with me and said that Yuan Wen wanted to sell the [subsoil ownership rights] of the land (把地找價變賣了). [She] asked whether or not [I] wanted to purchase [it] (他要把地找價變賣了問我買他不買他). I thought that since her family had a total of 38 *dou* (83.6 gallons) of wheat, beans, and millet saved [for me], upon deducting this amount from the original mortgage price, the [subsoil ownership rights] were not too costly, so I told Woman Song-Zhou I'd buy the land! (我想她家存麥豆穀子共有三十八斗拿去糧賣扣除原押價錢所少找價也不多了隨對宋周氏說我買了他吧)."

Her accounting of the land purchase reads as follows. "Woman Song-Zhou relied on Song Gongmei to act as middleman. [He]made clear that the price per acre was 4,000 [wen] after deducting the original mortgage, [and that] the final price for the land was a total of 14,800 *wen*. The wheat, beans, and millet were sold for 12,430 *wen*. [I] pawned my own clothes for 1,800 *wen*, but [I] was still short 570 *wen*, so I took the money [my] husband had given [me] for food

³⁴ We may only speculate as to why Yuan Wen sold his land. Perhaps he lost badly gambling or had some other debts to repay, as has been the case for many of the other financially impotent husbands who lost control of their land who we have encountered in this chapter.

³⁵ For a detailed discussion of Qing landownership involving topsoil vs. subsoil land rights see Kenneth Pomeranz, "Land Markets in Late Imperial and Republican China," *Continuity and Change* 23 (April 4, 2008): 101-150.

that was hidden from [him] and met with Woman Song-Zhou twice and gave her [this additional] money (都是瞒着男人两次给宋周氏拿去交还的).”

Once again, Woman Yin-Sun needed to devise a way to keep her husband in the dark, just as she had done with the original mortgage. She continued, “Because I feared [my] husband would find out [about my land purchase], I asked Woman Song-Zhou’s son, Song Zhijin, to sign the contract [on my behalf]. After the deal was complete, Woman Song-Zhou gave me the contract [and] Song Zhijin and I were to share the crops from the land. I [purchased land under the name of Song Zhijin] and hid the new purchase of the land from my husband, because previously I saw my husband sell his own land and worried about my future living expenses. I thought to save some money privately to guarantee that my future life [would be free from poverty].”

Thus, Woman Yin-Sun, not content to sit back and watch her husband lead her down a path of poverty, took action to build her own generational wealth outside her husband’s authority by making sure he had no knowledge of her land purchase and that his name was not on the contract. Yet, with this, Woman Yin-Sun still took on risk, for another man’s name was nonetheless imprinted on her land contract. What claim did she actually have to it? As in the case of Woman Peng that opened this chapter, Woman Yin-Sun made sure to keep this important document in her possession, but what protection would she have if Song Zhijin (and his mother) decided to break the deal?³⁶ It is clear that she must have thought this arrangement, even with its risk, was less of a gamble than continuing to rely on her husband for support.

³⁶ Reports such as this raise the question of whether possession of land contracts may have mattered just as much as the name(s) on them in property claim disputes. If, for instance, Woman Yin-Sun’s husband’s death had not come to pass but instead with time her relationship with the Song Family soured and the property rights became disputed, we might wonder if Woman Yin’s

It is important to highlight that it was Woman Yin-Sun's textile work that gave her the means to secure something bigger for herself. While market demand for textiles did at times culminate in women's exploitation, for others like Woman Yin-Sun, textile work provided an essential avenue of autonomy from patriarchal control. However, her ambitions were bigger than simply making interest on the money earned from her textiles. With the help of her well-connected friend, a woman who seems to have been a powerful matriarch in her own right, operating something of a bank, Woman Yin-Sun dreamed bigger and invested in land to safeguard her future.

Was it exceptional for wives to purchase and manage their own land in the Qing like Woman Yin-Sun? On the surface, it may seem so. Thomas Buoye, who has provided invaluable contributions to the study of land disputes utilizing the same archive as this dissertation, notes that it was "unusual for a woman to rent land." One case that he mentions involved a tenant and landlord who were both women, but one woman was unmarried living with her father.³⁷ Buoye likely had good reason to characterize this case as unusual, because this may have been the one and only example he came across, but considering the evidence presented here, I contend that it may not have been that unusual for women to buy, sell, and rent land. In killing her husband, Woman Yin-Sun's testimony reveals in stark clarity the customary nature of women's economic networks, providing rare evidence indicative of the larger and more direct economic role married women may have played in the financial market than previously imagined. It is simply difficult

possession of the land contract might have convinced the magistrate of her ownership rights, for it certainly did so in the context of this homicide report. For another example of a married woman maintaining personal possession of a land contract see the case of Woman Peng who opened this chapter, case entitled by me as, "Woman Peng Fights to Save Her Land."

³⁷ Thomas Buoye, *Manslaughter, Markets, and Moral Economy in China: Violent Dispute over Property Rights in 18th-Century China* (Cambridge University Press, 2000) 180-181.

to find evidence of women-initiated land transactions because of the contract culture that existed requiring a man's name. In other words, historians should not expect copious documentation of women's involvement in an economic world that was meant to exclude them. We should not dwell on the infrequency at which we encounter such reports and conclude that such women-initiated deals were therefore exceptional, but instead leave open the possibility that such situations may have been more widespread than we thought, submerged beneath the surface of superficially male-dominated transactions.

Unfortunately for Woman Yin-Sun, her story does not end with her having successfully invested in the purchase of her own land. We might imagine an alternative reality in which Woman Yin-Sun's efforts salvaged her family's financial situation. It is not clear why she believed she was going to be able to keep it concealed from her husband (perhaps simply because he showed no interest in their finances), or exactly how he found out, but not too long after the completed land purchase, her husband discovered what she had done, and he did not react well. He confronted her about it on his birthday, just about one month after the land had been purchased.

Woman Yin-Sun continued in her testimony, saying, "On the 28th day of the 1st month, [my] daughter had returned home to celebrate [my] husband's birthday. On the 8th day of the following month, [my] husband returned after being away [and] I was in the house and overheard him in the courtyard saying to [my] daughter, 'Your mother has ruined our family living and I cannot go on! (踢蹬的我过不得了)' At that time, [I] did not think he knew that I had secretly purchased land [and] therefore [I] said [to him], 'It is you who ruined our family living by always squandering [money] and by being an alcoholic. How did I ruin our living?! (我怎樣踢蹬)' My husband then said, 'You stole my family property [and] purchased land [with it] and

then gave [the land] to Song Zhijin to cultivate, how is this not ruining [our] family living?! You thought I would not find out?!’

And in that moment, Woman Yin-Sun’s plans for economic security suddenly fell apart. Her husband, despite being unconcerned with the family finances, had somehow gotten word of her financial dealings.³⁸ And yet, based on Woman Yin-Sun’s reporting, he seemed to not fully understand what she had done or why. Her testimony implies that he may have suspected that she and Song Zhijin were having an affair, which perhaps explained for him why the man had been so kind as to sign the land contracts for his wife.³⁹ Even if no adultery had taken place, from his perspective, his wife had nonetheless just committed an act of utmost disloyalty against him, for she had just handed over a good amount of wealth to another man’s family, making a lofty deposit in the Song Family bank (although it just so happened to be run by a powerfully connected matriarch).⁴⁰ And she had in fact done this, with intention, because it was the one clear way to make sure *he* could not control her land or whatever additional profits she might

³⁸ Had someone from the Song family told him? Song Zhijin perhaps? The details of the case report do not provide a clear answer to how Woman Peng’s husband discovered her business dealings.

³⁹ The possibility that Woman Yin-Sun’s husband may have thought that his wife and Song Zhijin were having an affair may also explain the words he reportedly shouted at her as he chased her out of the house in which he declared that she had been disloyal to him (丈夫說我有外心). Curiously enough, despite magistrates’ readiness to presume illicit sex in reports of husband-killing, the possibility of this was never pursued. Thus, it is more likely that the “disloyalty” Woman Yin-Sun’s husband accused her of that day had nothing to do with matters of illicit sex or anything sexual at all but instead her land purchase with the help of another family. In this way, when it comes to men’s expectations of wifely chastity, sexual loyalty and financial loyalty could be one and the same.

⁴⁰ Given her age, Woman Song-Zhou appears to have been a widow, but the case does not document her marital status. Moreover, her testimony is very short, offering no new information, reaffirming the events outlined by Woman Yin-Sun. It is of course likely that Woman Song-Zhou’s words helped to shape the construction of Woman Yin-Sun’s official narrative but the official report does not capture this process or document whether Woman Song-Zhou challenged anything that her younger friend told the magistrate.

stand to gain from it in the future. In other words, if another man “owned” her land, her husband certainly could not. Moreover, in many ways, her investment may have proven an important safety net for him too. But he did not wait around for her to explain any of this before grabbing a rod and then a knife.

Chased out of the courtyard, Woman Yin-Sun outlined her emotional state of mind after she finally returned home. She told the court, “I thought my husband and I have been married thirty years and we have not been on good terms. [I] am often beaten and scolded by him. Even on his birthday, when he invited friends and had a party, he scolded me because I did not provide the party with steamed wheat buns (蒸馍). He said I lost him face [on his birthday] and fought fiercely with me. And now because [I] privately bought a couple of *mu* of land he is so heartless to grab a dagger to kill me.⁴¹ It looked like there was no way out [for me]. I told my daughter [about this] and cried. [She] consoled [me] for a while before going to the west room to sleep. I went and slept with my son in the east room.”

The following day, Woman Yin-Sun’s husband left early. Her daughter left too, as she had needed to return to her husband’s family that morning upon hearing that her mother-in-law was ill. Woman Yin-Sun’s husband arrived back home drunk later that evening. She continued, “upon seeing me he scolded me. I did not dare argue back. He took off his clothes and got into bed saying, ‘tonight I am completely drunk and so [I] temporarily spare your life [but] tomorrow I will kill you!’ He then rolled over and wrapped the quilt around him and slept. [My] son was sleeping on the bed in the west room. I was in the east room sitting and thinking that my

⁴¹ It is important to note that in the final lines of her testimony Woman Yin-Sun is reported to have downplayed the extraordinariness of her land purchase, implying that what she had done was not such a big deal, and certainly that she did not imagine it to be a matter that ought to so enrage her husband. On the other hand, it is clear that she also knew well enough to keep her financial dealings a secret.

daughter said that Yin Bu (the husband's cousin) had talked down [my] husband for one day but failed in persuading him [to let the matter drop]. Now he was even saying that tomorrow he would kill [me]. This meant he had not put [the issue of my secret land purchase] to rest. Rather than let him kill [me], [I thought] it better [for me] to kill him. [I] decided to hide his clothes and quilt and say that robbers came and stole [these items] and killed [my husband]. Then I'd have a few good years of peace (將來倒得安穩過幾年好日子).”

Reported to have stabbed her husband to death, Woman Yin-Sun was sentenced to dismemberment for the premeditated killing of her husband. However, she accomplished a great deal before meeting this end. She not only saw impending financial collapse, but she also actively worked to prevent it, or at least protect herself, eerily echoing the cries of women in other cases who suffered terribly because of their husband's financial losses. With Yuan Wen's misfortune, land went from the hands of men into the hands of women. More importantly, we learn that she invested her own money to accomplish this land purchase, made through her textile work; it had granted her the autonomy to do so. Had her husband provided her with the raw materials? Perhaps, but she is described as making the product and then going and selling it herself. It was what she had to get the entire process rolling.

The Song family, however, remains a fascinating and underdeveloped component of the report. They emerged from the entire ordeal unscathed. Yet, without them the entire enterprise would have likely never come to pass. Who was Woman Song-Zhou to Woman Yin-Sun *really*? On the surface it may appear that she was a good friend to her, the best even, providing Woman Yin-Sun access to her own private moneylending networks, seamlessly facilitating her ability to purchase land, offering her even more financial opportunities to grow her wealth to better protect her future and that of her son so that they did not have to be dependent on her husband. And yet,

what was in it for Woman Song-Zhou? Are we truly to believe that she had been so benevolent?⁴² The two women had been neighbors for at least thirty years, so it is nice to imagine that a strong bond had formed between them, with the elder taking the younger under her wing.

However, an even darker story could have also taken place. Perhaps the entire exchange had in fact been predatory from the start. How had Woman Song-Zhou returned Woman Yin-Sun such a lofty profit so quickly? Perhaps there were women (and men) out there who needed the money desperately and Woman Song-Zhou was willing to loan out Woman Yin-Sun's money at a bad interest rate.⁴³ Moreover, while the report attributes all decisions to Woman Yin-Sun, how had Woman Song-Zhou influenced her? And who owned the land really? Woman Yin-Sun kept the contract in her possession, but it had Song Zhijin's name on it. Had Woman Song simply taken advantage of a desperate woman's cash to invest it for herself? What is more, why had the speculation of adultery not been pursued? As prior cases reveal, this was the preconceived plot that seemed to make most sense to the magistrates when they encountered husband-killings, and yet, curiously it was not seriously pursued. Song Zhijin is not questioned, in fact, he provides no testimony at all. His mother instead spoke for him.

Conclusion

We may never know the precise nature of Woman Yin-Sun's relationship with the Song family, or Woman Song-Zhou's own intentions in the deal, but what the case clearly shows is

⁴² In the end, Song Zhijin and Woman Yin-Sun planned to share the crop yield so the Song family did stand to benefit from Woman Yin-Sun's land purchase. In addition, it should be noted that in facilitating the deal Woman Song-Zhou had also gained more from Woman Yin-Sun to loan out.

⁴³ I have a small collection of homicides in the wake of financial disputes between non-relatives involving older women moneylenders.

that women were out there loaning money, making interest, and buying (and selling) land, fully engaged in the outside realm of commerce. Woman Yin-Sun, a married woman, knew exactly who to turn to when she wanted to invest her money, and it is likely that other married women knew of Woman Song-Zhou too.⁴⁴ Woman Song-Zhou herself, while likely a widow, had an adult son, Song Zhijin, who ought to have by now succeeded her position of authority, and yet his actions appeared to be still under her control.⁴⁵ Thus, women operating firmly within the bounds of patriarchy nonetheless found ways to do business. And yet, if evidence of this women's economic network had not been entangled in the net of a husband-killing investigation, it would be nearly impossible to see these women's financial agency. Without this murder, if we went and looked at Woman Yin-Sun's land contract now, all we would see is that a man named Yuan Wen sold his land to a man named Song Zhijin. We would know nothing of Woman Yin-Sun, nor Woman Song-Zhou's network of influence, or the skill with which they maneuvered in a male-dominated economic world.

The evidence presented in this case, in addition to those of the other women's stories explored in this chapter, ought to change the assumptions that Qing historians bring with them as they discuss the world of business, land sales, and the management of the household economy. The assumption can no longer be that women were not seriously involved in these mainstream forms of business and economic management, or that when their involvement is discovered, it

⁴⁴ Although a presumed widow with an adult son, Woman Song-Zhou is nonetheless characterized as largely in control of her family's finances with the power to dictate her son's actions. This case shows that such women may have provided the networks of influence necessary for married women to directly engage in the outer realm of commerce for their own personal benefit as well as that of their families.

⁴⁵ A record of Song Zhijin's age appears to not be included in the report (the age of witnesses and accomplices were not always recorded). Since his mother was 72 *sui* as the time of questioning, it is reasonable to conclude that he was around the same age as Woman Yin-Sun and her husband, in his late forties.

was exceptional and outside the social norm. Instead, Woman Yin-Sun's case, and those like it, ought to suggest the exact opposite, that a broader realm of financial networks and opportunities existed for women. Regardless of prescriptions on gender that were supposed to exclude women from the outer realm of society, women were in fact invested in the sustainability of their households, operating alongside men, and often despite them, in the broader economic world, even if their presence in it is not easily discernable.

Chapter 4

Striking Her Own Match:

Pursuit of Love, Companionship, and Sexual Desire

Spring

Woman Hua-Ye Welcomes A Long Lost Lover

Woman Hua-Ye washed clothes by the river when Jianjue approached and asked her to leave with him.¹ By then, everything between them was in the open. Her husband knew of their shared affection. It had been but a month since he caught them along the road together and threatened to report his runaway wife to the county yamen. Woman Hua-Ye pleaded with him, saying she would change her ways and never see Jianjue again. This was a promise she would not keep.

A romance far from fleeting, Jianjue was someone from her distant past, a man whom Woman Hua-Ye at the age of thirty-eight *sui* likely never expected to meet again, let alone run away with. Just a year earlier, while Woman Hua-Ye worked in her husband's restaurant, Jianjue (aged twenty-nine years) happened to walk in looking to have a meal while her husband and stepson were out. Although fourteen years had passed, the pair quickly recognized one each other as if no time had passed at all.

Woman Hua-Ye and Jianjue had been neighbors when she still lived with her parents in Gushi County, Henan. Encountering Jianjue in the restaurant that day, she asked him about the business that brought him to neighboring Shangcheng County where she now lived, and they

¹ *xingke tiben* (XKTB) [Board of Palace Routine Memorials], Number One Historical Archives in Beijing. XKTB, 02-01-07-1973-008. Woman Hua-Ye (38 *sui*). Shangcheng County, Henan. QL 60 (1794); JJH. (题为河南商城县民妇花叶氏与叶见觉通奸拐逃致本夫自缢拟绞监候事). This retelling reflects the record of events recorded in this legal case.

reminisced about old times, referring to one another as “cousin” as they spoke, planning to meet up again before it was time for him to leave.

This impromptu reunion between neighbors had been innocent enough, why pretend to be relatives and conceal their friendly association? While it may have been common for close friends to refer to one another in familial terms as a sign of shared affection, Qing gender norms discouraged the intermingling of the sexes in public and private spaces.² Such norms could have made even the most seemingly platonic public conversation between an unrelated man and a married woman the target of allegations of sexual impropriety.³ Yet for Woman Hua-Ye and Jianjue there was more at stake in the concealment of their shared past than mere allegation.

They had been intimate in their youth. Woman Hua-Ye (then called Woman Ye) was twenty-four and still unmarried when she and Jianjue (who would have been just sixteen at the time) met regularly in her house to have sex while her parents were out. Potentially raising doubts about her parents’ ignorance of her premarital sexual activity, not too long after the couple’s sexual relationship began, Woman Ye was sold in marriage as a concubine.⁴ She would

² Officials promoted strict standards of gender segregation in part to avoid what they considered to be women’s irrational suicide. See Theiss, *Disgraceful Matters*, 183.

³ While elites may have upheld practices of public and private gender segregation to a higher degree than commoners, boundaries nonetheless existed against the co-mingling of the sexes among the lower classes. In the above case, Woman Ye worked alongside her husband in his restaurant, and in doing so she encountered strange men regularly. This ought to have made her meeting with Jianjue that day an unextraordinary encounter. Yet Woman Ye understood that speaking to an unrelated man in public could (and often did) arouse suspicion of adultery and employed feigned family relationship to disguise their transgressive familiarity. For more on gender segregation see Susan Mann, *Precious Records: Women in China's Long Eighteenth Century* (Stanford, Calif.: Stanford University Press, 1997), 56-57.

⁴ Only sex between official married couples was permitted under Qing law. So both premarital and extramarital sex were considered illicit under the law. The rate at which perceived “consensual” premarital sex was actually punished is unknown, but given the work of scholars in the Qing legal archive, it was extramarital sex or “adultery” and rape both pre- and extra-marital that became the target of the law. For more about this see Chapter One.

not be a concubine for long. With her husband's untimely death, Woman Ye was bought and brought into the home of yet another man, but this time as a wife, marrying fifty-two *sui* restaurant owner Hua Zhengyuan.

After Woman Hua-Ye and Jianjue's spontaneous meeting, they quickly fell back into their old ways, having sex regularly when her husband was away. Soon they felt passion (*qingre* 情熱) for one another and wanted to run away together.⁵ They planned to leave at New Year's, but as we know, they did not get far. Woman Hua-Ye's husband happened to be on the road at the same time as they began their escape and spotted them. Jianjue fled, but Hua Zhengyuan apprehended his wife, and brought her back to his home.

After their first botched attempt at freedom the matter seemed settled. Woman Hua-Ye likely understood the risks involved in her decision to flee and that in many ways she was fortunate. Her husband's response had been lenient.⁶ Wives who disobeyed their husbands in ways far less drastic suffered punishments far worse. In the days that followed, she may have even considered resigning herself to this fate, determined to be content in life with the second man who had purchased her, even if he was not the one whom she desired.⁷ Yet had fate not also brought Jianjue back into her life after so many years?

⁵ This part of Woman Hua-Ye's testimony reads as follows: "...葉見覺與小的通姦情熱商量同逃..."

⁶ As discussed in Chapter One, it carried great risk for a wife to run away from her husband. If caught, the consequences could be severe. The Qing code sentenced wives who ran away from their husbands (without a male accomplice or instigator of some kind) to death by strangulation after the assizes. While I have not encountered a large number of such cases, I have come across at least one report of a non-violent runaway wife who was held fully accountable under this legal principle and sentenced to death. See Chapter One, *Ibid.*, XKTB, 02-01-07-1271-010, Woman Li (29 *sui*), Beijing, Qianlong 38, JJH.

⁷ I have found fate (*yunming*) to be a recurring motif in the testimonies of young women. It is the predestination of their lives arranged not just by parental authorities but also the supernatural cosmos that guided all things which they feel personally bound to struggle against. While the

By the river with her laundry, Jianjue returned to her once more. He asked her to run away with him for a second time. If she agreed, they would leave right then and there. Having got off lightly before, Woman Ye faced even greater danger if she ran again and was caught. Perhaps this was her fate, to take some control over her lot in life, to have a chance at choosing the person whom she would spend the rest of her days.

She said yes, and they left.

Woman Hua-Ye and Jianjue made it farther than most others whose attempts at happiness are preserved within the homicide records of the First Historical Archives in Beijing. Journeying into the surrounding farmland, they managed the roughly one-hundred-mile journey out of Henan to neighboring Luotian County, Hubei. It is unclear if they had any relatives or other support in Hubei, for as we know from their testimonies both of them originally resided in the same Hunanese village. Perhaps Luotian was but a stop along the way rather than their final destination, but their story ends there.

Back in Henan, Woman Hua-Ye's husband had committed suicide. Hua Zhengyuan surely knew with whom his wife had gone, and that her willing return was doubtful. Because his suicide occurred in the wake of Woman Hua-Ye's sudden disappearance—and it may have been known in the community that she had been keeping a lover—the authorities considered Hua Zhengyuan's death a homicide. The possibility of this triggered a more intense investigation into

term “fate” does not appear in Woman Ye's testimony presented above, some young women did mention “fate” directly as both a reason for their unhappiness in a mismatched marriage and the obstacles that had prevented them from exerting some control their own lives. See, Chapter One, XKTB, 1532-004, Woman Li-Si who stated in her testimony that “poor fate” had matched her to a thief. Thus, while many of these young women do seem to understand that they were expected to resign themselves to the fate of the marriages, they also nonetheless decided to change their fates.

Woman Hua-Ye's whereabouts than may have otherwise occurred. Four days after their final escape, the illicit couple was arrested in Luotian County.

Upon interrogation, the magistrate indeed found Woman Hua-Ye culpable for her husband's suicide. While her husband may have been ineffective at putting an end to his wife's extramarital relationship, he did not condone it as in the case of polyandry in which a husband loaned out his wife's sexual labor for profit.⁸ Thus, following Qing judicial logic regarding the crime of "compelling someone to commit suicide," the magistrate determined that faced with the shame of knowing that his wife had run off with another man, Hua Zhengyuan took his own life in an act of "righteous indignation."⁹

Woman Hua-Ye was subsequently sentenced to strangulation after the assizes for compelling her husband's suicide. Jianjue's recommended punishment was much less severe. He was sentenced to one hundred beatings of heavy bamboo and one month in the cangue. Although faced with a death penalty, Woman Hua-Ye's sentence was the most lenient punishment a condemned husband-killer could hope to receive, for in theory it offered her the possibility of a leniency during the annual period of review.¹⁰

⁸ Matthew Sommer has found practices of polyandry and wife-selling to have been customary in the Qing. I believe the fact that jurists included the phrase, "...and the husband does not tolerate [illicit sex]..." as a mitigating factor in the adjudication of husband suicide in the wake of adultery also speaks volumes to its pervasiveness.

⁹ Although Qing jurists did not regard suicide as an appropriate masculine response to their wife's adultery, in 1805, a statute was added to the statute on "compelling someone to commit suicide (威逼人致死)" to address such unorthodox criminal scenarios which outlined punishments for the illicit couple whose adultery compelled a husband's death (Substatute 03, *duli cunyi* (DLCY), *juan* 34: 299). For more on male suicide in the Qing see, Stephanie M. Painter, "'This is Not a Marriage': Husbandly Virtue on Trial in Qing Dynasty Law" (master's thesis, University of Utah, 2016), 12-16.

¹⁰ Also known as the "Autumn Assizes" this was a period of annual review of all homicide crime. Culprits who received this sentence could hope for either (1) a stay of execution in which their crime would either be reviewed again the following year or potentially reduced to

Unfortunately for Woman Hua-Ye, the Qing Board of Punishments bestowed upon her no such reprieve. In 1797, two years after the case report was finalized, Woman Hua-Ye's name is listed among those criminals in Henan who were bound, brought to the nearest market town, and executed.¹¹

What did it mean to be an 'adulterous woman' in Qing China? In the second section of this dissertation (Chapters Four through Six), I explore the testimonies of wives judged to have either premeditatedly, accidentally, or inadvertently killed their husbands in the wake of unlawful sex (meaning any sex with a man other than their husbands, whether extramarital or premarital). Close reading of these women's testimonies, rich in detail from biographical data to innermost desires, reveals that although living in a society in which they as women had little if any control over their trajectory in life, sex outside the confines of marriage created a space for them to experience happiness on their own terms—outside jurisdictions of both Confucian patriarchy and the transactional market in people.

As we have just seen in the case of Woman Hua-Ye above, in choosing to engage in extramarital sex and to run away from her husband with a man whom she had known well in the past (and seemingly preferred to her husband), she placed herself firmly at odds with authorities of state and family. For this, the Qing state labeled her a "licentious woman" (*yinfu*), linking her actions to her husband's suicide. Yet in making the choices that she did, in choosing to run, Woman Hua-Ye also challenged patriarchal control over her desires, her body, and her life.

banishment, or (2) a pardon bestowed upon those deserving of extraordinary compassions. More research needs to be done on the experiences of female criminals during the Autumn Assizes for which they were the minority of offenders. For an overview of the Autumn Assizes see, Thomas Buoye, "Suddenly Murderous Intent Arose: Bureaucratization and Benevolence in Eighteenth-Century Qing Homicide Reports," *Late Imperial China* 16 (1995): 62-97.

¹¹ Autumn assizes document, 02-01-007-025113-0001. (题为详审河南嘉庆二年份秋审情实人犯王柱儿等俱拟情实开明情罪请旨事).

In this section we gain a glimpse at some of the most intimate spaces of non-elite women's lives, exploring their emotionality and articulations of personhood that supersede all images of 'the traditional Chinese woman' as either cloistered victim or chaste maiden, and instead provide accounts of formidable women changing their fate as they sought companionship, sexual desire, and in some cases, even love.

Section Two of this dissertation (Chapters Four through Six) is organized around the same principle of married women's reproductive life course explored in the preceding chapters, beginning once more with newlyweds, followed by mothers, ending with those women nearing old-age. Chapter Four explores accounts of young women and their desire to remain with the men of their natal villages, looking at how the legal record documents love and young women's expectations for companionship in marriage. I begin by scrutinizing the articulation of sentiment in the Qing homicide record, exploring expressions of love, longing, and affection that emerge in the testimonies of women (and men) within these state-produced documents. Not all women were willing to leave their marriage for their preferred companions, but an unexpected pregnancy could render it difficult for them to conceal their illicit activities. In Chapter Five, I investigate the consequences of illicit relationships for women in middle age, including illegitimate pregnancy and the adjudication of paternity. Finally, in Chapter Six, I examine the "female sexual predator" in Qing law, exploring the accounts of older women as initiators of illicit sex and their sexual desire for a man much younger than their husband.

This is not to say that the women whose diverse stories we are about to encounter placed no value in marriage. On the contrary, as we shall see, while women may not have opposed the idea of marriage outright, what they objected to was the lack of control they had over their marital unions, which afforded no consideration to their happiness or pleasure.

Woman Hua-Ye's motivation to leave her marriage had nothing to do with need for better financial support nor was it out of economic desperation. Her testimony contains no complaints about the standard of life her new husband provided her (nor complaints about any excessive abuse for that matter). Instead, the only explanation her testimony gives for her decision to run is her personal desire to continue her sexual relationship with Jianjue, a man whom she had known well since youth. What is more, given Jianjue's itinerant nature, and lack of a wife, it is likely that his financial situation may have been less well-off than her restaurant-owner husband. Thus, it was not that Woman Ye had no other choice but to go with Jianjue; the easier choice would have been to stay. But in many ways, she must have thought her survival did depend on it—her emotional survival.

Love in the Law: Moral Virtue or Legal Transgression?

When questioned, in the year of Qianlong 9, twenty *sui* Woman Yang remembered that she had been just ten when she first entered her husband's home as a child bride, but she could not recall when she and her betrothed were married, simply saying, "it had been many years."¹² She described herself as a member of the Miao ethnic group who now lived with her thirty-seven *sui* husband and his younger brother in Gong County, Sichuan. She related events from two years prior, testifying, "I was in the mountains chopping firewood when Guo Wenxiu persuaded [me] to have illicit sex with him there on the mountain. After that, [we] often had illicit sex on the mountain. My husband and brother-in-law did not know about it." Unlike her husband who was seventeen years her senior, Guo Wenxiu was the same age as Woman Yang, an unmarried twenty *sui* man. Age compatibility was often a factor women brought up when explaining why

¹² Ibid., XKTB, 02-01-07-0192-003. Woman Yang (20 *sui*). Xuzhou Prefecture, Sichuan. QL 7, LC. (题为四川叙州府民妇杨氏与郭文秀通奸杀死本夫拟凌迟处死事).

they preferred the partner they found over their matched husband. He also lived nearby, but was likely not Miao, since he did not describe himself as such in his testimony. It is unclear how Guo Wenxiu made a living, but he had been in the mountains digging up grass the day he approached Woman Yang.

Woman Yang continued in her testimony, saying, “[I] soon had deep affection (*qinghou* 情厚) for Guo Wenxiu, and he asked me to run away with him.” The feeling was mutual, with Guo Wenxiu adding in his testimony, “I wanted [us] to be forever husband and wife (*changjiu fuqi* 長久夫妻).” Yet, despite her confessed feelings for him, Woman Yang thought about the matter practically. Much was at risk, and she hesitated. “I feared [Guo Wenxiu] had no money for the travel expenses and my husband would pursue [us], and so I wouldn’t go [with him].” “I knew she doubted I had the travel expenses,” Guo Wenxiu told the court. “In Qianlong 6, in the 4th month, I came and let her see that [I] had one and a half *liang* as well as a pair of earrings, and said, ‘If you didn’t think I had money for travel, I have it, and I want you to come with me to Luzhou.’” Located in a neighboring county, roughly sixty miles away from where they stood, Guo Wenxiu had hoped this would be far enough for them to start a new life together. Woman Yang said, “He [told me]...he was well-acquainted with people [in Luzhou], and [we] could spend good days there in peace, and so in that moment I agreed.”

But after a few days, worry once again took hold of Woman Yang. “Again, I feared my husband [would pursue us] and dared not leave.” About two months later, Guo Wenxiu came by her house one day when everyone was out and told her that he had another plan. “This evening, when your brother-in-law is out, kill your husband... [and] say thieves did it... Then in a few days you can leave with me to Luzhou.” Likely because Woman Yang’s main objection to running away had been the possibility that her husband would eventually track them down, she

agreed to Guo Wenxiu's plan, for while more violent than his original proposal, it eliminated the key obstacle. "That evening, my husband was drunk and asleep. I made shoes till late in the evening until I could hear that [he] was in a deep sleep. I went into the kitchen and grabbed a dagger..."

Up to that point, Woman Yang had expressed much hesitation and fear regarding the idea of running away with Guo Wenxiu, despite her strong feelings for him. That night, she suddenly agreed to Guo Wenxiu's murder plot, and carried it out all by herself. If her story was to be believed, she needed to provide some explanation for her changed attitude, one compelling enough to indicate why she took her husband's life. Woman Yang told the Qing court, "At that time I originally loved (*ai* 愛) Guo Wenxiu and disliked my husband even more."¹³

She loved him. The choice of words here is exceptional. Instead of speaking of her affection for Guo Wenxiu using the sentiment of *qing*, as she had done earlier in her testimony, Woman Yang described her feelings for her lover specifically as love (*ai*). Emotion drove the motivations of men and women accused of violent crime, but even in cases of murder for love, it is rare to see the word "love" (*ai*) written in a legal report. Out of the hundreds of testimonies I have read, this is one of only two records I have come across in which a person describes their feelings for someone else in their testimony simply as "love" (*ai*). It is clear to me that Woman Yang spoke of love that day in the courtroom and the magistrate believed her. It was a convincingly credible motivation for her homicidal actions.

In this chapter, I examine the articulation of sentiment in the Qing legal record. I investigate the desire of non-elite women to pursue companionship on their own terms outside

¹³ Woman Yang's original testimony for this quote reads as follows: "...那時小婦人原愛郭文秀越嫌丈夫不好了..."

the control of the patriarchal family, many of whom were either newly wedded or not yet married. In the latter half of this chapter, I show the extent to which concubinage could be an avenue for companionship for women as well as men. In many ways, this chapter is a mirror of Chapter One in which I once again encounter women at the initial stages of marriage, young, and predominantly without children—but now their stories exist under a different legal scenario: plotting with a lover to kill a husband. The following homicide reports (including those in Chapters Five and Six), involve crimes of illicit sex and include accomplices (some willing, others not so willing). The “female criminals” whose testimonies we will read sought not just escape from marriage but to achieve what they believed would be happier futures for themselves, with men they “got on well” with, seemingly adored, and even loved. Thus, many of the themes from Chapter One, particularly those pertaining to sexuality and companionship, reemerge in this chapter in which we see further evidence of women’s pursuit of sexual fulfillment on their own terms and how it impacted their experience of married life.

Woman Yang’s confession of love detailed above might be somewhat less surprising if it had not come from an ordinary peasant woman. In the late Ming/Qing period, the idea of romantic sentiment between men and women gained recognition in literature. The idea *qing* has been a difficult one for Western scholars to pin down. The word itself has no precise English translation. It is most often translated as either “emotion” or “sentiment,” but other variations exist, such as “feelings,” “romantic sentiments,” “passions,” as well as “love.”¹⁴ According to Dorothy Ko’s work on women readers and writers in seventeenth-century Jiangnan, women encountered the imagined lives of romantic couples in fiction, shaping their expectations for their

¹⁴ Martin W. Huang, “Sentiments of Desire: Thoughts on the Cult of *qing* in Ming-Qing Literature,” *Chinese Literature: Essays, Articles, Reviews* (CLEAR) 20 (1998): 153. For more on the cult of *qing* see the entirety of this article.

own marriages, even if such aspirations usually remained only fantasy.¹⁵ But what did a twenty *sui* Miao woman, who spent her days chopping firewood and nights making shoes, know about love?

According to the surviving moralizing literature, sentiment (*qing*), sometimes also translated as “love,” was not viewed as an essential, or even a desirable, component of marriage in traditional Chinese society. In practice, marriages were transactional agreements, arranged by senior members of families who had the larger interests of the family in mind.¹⁶ The emotional sentiments of the individuals whose fates were decided did not necessarily matter in these arrangements. What is more, if desires for romantic attachment did exist and they failed to align neatly with family interests, sentiment could be perilous to the stability of the family, and thus such emotional attachments were discouraged, even between married couples.¹⁷

Yet fears about the destructive nature of sentiment were not entirely unwarranted. As Janet Theiss has argued, the growing popularity of companionate marriage fomented a shift toward what she calls “marital patriarchy.” The emotional devotion that faithful maidens and chaste widows showed for their husbands in refusing to remarry undercut family authority and suggests that aspirations for conjugal love were not exclusive to the upper classes but disseminated widely in society.¹⁸ What we see with Woman Yang, and other ordinary women like her, is different still. It is a desire for conjugal love that abandoned its reliance on orthodox

¹⁵ Dorothy Ko, *Teachers of the Inner Chambers: Women and Culture in Seventeenth-century China* (Stanford, Calif.: Stanford University Press, 1994), 180.

¹⁶ For more on the “transactional family” see Johanna S. Ransmeier, *Sold People: Traffickers and Family Life in North China* (Cambridge, Massachusetts: Harvard University Press, 2017), 4-13.

¹⁷ Paola Paderni, “I Thought I Would Have Some Happy Days: Women Eloping in Eighteenth-Century China,” *Late Imperial China* 16 (1995): 9.

¹⁸ Janet Theiss, *Disgraceful Matters*, 11.

notions of virtue. Despite having been a peasant and likely illiterate, Woman Yang knew a great deal about love. She not only valued love, she risked her life for it.

Thus, despite the rising popularity of sentiment (*qing* 情) in the eighteenth century, social anxiety surrounding sentimental attachment in marriage may in part explain why historians have paid little attention to the concept of love (*ai* 愛) in this period.¹⁹ Literary scholars note that the concepts of sentiment (*qing*) and love (*ai*) were closely linked. The earliest appearance of *qing* occurs in a poem about love, and thus “*ai* ‘loving care for, love’ is one of the profound basic responses designated by *qing*.”²⁰ In the ancient period, it was unusual for love (*ai*) to be written without being qualified by some other meaning, for example, “*lian ai* (pity and love), *en ai* (gratitude and love), *jing ai* (respect and love).” When it appeared by itself, love (*ai*) had numerous meanings; it could mean “‘treasure,’ ‘to be hidden’ as well as ‘adultery.’”²¹ It is noteworthy that the earliest uses of the term love (*ai*) had a transgressive connotation, reflecting feelings of affection that were improper or inappropriate, and which resonated as dangerous when compared to more orthodox views on romantic attachment (*qing*), which in themselves were viewed with caution.

Beyond romantic or sexual connotations, the notion of love appears elsewhere in the legal record as a motivator for wrongdoing. Parents who loved their daughters told the court they acted against the law because of that love. In Qianlong 36, 7th month, 25th day, twenty-three *sui*

¹⁹ Janet Theiss has documented a rising number of disputes in the eighteenth century among family members over competing family interests defined by either the conjugal family (husband-wife) or the greater patriarchal family. See *Ibid.*, Janet Theiss, *Disgraceful Matters*, 79.

²⁰ Christoph Harbsmeier, “The Semantics of *Qing* 情 in Pre-Buddhist Chinese” in *Love and Emotions in Traditional Chinese Literature*, ed. Halvor Eifring (Leiden ; Boston: Brill, 2004), 111-112.

²¹ Ping Wang, *Aching for Beauty: Footbinding in China*, (Minneapolis: University of Minnesota Press, 2000), 22.

Woman Luo had been married for about four years and desperately wanted out of the marriage. Her husband was sick and could not work and she and her child were starving. She returned to her natal home, and complained about this to her father, threatening to kill herself if he did not help her get out of the marriage. She told the Qing court, “My father loved (*ailian* 愛戀) me and at last agreed to help me kill [my husband].” He told the court, “I feel tenderness and pity (*lianxi* 憐惜) for my daughter and feared she would commit suicide.”²² In Qianlong 44, 12th month, 18th day, seventeen *sui* Woman Xiao-Yu had recently been married after her father’s death, but had since become intimate with a twenty-one *sui* married man. She told her mother that she wanted to leave her husband and become the man’s concubine. Her mother (aged forty-four), beat and scolded her upon hearing this, but in the end agreed to help her daughter. She said, “I cherished (*aixi* 愛惜) my daughter and feared that she would foolishly commit suicide, and so [I] said, ‘you can do what you want, I won’t stop you.’”²³

But love manifested itself in much more unexpected ways as well. In Qianlong 50, 2nd month, 18th day, twenty-nine *sui* Woman Liu-Zhang, from Pucheng County, Shaanxi, feared her husband’s decision to bring in a concubine due to the lack of a male heir after ten years of marriage. Woman Zhang dreaded the idea and thought her husband would not treat her as well after the new woman arrived, so soon after he made this proposal, she lied and told her husband that she was pregnant. “[I] wished to secretly buy a child and pretend [it] was my own...[but one day] when my husband had gone to market I went down by the gate and saw Liu Jinhua over the gate with a baby boy in her arms. I fell in love (*xinai* 心愛) as soon as I saw him,” which would

²² XKTb, 02-01-07-1193-004. Woman Chen-Luo (23 *sui*). Lanshan County, Hunan. QL 36, LC. (题为湖南蓝山县民妇陈骆氏嫌贫改嫁商同伊父毒死亲夫陈五开议准凌迟处死事).

²³ *Ibid.*, XKTb, 02-01-07-1591-009. Woman Xiao-Yu (17 *sui*). Zunyi County, Guizhou. QL 44, LC. (题报遵义县民妇萧喻氏商同奸夫谋杀亲夫拟凌迟事).

inspire her to kidnap the little child and kill the eight *sui* girl who attended to him.²⁴

While love may have justified perpetrators' actions to themselves, it in no way mitigated what they did in the eyes of the Qing court; rather, evidence of love (*ai*) or sentiment (*qing*) exacerbated guilt and in no way mitigated the actions of the suspects in court, given the incompatibility of this transgressive conception of love (*ai*) with the traditional family system. Yet women compelled to speak before the court will complain about there being no "mutual affection (*qingfen* 情分)" or "romantic love (*qingai* 情愛)," and articulate a desire for sincere love (*qinai* 親愛) between themselves and their husbands.²⁵ These cases serve as indicators that ideals about romantic love existed among ordinary people, who had their own ways of articulating love that their testimonies can help us understand.

In his most recent work examining over a thousand Qing legal reports involving practices of polyandry and wife-selling, Matthew Sommer draws a conclusion much different than mine about the role of sentiment in shaping the life choices of non-elite women. Sommer describes peasant women's feelings toward the sexual relationships in their lives as overwhelmingly "unsentimental" and "pragmatic." He writes,

For some of the women in Qing legal cases, the primary motive for entering these [polyandrous] relationships was emotional or sexual...But the majority of women in these cases...seem to have approached these matters with an utterly pragmatic and unsentimental attitude. They saw that it was up to them to ensure their families' survival,

²⁴ XKTB, 02-01-007-023756-0003. Woman Liu-Zhang (29 *sui*). Pucheng County, Shaanxi. QL 50, ZJH. (题为审理蒲城县民妇刘张氏因窃孩作子谋溺刘金花身死一案依律拟斩监候请旨事).

²⁵ XKTB, 02-01-07-2902-017, includes the phrase "夫妻情爱," translated as "love and affection between husband and wife"; Case number, 02-01-07-0207-004, includes the phrase "有多少夫妻情分," translated as "much love between husband and wife;" Ibid., XKTB, 02-01-07-1989-007 from the first year of the Jiaqing reign includes the testimony of an eighteen *sui* Woman Huang-Sun who married a 14 *sui* boy, she stated, "小的想人家夫妻都是一样年纪甚是亲爱, 独小的嫁了这样痴爱无用的人," translated as "I think that the most husbands and wives are the same in age and really affectionate, it is only I who have married a foolish and useless man."

so they did what they had to do.²⁶

This same observation of an “...utter lack of sentimentality...” on behalf of peasant women in both sex and marriage is reaffirmed in Sommer’s analysis of wife-selling reports.²⁷

While there is no denying that many non-elite women engaged in sex for survival—evidence of this, as we have only just begun to see, does not provide a complete picture of the motivations shaping ordinary women’s life choices. It is but a single piece of a complex puzzle—much of which is still not understood, and even more of which we surely can never know. The different sample of legal reports under review in this dissertation, homicide reports in which women serve as our chief narrators in crimes of illicit sex and murder, provide us with yet another puzzle piece. Their testimonies show us that ordinary, non-elite women led expansive and varied emotional lives in which sex was a meaningful component of their sense of personhood, and that they willingly risked everything for a chance to be with the ones they loved.

Articulating Sentiment: Expressions of Love, Longing, and Affection in Homicide Reports

Unlike Woman Yang, twenty-four *sui* Woman Chen-Zhang did not hesitate in her decision to pursue companionship outside marriage.²⁸ She was from Chaoyang, a county in Hubei. Married to Chen Shenghua at sixteen, she had been his wife for eight years, and they had no children. In Qianlong 19, 1st month, the couple moved to a place called Zhongzi Village in Ning Prefecture, Gansu, where they lived in a shanty cottage and cultivated the fields in the mountains. Six months after the move, her husband caught her and a neighbor named Cheng

²⁶ Matthew Sommer, *Polyandry and Wife-Selling in Late Imperial China*, 73. Also see subsection entitled, “The Unsentimental Pragmatism of Peasant Women” pages 75-77.

²⁷ *Ibid.*, Matthew Sommer, *Polyandry and Wife-Selling*, 212.

²⁸ XKTB, 02-01-07-0621-001. Woman Chen-Zhang (24 *sui*). Ningzhou, Jiangxi. QL 21, LC. (题为江西南州民陈张氏与程俊杰通奸谋死亲夫陈胜华议准凌迟处死事).

Houchi having sex, and threatened to kill both of them. Twenty-six *sui* Cheng Houchi lived just two *li* away, and often went walking past her house. They had been having sex whenever her husband was away. Having now been caught out, Cheng Houchi took this threat against his life seriously, and told Woman Zhang he would not return. But Woman Zhang was not discouraged. Even after the beating and scolding her husband had given her, she pleaded with Cheng Houchi to continue being her lover. She told the Qing court, “Only [because] in my heart I originally loved (*ai*) Chen Houchi that [I] said to him, ‘just come by [like before], if my husband catches us again, we will beat him to death, and that’ll be the end of it.’”²⁹ Cheng Houchi was nervous and did not agree to her plan at first. As it so happened, that same night, Woman Chen-Zhang’s husband caught them together again. Cheng Houchi suffered two blows to the head, while Woman Chen-Zhang was mercilessly beaten and Chen Shenghua threatened to kill her.

But even this second confrontation did not convince Woman Chen-Zhang to abandon the affair. Later that same month, Chen Shenghua left home again to do some work for a neighbor and was not to return in the evening. That afternoon, she went to Cheng Houchi’s house, telling him it was safe for him to come over. But he was hesitant, “If your husband returns, then what!?” She insisted that they keep to the plot she had proposed before, saying “If you don’t kill him, he’ll surely kill you!” It is hard to know what changed his mind. Perhaps it was Woman Chen-Zhang’s insistence or that by now a faceoff with her husband seemed unavoidable, but whatever the reason, he came over that night. In her testimony, Woman Zhang described their meeting as follows. “He came in and closed the door. We sat by the fire chatting for a while. I made a cup of

²⁹ This line of Woman Zhang’s testimony reads as follows: “...只因小婦人心中原愛著程俊傑就對他說你只管來若再被我丈夫撞著我們同把他打死了就是程俊傑沒有答應不想正在行姦...”

tea for Cheng Houchi to drink. Afterward...[he] went with me to the bed, and [we] took off [our] clothes and had illicit sex, and in the evening, we fell asleep.”

They were abruptly woken up when Woman Chen-Zhang’s husband arrived home early the next morning, catching his wife in her adulterous affair for a third time, which resulted in a fight in which Chen Shenghua was killed.

This case and that of Woman Yang, are striking for the women’s descriptions of their feelings for their lovers as love (*ai*). What is more, Woman Chen-Zhang’s case introduces us not only to the words of affection, but also the physical expression of affection aptly depicted in her description of her final night with Cheng Houchi. We gain unprecedented insight into the nuances of illicit intimacy. These cases offer up a new understanding of expressions of affection among ordinary people centered upon a language of love in both word and deed.

Couples used different expressions to articulate feelings of affection. Sentiment (*qing*) appears more readily than love (*ai*), and was used to indicate shared romantic feelings, such as when lovers spoke of being “affectionate” (*youqing* 有情),³⁰ and sharing “secret affections” (*qing mi* 情密),³¹ and emphasized their compatibility. For instance, even before illicit sex occurs, women will mention that they got on well with their extramarital male companion, using phrases such as “we had affection for one another and got on well together (*bici qingyi touhe ta* 彼此情意投合他)”.³²

³⁰ XKTB, 02-01-07-0698-007, QL 23, LC. (题为广西横州民妇黄氏与陈英著通奸商谋杀死本夫议准凌迟处死事).

³¹ XKTB, 02-01-07-1958-005, QL 60, LC. (题报太湖县民妇何氏与夫弟通奸谋死亲夫拟凌迟处死事).

³² XKTB, 02-01-07-0419-013. QL 15, LC. (题为山东禹城县民妇胡杨氏与宋二月通奸谋死本夫胡麻子议准凌迟处死事; 乾隆十五年七月二十日).

Some illicit couples did not speak directly about their longing in their testimonies, while others spoke almost too explicitly. In Qianlong 42, 12th month, 21st day, thirty *sui* Woman Li and her thirty-two *sui* lover Zhou Tingkui were disappointed with their prior botched attempt to kill her husband. Woman Li told the court, “I went to the field to cut wheat and ran into Zhou Yankui. There I went to grab a rake and saw that he was sitting alone and not working... He said to me, ‘These past two days, I’ve longed to see you. Because your husband is home, it’s not convenient for me to come around.’ [He] and I were secretly in love (*qing mi* 情密).”³³ Likewise, in Qianlong 31, 6th month, 6th day, a twenty-three *sui* Miao woman from Guizhou named Baomei had been having premarital illicit sex with Wang Laosan. After her father had married her to another man, Wang Laosan told her he wanted her as his wife. Baomei told the court, “I met Wang Laosan, and he said, ‘Nowadays [we] are apart and in my heart I often miss (*nian* 念) you...marry me and [we] can be forever husband and wife (*changjiu fuqi*).”³⁴

In other cases, feelings and sentiment are not expressed so directly in words. Instead, physical expressions of affection are included in these cases. This includes descriptions of men and women making eyes at each other (*meilai yanqu* 眉來眼去), having fun (*wanshua* 玩耍), chatting and laughing (*shuoxiao* 說笑), and sharing jokes (*xixue* 戲謔), as well as access to more rare intimate moments, such as a serenade. In Qianlong 15, a seventeen *sui* Miao girl named Erjie said she heard a man singing a Miao song outside, went out to see him and they flirted.³⁵

³³ XKTB, 02-01-07-1512-011. QL 42, LC. (题报元和县盛李氏与周廷魁通奸谋死本夫盛才观拟凌迟处死事).

³⁴ XKTB, 02-01-07-0963-007. QL 31, LC. (题报贵筑县苗妇保妹与王老三通奸谋死本夫拟凌迟处死事).

³⁵ XKTB, 02-01-07-0415-001. QL 15, LC. (题报修文县苗人二妹与王老二通奸同谋勒死亲夫罗阿七拟凌迟处死事).

There is also the case of twenty-seven *sui* Woman Zhang from Li'an County that documents a kiss. Woman Zhang reported to the magistrate, saying, "I don't know my birth parents. Zhang Shou Yali's mother found me on the road and nursed and raised me. When I was three, [she] died, and I was given to the Huang family to be raised and matched to marry Huangdun." After she and her adopted brother Shou Yali separated, he kept in contact with her. Woman Zhang continued in her testimony, "In Qianlong 10, 12th month, 4th day, Shou Yali came to see me. I told him we were poor and went without food. [He] told my husband that he was taking me back to his house. That night it snowed and was cold. I did not have a blanket, and so I shared a blanket with Shou Yali and we slept together and had illicit sex. After that, we had illicit sex regularly. At New Years, my husband moved into Shou Yali's home and lived [there with us] and I became pregnant. In Qianlong 11, 11th month, my husband rented two rooms...and opened a restaurant. Shou Yali took me to the restaurant and then left. On Qianlong 12, 1st month, 12th day, Shou Yali came back again to see me. He sat down beside me and held [my] face and kissed me on the mouth (*qinzui* 親嘴). My husband saw, and [he] began to curse and scold us, saying he wanted to kill us. On the night of the 15th, I gave birth to a girl [and] my husband did not take care of [us] but only made up a bed in the outside room and slept. It was Shou Yali who took care of me in the room."³⁶

This case highlights a third expression of affection based on acts of service. Woman Zhang's testimony includes no references to sentiment (*qing*), love (*ai*), or even explicit statements about having got on well with Shou Yali, but statements such as these are not required; her affection for Shou Yali comes across clearly in her description of the care he

³⁶ XKTb, 02-01-07-0344-003. QL 12, LC. (题报抚州府新喻县民黄张氏与张瘦牙俚通奸谋死亲夫黄瑞来拟凌迟处死事).

showed her.³⁷ Shou Yali treated her kindly during the pivotal moments of childbirth, protecting her when her husband rejected her.

Another example of such an act of affectionate service appears in a case from Poyang County, Jiangxi. Woman Peng entered her husband's home as a child bride and had one child who did not survive. In Qianlong 28, they moved in with her husband's brother, Wu Zu. She described her husband as a person who roamed and wandered about, who had not returned home for years. As such, she relied on Wu Zu for support. "In Qianlong 34, I was sick in bed and Wu Zu brought me tea. We flirted, had illicit sex, and did so regularly after that."³⁸ Woman Peng's husband returned home a few years later. Wu Zu tried to persuade his brother that since he was so often gone, he should sell Woman Peng to him, but her husband refused, which led them to plot his murder.

The articulations of affection in the above cases are in many ways exceptional when compared to the most commonly encountered descriptions of illicit sex in the criminal case record. Typically, the initial moments of consensual illicit sex are condensed into the following stock phrase in which a woman states, "[he] flirted with [me] and we had illicit sex (*tiaoxi cheng jian* 調戲成姦)". Only in a minority of cases did magistrates and clerks take the time to provide a detailed account of flirtation, describing the range of actions, behaviors, and events that transpired in the moments that led up to illicit sex, often edited down to the phrase "*tiaoxi*" meaning to "flirt." The phrase "*tiaoxi*" appears within these cases as well, but given the level of

³⁷ It is also worth noting that Shou Yali shared his blanket with Woman Zhang, for as we have seen in Chapter One, marital disputes about access to blankets at night seem to have been common among the poor and could result in extreme violence. This act is a sign of his affection for her.

³⁸ XKTB, 02-01-07-1195-014. Woman Wu-Peng (unknown *sui*). Poyang County, Jiangxi. QL 36, LC. (题报鄱阳县民吴彭氏与吴俎通奸谋死亲夫吴新保拟凌迟处死事).

detail found in these women's testimonies when it comes to descriptions of "flirtation," I argue that magistrates went to lengths to document these particular women's sexual experiences in this uncommonly detailed way in order to increase their blame and strengthen the case mounting against them. In other words, a clear understanding of their consensual participation in and desire for illicit sex was necessary to explain their motivation for murder.

For example, in Qianlong 23, twenty-two *sui* Woman Shen from Dali County, Shanxi, provides a detailed account of the intricacies of flirtation that is often edited down to "flirt (*tiaoxi*)" in the case record. She describes how fifty-one *sui* Wang Tianzhu flirted with her by telling her that he wanted to gift her a pearl head ornament. A married man with four sons, Wang Tianzhu was employed by Woman Shen's husband to manage their household expenses. Woman Shen stated in her testimony, "I replied [to him] saying, 'What reason do you have for buying me this gift?' I had just finished threshing the wheat and I went inside the kitchen to cook when suddenly Wang Tianzhu followed me in and grabbed my hands and [continued] talking about gifting me things. He said he has money and told me he could buy me whatever my heart desired (*xin ai de dongxi* 買心愛的東西)."³⁹ It is noteworthy that the character love (*ai*) is a component of this expression, adding to the transgressive nature of the sentiment.

Similarly, nineteen *sui* Woman Li from Zhijiang, Hubei, described how her recently widowed thirty-five *sui* elder brother-in-law, Wen Shi, indicated his affections for her, recounting in her testimony the things he had said to her as they sat in the kitchen. "[He] said, 'When my wife was alive, she was good-looking, only her feet were a bit too big. You are good-looking too, [we] would have good-looking children together, if we have a son, let's call him

³⁹ XKTB, 02-01-07-0700-017. Woman Liu-Shen (22 *sui*). Dali County, Shaanxi. QL 23, LC. (题为陕西大荔县民妇刘申氏通奸毒死本夫议准凌迟处死事).

Bao Er, if a daughter, Bing Er.” In his testimony, Wen Shi indicated that when he made these provocative statements, it was his intention to have illicit sex with her. In response, Woman Li did not say a word. Instead she explained, “I stomped on his foot and left [the room].” The next year, Wu Shi tried again to entice his sister-in-law. She said, “I sat by the fire, and Wu Shi came and touched my breast. [I] did not make a sound, but just got up and went into the kitchen.” The next day, when her husband went out to market, Wu Shi came into her room while she slept, and they had illicit sex.⁴⁰

To be sure, these testimonies provide examples of male predatory behavior. Both aforementioned women, Woman Shen and Woman Li, expressed initial reluctance to illicit sex with these men, but they were ultimately judged to have consented due to their eventual submission and lack of violent response in which they “did not make a sound” rather than fight against their assailants. As such, both women were judged to have engaged in consensual illicit sex. Moreover, both women expressed a general resentment towards their husbands. And what is more, they both confessed to having agreed to the plot to kill their husbands, all of which made them intentional conspirators to murder.

The repeated nature of their illicit sexual encounters also serves as an additional indicator that these women’s extramarital relationships were consensual in the eyes of the Qing court and perhaps for the women themselves. Take for example, Woman Shen, for while showing initial reluctance to Wang Tianzhu’s advances, she is presented in the case record as increasingly desirous of the illicit affair and contemptuous of her husband. She states in her testimony, “My husband Liuye and his elder brother Liuchuang are both easily taken in and useless. They don’t

⁴⁰ XKTb, 02-01-07-0549-004. Woman Li (19 *sui*). Zhijiang County, Jingzhou Prefecture, Hubei. QL 19, LC. (题报荆州府枝江县民妇李氏与夫兄通奸谋死本夫拟凌迟处死事).

know how to weigh money and food.” Her husband’s failing in this way becomes the reason for Wang Tianzhu’s appearance in their home as the family money manager. Woman Shen explained that after their first sexual encounter, she and Wang Tianzhu devised a system in which he came over the gate at night and she let him in her room when she heard the noise of the gate, and they did this regularly.

Women were also shown to actively flirt with men, however. One of the most striking portrayals of a woman’s advances towards a man appears in a lengthy Qianlong 15 case in which Woman Zhong, a thirty-six *sui* mother of four from Chenxi County, Guangxi, took a liking to the litigation master who had recently come under her personal employ.⁴¹ Woman Zhong had been married to her husband for fifteen years and described him as deaf and mute since childhood. Because of her husband’s ill health, it was she who took action when her brother-in-law refused to give her husband his share of the family property. She decided to bring a lawsuit against her brother-in-law, and was in need of a plaintiff writer, and her uncle recommended thirty-five *sui* Li Hongxian.⁴² Li Hongxian told the court that he had no prior association with Woman Zhong. He described himself simply as “educated and literate” and because of these qualifications, he was asked to write the plaintiff for the lawsuit. He met up with Woman Zhong once to talk about her claim before they traveled together to file the suit. After they returned, she invited Li Hongxian over to discuss the matter with her. That evening, he was to stay the night and sleep and eat in an empty room in the house.

⁴¹ XKTB, 02-01-07-0415-012. Woman Zhong (36 *sui*). Cenxi County, [Guangxi]. QL 15, LC. (题为岑溪县民妇钟氏与黎洪先通奸起意同谋毒死亲夫议准凌迟处死病故戮尸事).

⁴² For more information on the role of litigation masters in the Qing judicial system see Melissa Macauley, *Social Power and Legal Culture: Litigation Masters in Late Imperial China* (Stanford, Calif.: Stanford University Press, 1998).

Woman Zhong's testimony continues with a detailed account of her flirtation with Li Hongxian that culminated in them having illicit sex. She told the magistrate the following: "After dinner, I went into his room to chat. He said, 'It isn't right that your brother-in-law, Guan Fengxiang, occupies [your husband's] land.' I said, 'the entire Guan family is bad, and Guan Shengli, [my husband], is being treated unjustly, but I am [also] not innocent...' [Li Hongxian] laughed and said, 'do you really have such affairs?' I said, 'are you saying I am not innocent too?!' and [Li Hongxian] entered [the bedroom]. In that moment, I thoughtlessly took a cup of tea and a tobacco pipe, entered his bedroom, and sat on his bed. We drank tea and then smoked tobacco. After [we] smoked, he pulled me [toward him] and I had illicit sex with him on the bed, and then we fell asleep. In the morning, we quietly had illicit sex one more time."⁴³ The phrase "thoughtlessly" is meant to downplay Woman Zhong's intentions in the eyes of the Qing court, but her actions spoke clearly enough.

The testimonies of the women discussed above, including that of Woman Zhong and her litigation master as well as Woman Shen and her pearl head ornament, include details that suggest they lived under relatively privileged circumstances. These women were almost certainly not at the bottom of the social or economic ladder, but they are not necessarily in the category of the elite either. The two women whose testimonies opened this chapter, who spoke directly to the Qing court about their "love" for men who they came had come across while completing daily chores, one man digging up grass, the other a neighbor that lived beside their shanty cottage, were clearly in a lower economic position. The testimonies of each of these women provides significant evidence of women acting upon their sexual desire in the historical record.

⁴³ Ibid., XKTB, 02-01-07-0415-012. Woman Zhong (36 *sui*).

Our final example of women's flirtations with men in the homicide record comes from a Qianlong 43 case about a woman who lived under the pressure of limited financial resources in her husband's home. Woman Qian (aged eighteen years) from Nanzhang County, Xiangfan, Hubei grew up as a child bride in her husband's home and expressed her dislike for him and his mother. "My mother-in-law and husband treat me unkindly. I have chest pain and when it flares up [I] must go to bed and sleep. My mother-in-law and husband say I'm lying to cover up my laziness, and also falsely said that I stole their family money and gave it to my natal family. They repeatedly beat and scolded [me]... I hated my husband so much that to vent my anger I went and secretly set fire to his cowshed, but it didn't burn down." In addition to these complaints, Woman Qian also said that he forced her to have illicit sex with him before they were officially married.

Filled with animosity toward her husband and his family, Woman Qian hoped Chen Da, a nephew of her mother-in-law, would help her escape. "[One day], my parents-in-law and husband were all out in the field doing work. Chen Da passed by the gate tossing a rock. [I] smiled at him, and told him to climb over the wall and come into [the house]. I told [him] that his aunt and brother treat [me] unkindly, saying, 'why don't you come and take care of me?' Chen Da chatted with me, and [we] flirted and had illicit sex on an empty bed inside [the house]."⁴⁴

The cases above have provided a discursive look at evidence of sentiment, affection, longing, and desire in criminal proceedings. In the next section, I focus on women's pursuit of companionship outside marriage, exploring how young women attempted to pursue lives with men of their own choosing, men with whom they had consensual illicit sex with in their not-so-

⁴⁴ XKTB, 02-01-07-1554-007. Woman Luo-Qian (19 *sui*). Nanzhang County, Hubei. QL 43, ZLJ. (题报南漳县民妇罗钱氏商同奸夫谋杀未婚夫伤而不死拟斩立决事).

distant pasts. Through their testimonies, the weaknesses of patriarchal authority are exposed as these young women take action to change their fates, seeking a life with a person with whom they share mutual affection rather than submit to the fate arranged for them by others.

Premarital Intimacy: Finding Her Own Marriage Partner

The account that opened up this second section of the dissertation, about thirty-eight *sui* Woman Hua-Ye's reunion with her former lover, Jianjue, a neighbor boy from her youth, reveals that it was not unusual for girls and boys growing up together to socialize, nor inconceivable that those attachments might endure beyond their early years. In everyday life, children of the opposite sex saw one another around the village, talked, and played, and it is unsurprising that for some, affections grew. Despite Qing gender norms of sexual propriety, especially female chastity, the following cases speak to the lived realities of many women's first sexual experiences, illustrating that often the value young people placed in gender orthodoxy did not always matter as much as did their pursuits of sexual desire and aspirations of mutual affection. As we shall see, "good" early relationships with men in youth awakened young women to a longing for companionship found lacking in their marriages. For some, like Woman Hua-Ye, this longing stood the test of time. For others, it could not wait.

As discussed in Chapter One, sex before marriage—while a practice plainly at odds with Qing gender norms—appears to have been a far from uncommon occurrence in the lives of young women. The testimonies of young women accused of husband-murder include reports of their premarital sexual pasts, even when their former lovers were not involved in the alleged murder plot.

As I have argued, Qing magistrates interrogated young women accused of husband-murder about their sexual pasts because they entered such criminal scenarios with the

assumption that illicit sex was a pervasive motivation for women, especially young women, to kill their husbands, and that a lover could almost always be found to have either inspired or at least aided in the crime. Yet the sexual pasts that these young women spoke of did not always hold the answers that magistrates sought. When women were made to disclose their premarital sexual experiences, the men they named (often neighbor boys with whom they had grown up), were not ‘lovers’ or co-conspirators in their husband’s murder as imagined by the magistrate, but instead men with whom they had been intimate in the past. Sometimes judicial authorities were able to apprehend these men and punished them for the crime of illicit sex, other times, they simply could not be located.

The following husband-murder cases, which in contrast to Chapter One, were motivated by adultery and involved lovers, not only continue to support the argument that premarital sex was prevalent in Chinese society during the eighteenth and nineteenth centuries, but also sheds new light on the tender attachments young people formed for one another before marriage and the risks women, as well as men, were willing to take not to give up the happiness that they had just found.

Paola Paderni has observed strikingly similar portrayals of women’s sexual desire and agency in reports about abductions (with no homicide committed) in which wives chose to run away with their lovers, many of whom were men from their natal village whom they got along well.⁴⁵ Her findings serve to support my claim about the pervasiveness of consensual premarital sex in Qing China and judicial openness to documenting women’s agency in sex. Yet in contrast with me, Paderni does not go as far as to suggest that such cases constituted any form of active *resistance* on the part of women. Paderni states, “These deviations did not necessarily constitute

⁴⁵ Paola Paderni, “I thought I Would Have Some Happy Days,” *Late Imperial China*, 3.

a deliberate challenge to established norms or present an alternative to them; more often they were simply a product of the clash between a desire arising in the personal or emotional sphere and a rigid value system unable to accommodate it.” I argue that these women’s documented affection for boys from the natal village threatened patriarchal and familial control over the institution of marriage as women took it upon themselves to pursue a life with the man they chose in a love-marriage rather than submit to a marriage arranged for them by others. Their actions and feelings constituted not merely a “deviation” but rather a direct challenge to prevailing norms of gender, family, and society, and were perceived by Qing authorities as dangerous and troubling. From the Qing state’s point of view, these cases represented the transgressive nature of unrestrained sentiment and the destructive power of romantic love.

Like many other child brides in the case record, seventeen *sui* Woman Yang could not recall how old she was when she first entered her husband’s household in Shandong, but she knew it had been a long time.⁴⁶ Woman Yang’s blurred memory did not mean she had severed ties with her natal family. Rather, she made frequent visits back home to see her mother and help her around the house. Her mother-in-law at times even encouraged their continued contact. “My father passed away,” Woman Yang explained in her testimony, “and because of this in Qianlong 13, 9th month, 26th day, my mother, Woman Zhang, remarried as a wife into the Song family. Mother-in-law bought some gifts for me to give my mother and sent me to go see her.” That day, one of the neighbor boys caught Woman Yang’s eye. “I went to see my mother and saw neighbor Song Eryue at his house doing work. It was then that we were acquainted. I returned that day to

⁴⁶ XKTB, 02-01-07-0419-013. Woman Yang (17 *sui*). Yucheng County, Shandong. QL 15, LC. (题为山东禹城县民妇胡杨氏与宋二月通奸谋死本夫胡麻子议准凌迟处死事).

my mother-in-law's and stayed there for half a month until my mother asked me to come home again to harvest rice.”

It was not long after Woman Yang returned to her natal home that she and the neighbor boy called Song Eryue became intimate. Woman Yang told the court about their first sexual encounter and the flirtation that led to their illicit romance. She described it in her testimony like this. “Eryue often came to my mother's house to play and have fun. I talked with him often and we made eyes at each other. We had affection for one another and got on well together (彼此情意投合他 *bici qingyi touhe ta*). I don't remember what day exactly, maybe in the 10th month, either the 15th or 16th, my mother left to grind meal at the home of a neighboring family. Song Eryue said to me, ‘let's go to the garden and play!’ I went with him to the garden, and [he] asked me how old my [intended] husband and I were. I told [him] I was sixteen and that year my husband just turned fourteen. I then asked Song Eryue about his age, and he said he was nineteen. I said [to him], ‘my husband is short and small. [His] body does not compare to yours!’⁴⁷ Then he pulled me [towards him] and we had illicit sex there in the garden.” This was just the beginning of their sexual relationship. “The next day,” Woman Yang continued, “we had illicit sex again behind the house, and the following day, we had illicit sex under the peach tree. After that, I returned to my husband's home.”

Woman Yang's testimony emphasizes her active consent to illicit sex in the context of her desire for Song Eryue. Her description of their relationship prior to sex presents the two of them as friends and in a relationship of mutual affection, playing together, talking, and “making eyes” at one another. While following and being alone with a man certainly indicated a woman's

⁴⁷ This statement in Woman Yang's testimony reads as follows: “...小的說我男人矮小不堪那比的你這樣身材他就上來拉小的合他在園裡成了姦...”

consent to illicit sex in the eyes of Qing magistrates, in legal reports consent is more typically described in terms of a woman's inaction and passive response to sex as opposed to the active choices they made with their sexual partners. For instance, as already discussed, the phrase "she did not make a sound" is found repeatedly in such reports to demonstrate women's lack of resistance to illicit sex, and thus implicate them in the crime at hand. In contrast, Woman Yang's testimony includes a rare portrayal of a young woman's initiative in sex in which she acted upon her sexual desire for a man with a more mature male body than that of her husband. Thus, Woman Yang not only "got on well" with Song Eryue but also found him to be an attractive sexual partner. And as we shall see, following her first sexual experiences Woman Yang could not help but compare Song Eryue to her husband, for she now had a certain set of expectations for sexual intimacy that her young husband failed to satisfy.

When Woman Yang first engaged in sex with Song Eryue she and her husband had yet to consummate their marriage, but it just so happened that when she returned to her husband's home after this visit that her parents-in-law decided it time to solemnize the marriage. Woman Yang continued in her testimony, saying, "In Qianlong 13, the 12th month, my husband's family had me and my husband consummate the marriage. My husband Hu Mazi was just fourteen. [He] was very short and small, and knew nothing about sex (*yi dian renshi dou bu zhi dao* 一點人事也不知道), and I resented him because of this."⁴⁸

One might think that Woman Yang's recent loss of virginity could have presented a problem for her on her wedding night, yet as previously discussed in Chapter One, young women

⁴⁸ The "facts of life" (*renshi*) also translated as "the affairs of the world" is a euphemistic phrase meant to indicate Hu Mazi's lack of sexual awareness. Women used this phrase to refer to legitimate sexual intercourse in marriage. In addition to *renshi* 人事, I also often encounter the term *fangshi* 房事, literally translated as "affairs of the bedroom" in reference to sexual intercourse between a married couple.

who had engaged in premarital sex readily passed as virgins when married. While it was certainly customary to expect a young woman to be virginal on her wedding night, legal cases strongly indicate that women entered marriage more sexually experienced than previously thought. And since women were not expected to provide any type of “proof” of virginity at marriage, loss of virginity went undetected, as it did in this case.⁴⁹

Marriage did not prevent Woman Yang from soon seeking out Song Eryue’s company once more. “On Qianlong 14, 3rd month, 28th day, I went to see my mother again and resided there for two days. I had illicit sex again with Song Eryue outside the house...Song Eryue and I had now committed adultery.” During their second meeting, Woman Yang told Song Eryue about her husband’s home, describing what it looked like and which room she slept in so that he could come visit her at night. Song Eryue came looking for her once, but because people were around, he quickly left.

It would be three months before they had another opportunity to meet. Woman Yang’s testimony continues as follows. “In the 6th month, 14th day, an opera was held in Song family village and mother told me to come and watch. [During the opera,] I left my little brother in the passageway to play, and Song Eryue bought five crabapples for him to eat. Then [he] and I went to a place in the back and had illicit sex. I was in the heat of passion, and said to Song Eryue, ‘My husband is young. I often try to be intimate with him but he doesn’t understand affections between husband and wife. You have no wife. Let us kill my husband and marry!’ Song Eryue agreed.”

⁴⁹ As discussed in Chapter One, lack of virginity did not present a problem to marriages unless a husband, either aroused by either jealousy or paranoid suspicion, decided to make it a problem and accuse their new wife of not being a virgin. But even in these cases, which do appear to be far less common than marriages where women passed as virgins, it was difficult for husbands to return or remove a wife from his home just because of his allegation that she was not a virgin.

Age-compatibility is a factor that women readily bring up in their testimonies when explaining *why* they preferred the partner they found over their matched husbands. Woman Yang's characterization of her young husband echoes the complaints of dissatisfied teenage brides explored in Chapter One, left sexually frustrated with their even younger husbands, whom they saw as silly, unexperienced, and simply disinterested in matters of sex, a foremost performance of marital duty that these women placed great value in. Woman Yang's case also highlights the tendency for women to complain about their husbands being too young, rather than too old. And age gaps in the other direction can have a similar impact. Take, for instance, the earlier case of the twenty *sui* Miao woman who stated in her testimony that she had found the "love" (*ai*) absent from her marriage to her thirty-seven *sui* husband with a man her same age.⁵⁰ Woman Yang's testimony therefore speaks to the hidden inner sexual desires of young non-elite women, tapping into their yearnings for companionship and sexual satisfaction in life, if not marriage—a dimension of non-elite women's expansive emotionality altogether absent from the prevailing historical record.

In the following case, the origins of twenty-one *sui* Woman Qiao-Su's frustrations with her husband also originated in the bedroom. From Xiangyang County, Hubei, Woman Qiao-Su married into her husband's family at the age of seventeen when her husband was just twelve.⁵¹ She told the magistrate, "My husband was young and feeble-minded (*chidai* 癡呆). [He] knows nothing about sex (*busheng renshi* 不省人事). [We] did not consummate the marriage."⁵² While

⁵⁰ Ibid., XKTB, 02-01-07-0192-003, Woman Yang (20 *sui*).

⁵¹ XKTB, 02-01-07-0778-003. Woman Qiao-Su (21 *sui*). Xiangyang County, Hubei. QL 26, LC. (题为湖北襄阳县人乔萧氏与李三通奸谋死本夫议准凌迟处死事).

⁵² Here the idiom, *busheng renshi* 不省人事, meaning "not wise in the ways of the world", is employed here to indicate her husband's lack of awareness about sex but may also indicated that he suffered from a mental deficiency.

it is conceivable that at the age of twelve Woman Qiao-Su's husband may have been genuinely disinterested in matters of sex, just as Woman Yang's young husband had been, in describing her husband specifically as *chidai* (feeble-minded) Woman Qiao-Su lodged a much more serious complaint. Not simply an expression of annoyance at the immature foolishness of an adolescent boy, Woman Qiao-Su's testimony indicates that her husband suffered from a form of cognitive impairment. The term "feeble-mindedness (*chidai*)," meaning "chronic or persistent disturbance of the intelligence which is characterized by mental sluggishness, lack of intelligence, foolishness, and/or clumsiness," and can range in seriousness from "diminished speech" and "mental torpor" to "deranged speech, crying or laughing for no reason, and no desire for food."⁵³ It is unclear where Woman Qiao-Su's husband fit on this spectrum, or how serious his condition was.

As we have also seen in Chapter One, young women expressed great disappointment upon entering their husband's home to discover for the first time that her husband was not just young but also suffered from a mental impairment of some kind. They articulated fears about making a life with such a man, some worried that their husbands would be unable to father children due to disinterest in sex. Woman Qiao-Su did not express such concerns explicitly, merely indicating that while married, she and her husband did not engage in sexual intercourse as expected. The importance of recording this detail for the Qing court was to provide a necessary explanation for Woman Qiao-Su's eventual dissatisfaction with her marriage. It also suggests that Woman Qiao-Su considered her marriage invalid.

⁵³ See *Chinese Medical Psychiatry: A Textbook & Clinical Manual*, rev. ed. (California: Blue Poppy Press, 2001), s.v. "Feeble-mindedness," 151.

Woman Qiao-Su lived with her frustrations with her new marriage for about six months before a man her same age caught her attention. She continued in her testimony, saying, “In Qianlong 24, first month, 16th day, I went to the Li market town, my maternal uncle Zhang Yuansi was there, and [I] watched the opera. My grandfather’s brother, Su Kecheng, also lives in the Li market town, and I paid a visit to his house, and I met Li Sanxian there. He asked where I was from, and Su Kecheng replied saying that [I] was a young sister from his clan who had come to watch the opera. Li San again asked if I was old enough to handle alcohol, and we drank. Soon I got cold and returned home. On the 17th, I again went to watch opera and also went to Su Kecheng’s house and Li San was there again as well. He took out a tobacco pipe for us to smoke, saying I was clever and [my] needlework certainly ought to be excellent! My brother informed him [about it] saying I could make a wallet. Li San then asked [me] to make him one. I agreed. We talked and soon felt affection for [one another] (說話就有情了). After we had finished watching the opera it was late and my brother had me spend the night.”

Woman Qiao-Su continued, “That night Li San entered the room and embraced me, saying he longed [for me] so badly (*sinian de hen* 思念得狠) that he wanted to have illicit sex with me. I said that [I] feared my brother would find out and that it was not convenient. He said that [he] had already spoken [with my brother], and that I shouldn’t be afraid. I then had illicit sex with him. The next day at daybreak when [we] parted ways, he asked me to meet him at his home in the place of Xin market town. I returned to my natal home and went to Xin market town and we had illicit sex twice at his house. At that time, he had no wife and there were no relatives [at his home]. Later, Li San was hoeing up weeds on the Jia family land [when] I walked by and met him and [we] had illicit sex once in the woods. After that we had illicit sex whenever it was convenient, [I] don’t remember how many times.”

Woman Qiao-Su's testimony goes into detail the way she showed her secret affection for Li San through gifts. She stated, "He and I were having consensual illicit sex (*tongjian* 通姦) and [our] affections were deep (*qing hou* 情厚).⁵⁴ I first gifted him a copper bracelet. In the fifth month, [I] also made a pair of blue cloth shoes and a wallet, and I brought [them] to give him as a gift, but [he] wasn't around and I brought [the gifts] back home [with me]. [I] missed [him] terribly and I could wait no longer, and I went and told my brother-in-law Bi Wei to deliver [the gifts] for me, lying saying that Li San is a relative from my natal family and to take [the gifts] to give to [him]. Unexpectedly, [he] informed my father-in-law [about this], and my father-in-law suspected that I was having illicit sex and [from then on] he, along with my mother-in-law and husband, beat and scolded [me], and would not allow me to return to my natal home. After that my father-in-law went to Dushu temple to watch opera and beat up Li San [who was also there]. At that time, I returned to my natal home. My father-in-law had already told my father about how I had asked Bi Wei to deliver a gift of shoes and a wallet. Because of this my father and mother questioned [me] repeatedly, but I refused to confess..."

Soon after Woman Qiao-Su's illicit romance was exposed, she endeavored to run away with her newfound love. She continued in her testimony, saying, "My days were filled with suffering. I made up my mind to kill my husband and to flee with Li San and be forever husband and wife. I spoke about [my plan] with Li San. [He] said that this was something that [we] should not do and [he] refused to take part. On the 3rd day of the 13th month, I returned to my

⁵⁴ This line of Woman Su's testimony reads as follows: "...小婦人與他通姦情厚先送他一隻白銅手鐲..." For a definition of *tongjian* as a word for "to engage in illicit sex" that indicates women's active consent in sex see, Philip C. C. Huang. "Women's Choices under the Law: Marriage, Divorce, and Illicit Sex in the Qing and the Republic." *Modern China* 27, no. 1 (2001): 3; 14-15.

natal home to reside [for a while]. On the 26th day, I began [my] return, and I walked past the place of the Geng family temple where [I] encountered Li San. Once again, [I] spoke with him about killing my husband, saying that if he didn't agree [I'd] still kill my husband but [I] would no longer be friendly with him. Because Li San had deep affection for me, he agreed [to the plot].”⁵⁵ Woman Su and Li San waited a couple days, and then when everyone was out, Li San came to her husband's home and the illicit couple strangled her husband as he slept.

Woman Qiao-Su nearly got away with murder. She and Li San successfully framed her husband's death as a suicide, making it look as if he hung himself. When her parents-in-law arrived back home, Li San fled and Woman Qiao-Su pretended as if she had just woken up. Finding their son dead, they examined his body. While her father-in-law questioned the markings on his son's body, Woman Qiao-Su told him that she did not know how he died, and her father-in-law pressed her no further. Their scheme went so far as to fool the coroner who in fact judged the death to be a legitimate suicide. It is only after further interrogation of Woman Qiao-Su herself, who ultimately disclosed the true nature of her husband's death to the magistrate, that her testimony overrode the coroner's initial determination of the cause of death. As a consequence for his error in the examination of a corpse, the coroner (aged 65 *sui*) was sentenced in accordance with the law to 80 beatings with a bamboo rod reduced to 30 beatings. The extraordinary detail that we have just seen in Woman Qiao-Su's testimony is without a doubt a byproduct of this alarming error in justice in which the court coroner failed to ascertain the “truth.” Judicial need to understand and reconstruct the criminal motivations of this young

⁵⁵ This section of Woman Sun's testimony reads as follows: “...小婦人日受磨折立意致死丈夫要與李三逃走做長久夫妻，先與李三商量，李三說這事做不得沒有依允，十二月初三日，小婦人回娘家去住，到二十六日才回走到耿家廟地方遇著李三，小婦人又把要致死丈夫的話與他商量，並說若不依從把丈夫致死再不與他相好，李三因與小婦人情厚也就應允...”

woman rose to new heights in the wake of this investigative discrepancy between a woman's words and a coroner's judgment.

Married to a man she did not like for seven years, twenty-five *sui* Woman Li also longed to be with the one she loved.⁵⁶ Unlike the women whose testimonies are explored above, Woman Li's husband, Long Shicai (aged thirty-three *sui*), was older rather than younger. Woman Li raised no complaint about their age difference, but their years together had seemingly done nothing to impart any fondness for him in her. In fact, she felt only hate for him, and she told the Qing court as much, saying, "His family is poor, and he is stupid and foolish (*chichun* 癡蠢). I hated him and so [I] often stayed at my natal home." Given such animosity, one might wonder whether Woman Li ever spent any meaningful amount of time at her husband's home at all. This is cast into even greater doubt when considering that the man whom she did feel affection for, Long Shiwang (also aged twenty-five *sui*), resided in her natal village, not far from her parents' home.

They had been close friends since childhood. Woman Li had not allowed marriage to put an end to their relationship. She described the history of their intimacies in her testimony, saying, "I've known [Long Shiwang] since I was thirteen. Since we are the same age, we developed an intimate relationship with one another. At seventeen, he and I had already been having illicit sex for many years. Thoughtlessly, I gifted him two pairs of shoes, one key, and a bag. In the same way, Long Shiwang gave me two fen of cash and a handmade bracelet. After that, I often returned to my natal home to stay and would go have illicit sex with [him] in Horse Mountain Ridge."

⁵⁶ XKTB, 02-01-07-0685-010. Woman Li (26 *sui*). Liucheng County, Guangxi. QL 23, LC. (题为广西柳城县民妇李氏与龙土旺通奸谋死亲夫议准凌迟处死事).

They had promised themselves to one another nearly two years before Woman Li ever stepped foot in her husband's home. Clearly, Woman Li's feelings for Long Shiwang weighed as heavily, if not more heavily, upon her decision to break free from her marriage as her dissatisfaction with her "foolish" and "poor" husband. With the exchange of gifts, a practice also documented in the previously examined case of Woman Yang, young lovers pledged loyalty to one another in spite of the inherent transgression. A makeshift 'marriage' forged firmly outside bounds of both Confucian patriarchy and the transactional market in people—theirs was a union on their own terms.

For seven years then, Woman Li had successfully balanced her forbidden relationship alongside her arranged marriage, but now she was no longer content with clandestine meetings, and aimed for something more for Long Shiwang and herself. She continued in her testimony, saying, "In the 4th month of this year, I spoke with Long Shiwang [and] asked him about how [we] might be able to get married. Long Shiwang said, 'I have a wife and you also have a husband now, how could [we] marry!?'"⁵⁷ This is the first time Woman Li mentions that *her* marriage was not the only obstacle in her path of pursuit of a more stable relationship with Long Shiwang.

Long Shiwang was a man neither desperate for sex nor in need of a wife, for he already had a wife. Unfortunately, the case report does not grant us access to Long Shiwang's attitude to the woman who is his wife; the magistrate did not ask him about it. In my review of criminal reports such as these, there seems to have been little need on the part of Qing magistrates to explain male sexual desire for a woman, no need to question why even a married man might take

⁵⁷ This line from Woman Li's testimony reads as follows: "...本年四月小婦人與龍士旺說起我怎樣得嫁你才好龍士旺說他又妻子小婦人又現有丈夫怎麼嫁他呢..."

another sexual partner. Nonetheless, it should be noted that Long Shiwang's testimony is without any articulation of disfavor towards his wife. We might conclude that Long Shiwang's investment in his sexual relationship with Woman Li stemmed from a shared desire for companionship with a person he had been intimate with for nearly a decade, mirroring her own sentiments.

Yet despite Long Shiwang's fondness for his childhood companion and lover, the logic of his response to Woman Li's marriage proposal was difficult to dispute.⁵⁸ He was in fact already married. This was of course not the answer she wanted. Woman Li continued in her testimony, saying, "I wanted to jump in the water and kill myself. [But] Long Shiwang pleaded with me against it." Perhaps there was still hope.

Woman Li decided against suicide that day, and she would not consider it as an alternative again. Four months passed before she had another opportunity to leave her husband's home and see Long Shiwang. By then, she had come up with her own plan. If her husband was dead, Long Shiwang would be free to marry her as his concubine! She proposed this idea to him the next time they met up to have sex, and he agreed.⁵⁹

Concubinage: A Window for Love Within Traditional Marriage

Woman Li desired to be Long Shiwang's concubine rather than her husband's wife. Her choice to willingly leave her position as wife and become a concubine may surprise some at first, even given her evidently strong passion for Long Shiwang. This is because considering the

⁵⁸ This line from Woman Li's testimony reads as follows: "... 小婦人要尋死跳水龍士旺勸住八月十八日小婦人又與他通姦小婦人起意同龍士旺商量要謀死丈夫嫁他作妾叫他相幫他允了..."

⁵⁹ Having once again returned to her natal home to help cut grain, Woman Li's husband came to collect her. Meeting her husband along the road, Woman Li threw a stone at his head, but he dodged her blow. Next, she grabbed a wooden stick and beat him, and he fell to the ground. Long Shiwang, stationed nearby, grabbed him.

hierarchical dynamics among women within the Chinese family, Woman Li's plan constituted not only a demotion of social status, but as a concubine she would be accepting a much more vulnerable family position. In her work on women in the Song dynasty (960-1279), Patricia Ebrey writes, "Concubines were family members, but their standing in the family was insecure and their ties to their masters, his children, and even to their own children were fragile."⁶⁰ During the late imperial period (1368-1912), concubines' position did not improve much. They continued to have few privileges, including no legal right to their children, and little hope of inheriting property if widowed.⁶¹ With the value of women in the marriage market increased in the eighteenth century, the position of concubine may have become even less desirable.⁶² According to Susan Mann, even when concubinage might have provided a courtesan with an outlet from her work in the brothels and an elevation in status, few courtesans pursued this route, instead choosing to wait out the marriage market in order to secure positions as wives.⁶³ On the other hand, Lisa Tran writes that even in the Ming and Qing, concubines were fully enmeshed into kinship structures through practices of chastity and motherhood that granted them certain privileges to control household property, as long as the main wife had died.⁶⁴

⁶⁰ Patricia Ebrey, *The Inner Quarters: Marriage and the Lives of Chinese Women in the Sung Period* (Berkeley: University of California Press, 1993), 227.

⁶¹ Wives also did not inherit property, but as a widow could hold custodial ownership of property until her son came of age. However, through the examination of Qing court records, Yue Du has found evidence of widowed concubines having had considerable custodial property rights over their natural sons' property. Du states, "A deceased man's wife and his concubine often negotiated household division contracts on behalf of their respective sons... The number of sons a woman produced, rather than the nature of her marital bond with her husband, determined how much of her deceased husband's property fell into her control." See, Yue Du, "Concubinage and Motherhood in Qing China (1644–1911): Ritual, Law, and Custodial Rights of Property." *Journal of Family History* 42, no. 2 (January 1, 2017): 171.

⁶² Mann, 219.

⁶³ Susan Mann, *Precious Records*, 139.

⁶⁴ Lisa Tran, *Concubines in Court: Marriage and Monogamy in Twentieth-century China* (Lanham: Rowman & Littlefield, 2015), 7. Tran argues that changes to law in the Qing

As a concubine, Woman Li would no longer be atop the ritual pecking order of women inside the home. Her quality of life as a concubine inside her “master’s” home in many ways depended on how well she got along with Long Shiwang’s wife, who she was meant to ritually serve.⁶⁵ As a concubine, Woman Li would have been susceptible to her authority in the management of daily tasks and in access to her children, leaving her with a possible future of having to cope with a jealous wife.⁶⁶ Of course, some wives got on quite well with their husband’s concubines. Some became companions or viewed a concubine’s presence as a respite from the pressures (and dangers) of childbirth. At times wives even selected a concubine for their husband, seeing it as their duty to do so, as is depicted in Shen Fu’s classic novel, *Six Records of a Floating Life*. This was not the case with Woman Li and Long Shiwang—and as we shall soon see in other legal reports, given the genuine affection between husband and concubine in this case, we may surmise that Woman Li’s relationship with his wife would have been far from cordial, with Long Shiwang’s wife resenting his decision to bring a woman he favored into their home and fearing that she was being replaced in his affections.

While in principle there is no denying that legally and socially inside the home one’s position as concubine was more contingent and less safe than that of wife—this did not mean that it would have been unthinkable for a woman to choose concubinage over wifedom. Ebrey

increasingly recognized concubines as permanent family members, criminalizing sex with concubines among male relatives as incest and relaxing legal distinctions between wives and concubines, making her in many ways a de facto wife. In comparison, in the twentieth century drafters of the Guomindang legal code will explicitly reject concubines as either wives or family members in their husbands’ households.

⁶⁵ Ebrey, *The Inner Quarters*, 228.

⁶⁶ However, the legal record provides evidence of wife-concubine solidarity. In a fascinating Qianlong 11 case that is not included in this dissertation, a concubine (29 *sui*) and wife (44 *sui*) killed their husband (44 *sui*) together, one woman trying to stop the other’s physical assault. The husband had beaten his concubine recklessly after she refused his order to prepare tofu. XKTB, 02-01-07-0314-004. Heyuan County, Guangdong. QL 11, LC.

writes, "...some women choose an economically secure position as concubine over a life of hardship as a poor man's wife..."⁶⁷ But would a woman willingly abandon an economically secure position as a wife in the pursuit of sexual satisfaction with the one she loved? To be sure, Woman Li describes her husband's family "poor" status as a major complaint about him, in addition to his "stupidity" and "foolishness," but poverty is far from the key motivation driving her actions. To be sure, Long Shiwang's ability to take her on as a concubine suggests that he was financially secure, but then again, this was Woman Li's idea, not his, and there are no other details that indicate that Woman Li would have been better off with Long Shiwang than her husband—other than their shared affection.

In principle, concubinage was meant to ensure the survival of the patriline. It was supposed to have little to do with companionship or personal preference, let alone sexual desire. The only legitimate reason for a man to marry a concubine was as a last resort to obtain a male heir if his wife could not have children.⁶⁸ In reality, the way men practiced concubinage complicated this standard. Men who could afford to support additional women in their households married women as concubines for their personal sexual satisfaction and pursuit of companionship, rather than out of reproductive necessity. Wives got upset when their husbands took in concubines for love, but there was little they could do to remedy the situation.⁶⁹ For elite men, concubinage symbolized wealth and status, but it also provided the opportunity to fulfill their desires. Non-elite women also saw a utility in concubinage outside its intended function, not only as a means of improving their economic situations, but like men, approaching concubinage as a passageway to personal happiness.

⁶⁷ Ibid., Ebrey, *The Inner Quarters*, 266.

⁶⁸ Dorothy Ko, *Teachers of the Inner Chambers*, 107.

⁶⁹ Ibid., 108-110.

Apart from the case of Woman Li, who loved the man she had known well in her youth, additional legal reports portray women favoring concubinage over wifehood as an opportunity to be with their lovers—men with whom they shared an emotional bond, even if a life with him would not improve her economic standing. In Qianlong 60, Woman Wang-Li (aged 22 *sui*) from Datong county, Gansu, reported that when she was fifteen *sui* living in her husband's home as a child bride, she regularly encountered her neighbor, Qi Cheng (then aged 32), when she was out completing her daily chores, such as carrying water and laboring in the fields.⁷⁰ One day, while she worked in the fields, Qi Cheng flirted with her and they had sex, and from that day on they continued to do so whenever possible, sometimes in the open fields, other times near his watermill.⁷¹

Although a nearly twenty-year gap existed between Woman Wang-Li and her paramour, she nonetheless preferred this man to her more juvenile husband. A couple years later, the time had come for Woman Wang-Li (now aged 17 *sui*) and her betrothed to consummate their marriage. She told the magistrate, “[My husband] was just twelve *sui*. [We] did not get along well as husband and wife. I was still having good illicit sex (*jianhao* 姦好) with Qi Cheng. Then I don't know how [my] husband found out but [he] knew about [my] illicit sex and often scolded me and [we] became even more at odds.” She soon told Qi Cheng about how young her husband was and also that he knew about them carrying on together. Hearing this, Qi Cheng proposed that Woman Wang-Li kill her husband and after his death he would marry her as his concubine (娶小婦人做妾), and she agreed.

⁷⁰ XKTB, 02-01-07-1959-002. Woman Wang-Li (22 *sui*). Datong County, Gansu. QL 60, LC. (题为甘肃大通县民妇王李氏与祁成通奸致死本夫弃尸灭迹拟凌迟处死事)

⁷¹ This line of testimony reads as follows: “...後來或在野地或在他水磨空防邊便行姦記不得次數...”

When questioned, Qi Cheng stated that he had a wife and children, both sons and daughters. Therefore, we can interpret his decision to acquire Woman Wang-Li as his concubine as one rooted in passion not necessity, for he already had a son and a wife at home. Yet the most striking aspect of Woman Wang-Li's case is not Qi Cheng's desire to take her as a concubine for his own personal pleasure, which as discussed above, was a reality of the concubinage system, but instead Woman Wang-Li's willingness to accept a demotion of familial status from wife to concubine to continue her sexual exploits with Qi Cheng and escape her unhappy marriage.

The potential happiness women may have experienced as their lover's concubines is also detected in the legal case record when reading between the lines of the documented hurt and anger some wives felt when such women entered their households. In a Jiaqing 8 case from Dazhou County, Sichuan, forty-nine *sui* Woman Tian paid a man in rice to kill her husband, explaining, "I had been [my husband's] wife for over twenty years. I gave birth to five girls, no sons. After I contracted leprosy (*damafeng*) he married Woman Shi as a concubine. They went and resided in Xiezhong Mountain, and I lived apart from them, over four *li* away. Because my husband had forgotten about our marriage, in [my] heart I hated him."⁷² It is noteworthy that Woman Tian's anger is cast upon her husband, and she says little about having had any personal animosity toward to the woman who had taken over her place of affection in his eyes.

In another example, following the arrival of a concubine, thirty-eight *sui* Woman Ji took a lover for herself to compensate for the lack of affection her husband now showed her.⁷³ Her husband happened to come across her lover late one night while he was exiting her room from

⁷² XKTB, 02-01-07-2202-003. Woman Qu-Tian (49 *sui*). Dazhou County, Sichuan. JQ 8, LC. (题为四川达州民妇屈田氏夫娶妾商同层曰德谋死本夫议准凌迟处死事).

⁷³ XKTB, 02-01-07-1832-001. Woman Ji (38 *sui*). QL 56. Yongcheng County, Guide Prefecture, Henan. QL 56, LC. (题为河南归德府永城县人李氏谋杀伊夫苏建身死议准凌迟处死事)

the garden, and he grabbed a sickle in an attempt to kill her, but her mother-in-law persuaded him not to go through with it. In her testimony, she told the Qing court the following: “I began to think about how in recent days my husband had abandoned the old for the new (棄舊變新 *qijiu bain xin*) and we were no longer friendly.” Seeing that he now wanted to kill her, and her adultery had been exposed, she planned to turn the sickle upon him before taking her own life, but her mother-in-law walked in on her before she could carry out the final step.

As discussed at length above, concubines remained ritually subservient to wives in traditional family hierarchy—but in practice, cases in this dissertation show that a concubine could indeed supersede a wife in terms of their husbands’ affections, and this affection could translate into great privilege. As a result, concubines could find themselves in positions that were more favorable than that of wives themselves. In a Qianlong 38 case from Lishui County, Jiangsu, sixty-six *sui* Woman Jing-Zhao’s husband decided to divide his household and live separately from her with his concubine (forty-nine *sui*). Having been married to him for over forty-seven years, she was upset about this decision, telling the magistrate that the pair of them wanted her to become a lonely old woman (丈夫與楊氏們另居老屋竟要小婦人做孤老). Woman Jing-Zhao nonetheless agreed to the arrangement, however. But after a spat between them her husband unfairly divided the property out of spite, granting more land to his concubine than to her, his wife.⁷⁴

Neglected wives were not the only ones who interpreted their husband’s affection for a concubine as unjust; their natal families viewed it as a serious insult too. In Qianlong 52, a

⁷⁴ XKTB, 02-01-07-1274-006. Woman Jing-Zhao (66 *sui*). Lishui County, Jiangsu. QL 38, ZLJ. (題報溧水縣民婦經趙氏毆傷伊夫經松林身死擬斬立決事). This case Woman Jing-Zhao decides to bring the matter of the unfair division of property to court, and the magistrate agrees that her husband was in the wrong.

woman told the Qing court, “I have been married into this family for over twenty years, but I have not given birth to a son...[the concubine] Woman Shi gave birth to a son...and my brother came to pay a visit. The morning before he arrived, my husband said he could no longer afford me, and I said I would leave right after I ate. My husband called me lazy.”⁷⁵ She told this to her brother, Chen Yulin, upon his arrival. Chen Yulin was reported to have characterized his brother-in-law as “one who favors the concubine and does away with the wife (*qiqichongqie* 棄妻寵妾)” and said he was going to bring his sister home with him. The existence of this idiomatic expression suggests that complaints about husbands favoring a concubine over a wife may have been more of a common occurrence than a rare exception.

While wives may have felt resentment toward their husbands in such cases, the concubine often became the target of a wife’s animosity. While a concubine may have won her husband’s favor, she had to live alongside his wife from whom he could not always protect her. Sometimes, the abuse of a slighted wife became too much for a concubine to handle. In Qianlong 37, Licheng county, Shandong, thirteen years after being sold by her father as a concubine to the Chen family, thirty-one *sui* Woman Wang finally grew tired of bullying from the principal wife (*zhengqi*).⁷⁶ While it may be thought that a concubine’s position in a family was secured after she provided the family with an heir, according to Woman Wang, Old Woman Wang’s (aged fifty) hate for her only increased with the birth of her son. She told the court, “Today [my son] is six *sui*...from the start, Chen Xirong’s first wife treated me exceedingly harshly. From the time I gave birth to my son, with each passing day, [she] let me go hungry, the clothing she provided

⁷⁵XKTB, 02-01-07-1758-013. QL 52. (题为云南南宁县民陈玉琳宠妾起衅殴伤正妻兄李建身死议准斩监候事). Brother-in-law-killing.

⁷⁶ XKTB, 02-01-07-1277-006. Woman Wang (31 *sui*). Licheng County, Shandong. QL 38, LC. (题为山东历城县民陈荣喜之妾小王氏谋死正妻老王氏议准凌迟处死事)

[me] was full of holes and unwearable, and [she] even left my son to starve and go cold. During the day, Old Woman Wang ordered me to make food, carry water, and grind meal. In addition, at night, [she] ordered me to mend clothes and spin cotton. If [I] spare even a moment, [she] scolds and beats [me]. My husband Chen Xirong cannot manage her. I have suffered Old Woman Wang's abuses for many years, and in my heart I hated [her].”

Woman Wang described the event that inspired her to seek revenge. “In the fourth month of Qianlong 38, my shoes had worn out and I asked old Woman Wang to borrow some cloth to make shoes. She would not give [it]...in the 4th month...my shoes were no longer wearable, and in that moment [I] had no other choice. At night [I] stole one pouch of wheat meal (*maifen* 麥粉), about two *jīn* worth, and thought I would take it to sell for money to buy cloth to make shoes, but to my surprise, old Woman Wang caught me. [She] took the wheat meal, and hit me twice on the left cheek, and scolded me in the extreme, saying in the morning she would tell Chen Xirong and he would beat me mercilessly.” Fearing that she and her son would eventually meet their end by her hand, Woman Wang found a rock and beat old Woman Wang to death that night while she slept. Woman Wang, however, was not a concubine by free choice, and her testimony reveals the potential dangers of the position. While she felt hurt at the mistreatment of her son, as a concubine, she had no right to correct Old Woman Wang's treatment of him. And in the end, it seemed that she could not turn to her husband for support either.

Despite such risk, some women nonetheless willingly sought out concubinage as a path to escape the confines of traditional marriage with men they did not like. Take, as a final example, a case from Qianlong 44 about seventeen *sui* Woman Xiao-Yu. Married not even a year, this teen bride took action to plot the death of her nineteen *sui* husband. After her husband was out of the

picture, as a young widow she planned to become the concubine of twenty-one *sui* Zhe Yangjin, a young man who lived with his wife just half a *li* from her natal home.⁷⁷

Woman Xiao-Yu Pleads with Her Mother to Become a Concubine

Like most of the young women whose stories we have encountered in this chapter, Woman Xiao-Yu knew her lover before marriage. She reported in her testimony that she and Zhe Yangjin had become acquainted just before she was to enter her betrothed husband's household. She saw Zhe Yangjin regularly while he worked in the fields near the gate of her parents' home. Zhe Yangjin said in his testimony that he often took smoke breaks by her house during the day. One day, when Woman Xiao-Yu gathered firewood in the mountains, Zhe Yangjin flirted with her and they had sex, and they continued to meet there often, Woman Xiao-Yu could not recall how many times exactly.

Woman Xiao-Yu's mother, Woman Liu, had remarried a salt trader whose work often meant that he was absent from the house. Soon Zhe Yangjin became emboldened enough to visit Woman Xiao-Yu at home. Having caught sight of her daughter and this young man together having fun and laughing (*wan xiao*), Woman Liu became suspicious of their intimacy and questioned her daughter about it. Woman Xiao-Yu told the magistrate, "I could not conceal [the affair any longer] and told my mother [about what I had done]. [At that time], I was already to marry Zhang Yangqi of the Su family, and my mother feared the Su family would break off the engagement. Dreading my stepfather's reprimand, [my mother] decided to keep the matter to herself."

⁷⁷ Ibid., XKTB, 02-01-07-1591-009. Woman Xiao-Yu (17 *sui*). QL 44, LC. (题报遵义县民妇萧喻氏商同奸夫谋杀亲夫拟凌迟事)

As we have learned in Chapter One, while virginity may not have been a prized social virtue in and of itself in early modern China as it was in Europe around the same time, families certainly expected virginal young brides to enter their households. If a husband or his parents doubted the virginity of a new wife, she might possibly be legally returned if the accusation was confirmed by the woman's parents, or even unlawfully killed by her insulted husband if it was not. But as numerous cases in this and other chapters have shown, young women who engaged in premarital sex readily passed as virgins once married, for there was no way to "tell" either way. A father's word guaranteed his daughter's virginity, nothing else. There is no evidence from the legal cases in my study, or elsewhere that I know of, to suggest newly wedded women in China were expected to provide some type of "proof" of virginity on their wedding nights. While drops of blood might have been considered a sign, strikingly, there is no mention of this being any type of standard, even in the cases where husbands publicly accused their wives of not being virgins in Chapter One. The new bride's virtue was foremost a reflection of her father's integrity. As such, young husbands who decided to cast doubt on their new bride's virtue could face an uphill battle in ousting his wife from their home.⁷⁸

All this and more gave Woman Xiao-Yu's mother, Woman Liu, little incentive to call off her daughter's marriage. This was perhaps the opposite of what Woman Xiao-Yu had intended to get out of the conversation. The stigma of a broken engagement posed a greater threat to her husband's reputation than the risk involved in passing her daughter off as a virginal bride, whose sexual experience would likely go unnoticed.

⁷⁸ For an example of wives killing their husbands over accusations of lost virginity see Chapter One, XKTB, 1790-016, Woman Sun-Jiang, Guizhou, QL 54.

Woman Xiao-Yu's wedding continued as planned. Woman Xiao-Yu continued her testimony, saying, "On the 14th day of the 10th month, I married into the Su family. [Zhe Yangjin and I] were separated and [he] did not come by." Despite having gone along with the marriage, Woman Xiao-Yu explained that even before stepping foot in her husband's home, she planned to remarry Zhe Yangjin. She told the magistrate, "[We] had secret affection for one another, and he asked me to be his concubine, and I agreed."

Woman Xiao-Yu's experience as a newlywed did little to tempt her to break her promise. "By the 44th year, my mother-in-law and husband beat me often," she told the magistrate, "[I] couldn't have been more miserable!" Although her lack of virginity went undetected as predicted, Woman Xiao-Yu nonetheless suffered abuse in her new family, an experience recounted by many women.⁷⁹ Her mother-in-law voiced her disdain for Woman Xiao-Yu in her own testimony, describing her as "gluttonous and lazy" (*haochi lanzuo*)." Having experienced some type of affection in her life with Zhe Yangjin, it is perhaps unsurprising that when confronted with mistreatment from her husband and his mother, Woman Xiao-Yu longed for her former life and dreamed of a way out. She told the court "I came up with the idea to kill my husband, [and] at the end of the 8th month, I returned to my natal home and told my mother that I wanted to plot my husband's death and remarry Zhe Yangjin as a concubine." While first

⁷⁹ The harsh mistreatment of daughters-in-law at the hands of their mothers-in-law is a common trope in fiction as well as evidenced in anthropological studies. See Keith McMahon, *Misers, Shrews, and Polygamists: Sexuality and Male-Female Relations in Eighteenth-Century Chinese Fiction* (Durham: Duke University Press, 1995), 57-60 and Margery Wolf, *Women and the Family in Rural Taiwan* (Stanford, California: Stanford University Press, 1972), 163-164. While much of the evidence presented in this dissertation reveals the conflict between mother-in-law and daughter-in-law to be a firmly rooted reality, women do describe moments of kindness between them and their mothers-in-law, coming to their aid in times of need. For an example, see case "XKTB, 192.10" in which Woman Huang's mother-in-law defies her son's wishes by giving her something to eat.

scolding Woman Xiao-Yu, after she threatened to take her own life, Woman Liu ultimately let her daughter do as she pleased because, as she told the magistrate, she treasured her.

Having gained her mother's compliance, if not necessarily her approval, Woman Xiao-Yu still had yet to propose the idea to Zhe Yangjin himself! Once told, he agreed to her plan, and after a few days she returned to her husband's home. It appeared that Woman Xiao-Yu had it all figured out. She told the Qing court, "On the 19th day of the 9th month, I stole a bottle of honey [from my husband's home] and secretly came back to my natal home knowing for certain that my husband would come looking for [me] in a couple days." Woman Xiao-Yu was not wrong. Two days later her husband came to her mother's house and upon seeing her scolded her for taking the honey. She told the Qing court, "I cursed [him], and [he] grabbed a rod to beat me."

Little did her husband know, Zhe Yangjin hid in the house. He grabbed the rod from him and beat him in the left side of the head. As he still breathed, they used a rope to strangle him together. Fearing someone would recognize her husband, Woman Xiao-Yu cut off his queue and removed his clothes, hoping he would be taken for a beggar. Woman Xiao-Yu's mother, having complied thus far, helped them discard his body in the mountains. Some days later, a woman collecting firewood saw the corpse and reported it.

Conclusion

How strong of a hold did Confucian patriarchy and gender orthodoxy have on women's desires? Much of what we know about traditional China tells us that women were expected to obey their parents, remain chaste, and that marriage meant service to their husbands and his family. However, these reports point to something quite different. Women willingly defied traditional expectations and followed their own paths. They chose who they loved and the family they wanted to create. The stakes for them in this were high, and the documentation of these

young women's boldness and self-determination is remarkable. Rather than accept the predetermined fate arranged for them, the women in these legal reports struck their own matches. They refused to be sold. Their testimonies speak to a more pervasive struggle for conjugal happiness and chosen family among non-elite people in Qing China than we have heretofore appreciated.

Chapter 5

The Consequences of Keeping a Lover:

Pregnancy, Paternity, and Illegitimate Children

Autumn

As we have just learned, sex and the relationships that came with it occupied a profoundly meaningful part of many non-elite women's lives. Yet pregnancy—the all-too-common implication of such intimacies—is a topic that has remained curiously absent from young women's accounts of their sexual liaisons, seemingly inciting in them neither worry nor concern. Pregnancy takes center stage in this fifth chapter as a biological impediment that threatened to complicate married women's enjoyment of their extramarital sexual relationships.

I first examine women's responses to unexpected pregnancy and the different strategies they employed to manage their predicaments. Secondly, I explore cases in which adulterous mothers recognized the child in question as having been conceived through illicit sex and why. Lastly, we will encounter women pregnant in the wake of adultery who argued for their child's legitimacy, exploring the adjudication of paternity for children left orphaned in the wake of the destruction caused by their mothers' crimes. Qing jurists did not possess adequate tools to reliably determine the parentage of children. As such, women's testimonial power is potentially at its strongest when a determination of parentage of a potentially illegitimate child was a component of the case. I explore women's strategies to ensure the well-being of their children within Qing jurists' approach to the adjudication of paternity.

Woman Hong-Zhou Searches for a New Place to Live

In the last chapter, we explored how some women may have imagined concubinage as a loophole in traditional marriage that might afford them some enjoyment of romantic love, but

this path certainly was not practical, let alone desirable, for every woman. In Qianlong 28, Woman Hong-Zhou was just twenty-three when her first husband passed away. That year, a man working in Henan as an attendant named Hong Dacheng was in the market for a wife.¹ After looking Woman Hong-Zhou over, and apparently pleased with what he saw, he asked the matchmaker to arrange their marriage.² Two years later, when Woman Hong-Zhou finally left Henan and returned with Hong Dacheng to his home in Suzhou, she discovered that her new husband had left out one important detail. He already had a wife! And with a son no less!

Woman Hong-Zhou told the court, “I refused to be a concubine!” She had been promised a position as wife. Her husband had said nothing about her being a concubine. Yet despite her objection, there was little Woman Hong-Zhou could do to get out of the marriage at this point. Already married for two years, an annulment could only be granted with her husband’s consent, and as a penniless and childless widow, there was no denying that Woman Hong-Zhou’s options were limited.³ Hundreds of miles away from Henan, finding herself in a city well-known for the sale of people and prostitution, there was good reason for Woman Hong-Zhou to fear that a fate outside her current predicament could be much worse.⁴ If she was going to submit to Hong

¹ XKTB, 02-01-07-1441-001. Woman Hong-Zhou (37 *sui*). Yuanhe County, Suzhou Prefecture, Jiangsu. QL 41, JJH. (题为江苏苏州府元和县民妇洪周氏与徐受林通奸败露致夫洪大成自缢议准绞监候事). Husband-suicide.

² The step of “taking a look” was often an integral part of the marriage sale process meant to “minimize risk” on side of the husband, the prospective buyer. See, Sommer, *Polyandry and Wife-Selling*, 133.

³ The only legitimate reason for a wife to leave her marriage without her husband initiating a divorce was “if a husband had left home for three years without returning.” See, Sommer, *Polyandry and Wife-Selling*, 290.

⁴ The Suzhou trade in people was an integral part of the region’s cosmopolitan economy that left a lasting impression on eighteenth century Chinese elites. In writing about his time as a Suzhou merchant and broker, philosopher and official Tang Zhen remarked on its prevalence in society, stating, “The people of Suzhou sell their men and women in excess...beautiful women are sold as wives, while the less fortunate become slaves. Throughout the land [the men and women of

Dacheng's scheme, however, she would not let him treat her like a concubine, even though she may have in fact been one.

She continued, "I refused to live together [with Woman Guan (Hong Dacheng's wife) in Wujiang], and Hong Dacheng bought a [separate] house for me to live with him in Suzhou." While undoubtedly angered and frustrated upon finding out that she had been brought into a marriage under false pretenses, with this arrangement, Hong Dacheng showed himself willing to bend to her will, and the concession seemed to pacify her. For eight years, Hong Dacheng kept two "wives" in separate houses in different parts of Suzhou. Woman Hong grew accustomed to her life as "concubine" in name only, and for a time she may have truly been happy. She gave birth to four children, one girl and three boys. She reconciled with Woman Guan, and the two women were friendly, often visiting one another throughout the years.

But in Qianlong 38 (1773), Woman Hong-Zhou's life took another unexpected turn. The family had come upon a period of financial hardship that led to a drastic change in lifestyle. "[We] had no money to spend at home," Woman Hong told the court, "and because of this, my husband rented out the two front rooms [of my house] as a shop...as well as gave over [our] twenty-nine acres (mu) of land to neighbor Xu Yubo to harvest. The remaining rice was given to Woman Guan and myself to use for our daily meals. [In addition to this, my husband] borrowed thirty *liang* of cash from Zhang Siguan for the making of garments and parcels." During this period of economic strain, Hong Dacheng also took up work outside Suzhou. "[He] set off to Sichuan to take up a position as a personal attendant."

Suzhou] are everywhere." See, Wei Qingyuan, Wu Qiyuan, and Lu Su, *Qingdai nubei zhidu* (Beijing: Zhongguo renmin daxue chubanshe, 1982), 45.

With her husband more than a thousand miles away and life no longer the comfort it once was, Woman Hong began to look for comfort elsewhere. She started to get on well with her neighbor Xu Yubo's youngest son, sixteen *sui* Xu Shoulin. "I often entrusted him to buy vegetables for me," Woman Hong-Zhou said, "and [we began] to feel affection for one another." By the end of the following year, they had become intimate with one another as well. "One evening, from within the doorway, I saw Xu Shoulin walking past and [I] had a desire to seduce him (*xiangyao gouyin ta* 想要勾引他). [I] called for [him] to come in and stay for dinner. [I] flirted (*tiaoxi*) with him and [we] had illicit sex. After that, Xu Shoulin and I had illicit sex regularly. Fearful of being found out, [he] always arrived and left through the back [of the house], so as to [avoid] Zhang Dajiao's shop in the front."

While seeming at first glance to be an exceptional admission of feminine sexual desire for a much younger man, the initiative Woman Hong-Zhou (then aged thirty-three *sui*) took in instigating illicit sexual intercourse is in fact far from anomalous when considered within the larger case record of women-initiated homicide. Although much younger than most of the 'female sexual predators' I will discuss at length in the following and final chapter, Woman Hong's testimony locates her in a position of power over a youthful, nearly prepubescent, vulnerable male sexual target, and includes predatorial language and behavior. Her involvement with him was not brief. The two had come up with a way for them to meet up regularly for sex, and their continued relationship suggests to some degree that the young man had been fond of the arrangement as well.

But for now, we turn to the seemingly insurmountable obstacle that arose in Woman Hong-Zhou's life, for despite her precautionary measures, it soon became much more difficult for her and her young lover to conceal their illicit sexual activities. Three months into their affair,

she discovered she was pregnant. “I didn’t think I was pregnant [at first],” she explained, “It wasn’t until...[my] belly grew bigger and bigger by the day, that [I] feared I’d [soon] be caught out by someone. [I] wanted to move to some other place to conceal [myself]. [But] because [I] owed debts for daily expenses at many shops, there was no money for moving expenses, and [I] was unable to escape [my situation]. [I] then made up a story, and told it to [neighbor] Xu Yubo, saying, ‘my husband has no money to send back and owes an increasing amount of debt, it is difficult for him to survive!’ [I] pleaded with him to find someone to buy [our] land. [I told him] that once my debts were paid off, [I’d] move to Wujiang and live with Woman Guan to save on expenses.”

While Woman Hong-Zhou’s plot to fraudulently sell her husband’s property was certainly a bold move on her part, it was not a poorly conceived plan. It was customary for wives to control household finances while their husbands were away, and her request itself did not shock her neighbor or the court. Scholarship shows that elite women often were compelled to make financial decisions without even consulting their husbands if circumstances demanded.⁵ Not actually a “wife,” Woman Hong-Zhou’s initiative here once again tested the bounds of her social position, but then again she had for all practical purposes been living as one. Moreover, she had crafted her lie carefully. She portrayed herself as simply doing what needed to be done in the best interest of her husband and family. While in reality this was far from the truth, it convinced those who came to be involved.

⁵ In her reconstruction of the lives of the Zhang family women Susan Mann, notes the ways elite women were called to manage and make money to support their families while their husbands were away working. See, Susan Mann, *The Talented Women of the Zhang Family* (Berkeley: University of California Press, 2007), 26; 59; 176.

Thus, having no reason to doubt her story and likely eager to earn a commission on the transaction himself, neighbor Xu Yubo agreed to help. By the 23rd, he had found a buyer and negotiated a price of three hundred and thirty-six *liang* for her twenty-nine acres of land. But her gender did create some limitations. As a woman, Woman Hong-Zhou could not sign off on the sale contract herself, so the buyers asked for a male relative to guarantee the transaction. She set off to Wujiang, telling the same fabricated story to Woman Guan. Easily convinced that her husband's financial plight had taken yet another turn for the worse, Woman Guan quickly agreed to help her husband's concubine carry out her charge, supplying her with their eldest son, Hong Huwen. From there, Woman Hong-Zhou returned to her private residence. "[Hong Huwen] signed my husband's name on the contract," Woman Hong-Zhou told the court, "and the deal was finalized."

The court, astutely interested in the whereabouts of the lofty sum of cash Woman Hong-Zhou had acquired as a result of her scheme, asked Woman Hong to provide a detailed accounting of how she managed the money. "I gifted [neighbor] Xu Yubo and his assistants with ten *liang*, and paid Hong Huwen one hundred and fifty *liang* and told him to return and give it to Woman Guan. I lied and said that I still needed to pay some debts in Suzhou, and lied that I'd move back to Wujiang in a few days. With the remaining one hundred and sixty *liang*, I repaid Xu Yubo the ten *liang* I owed him as well as paid off the debts owed at various shops, a total of forty-three *liang*. When my husband lived at home, he pawned clothes for seventeen *liang*, and I repaid [this and] the debt he owed to Zhang Siguan, [a total of] thirty *liang*."

It is noteworthy that Woman Hong did not simply abscond with all this newfound cash. Instead, she repaid her debt and that of her husband, also making sure to do good by Woman Guan. The financial decisions she made in this moment demonstrate the thoughtful nature of her

plot. In satisfying all debts she lessened motivation for her capture. It is also worth considering if the neighbor Xu Yubo, who was after all her lover's father, or Woman Guan herself, were not in fact partial to Woman Hong-Zhou's secret intentions. Nearing the full term of her pregnancy at this point, Woman Hong-Zhou ought to have been somewhere around seven to eight months pregnant, and it is difficult to imagine that she would have been able to hide her condition at this time, especially given the travel. But if this were the case, she did not incriminate any of her potential accomplices. According to her, none had been aware of her pregnancy or thought she had any alternative motive for pursuing the sale of her residence.

In this way, Woman Hong-Zhou exited her marriage with transactional fraud not unlike the scheme in which she had been brought into it, and with her accounting, she salvaged for herself just enough money to make a new life. She continued, "[I] saved the remaining sixty *liang*, and urged Xu Shoulin to look for a house. On the twenty-ninth, [he] found a four room house at Chailang Buddhist nunnery. [We] hired a boatman...I packed up a trunk with bedding, tinware, and crockery, and gathered my children. [We] boarded the boat with Xu Shoulin and traveled until [we] arrived at the nunnery. Because Xu Shoulin was so young, no one would have believed we were husband and wife, and so [when we lived at Chailang] I falsely referred to him as my adopted son." Many runaway couples simply pretended to be husband and wife, for who would have known otherwise, but Woman Hong-Zhou was aware of the awkwardness of their pairing and knew this cover story would not work for them. Moreover, the fact that she thought them convincing as mother and son further emphasizes the transgressive nature of their true relationship.

By Qianlong 40, 3rd month, 21st day (1775), Woman Hong-Zhou finally succeeded in her plan. She gave birth to her fifth child, a boy. There was little time to rest, however. Woman

Hong-Zhou continued, “Xu Shoulin heard people nearby saying that the child was illegitimate, and dreading that [our] adulterous affair would be brought to light, [we] hastily boarded the boat and traveled till [we] reached the place of Tiger Mountain and resided [there for a while]. Unexpectedly, on the 5th day of the 4th month, Xu Shoulin’s brother, who had been sent by my husband, [finally] tracked [us] down. At that time, I had fallen ill, and once recovered, [I] was brought home for questioning. After that, I couldn’t be separated from my little five *sui* son and [because of this] my husband ordered me to live in [his] main home. My husband and [I] resumed our normal life, but because I had done [this] disgraceful thing, [I] knew my husband was angry and dared not speak to him...On the 22nd...My son and I went to Woman Guan’s house in Wujiang, and my husband said he would stay in Suzhou to deal with the sale of property.”

Once she had arrived in Wujiang, however, a clerk came by with a letter notifying her that her husband had been found dead. It seemed that just as soon as she and their children had left, Hong Dacheng committed suicide by hanging himself in the residence. Now, at the age of thirty-seven *sui*, Woman Hong-Zhou confessed all of this to the magistrate, saying “Truthfully, because I committed adultery with Xu Shoulin and sold off the land, my husband could no longer face people and found it hard to live, and for these reasons, he committed suicide.”⁶

Woman Hong-Zhou was sentenced to strangulation after the assizes for engaging in illicit sex that compelled her husband to commit suicide. Her young lover, Xu Shoulin, now eighteen,

⁶ XKTB, 02-01-07-2188-001. (题为河南光州民妇丁鄢氏与杨国畛通奸致本夫自扎身死议准绞监候事) is another relevant case from Jiaqing 7, in which Woman Yan’s husband having returned home after a long period away to find his wife pregnant committed suicide. Her husband was buried by his brother, who did not think to report the death to the authorities. Woman Yan gave birth to her illegitimate child (姦生一子) and started a life with another man (not the man who had fathered the child) who took care of both her and the illegitimate child.

escaped the death penalty, and was sentenced to one-hundred blows of heavy bamboo and three years penal servitude for the crime of having engaged in illicit sex that caused a husband's suicide. Both received these standard punishments for their offenses, and no one else involved received any punishment. There was only one outstanding matter to attend to. What was to be done with the child? The magistrate asked Woman Hong-Zhou who fathered the child, and in her final line of testimony, she said, "Truthfully, [I] conceived the little child through illicit sex with Xu Shoulin." Therefore, the magistrate ordered the boy removed from her deceased husband's household and given to her lover's family to raise.

Having engaged in illicit sex, carried out an illicit land sale, and given birth to an illicit child, Woman Hong-Zhou subverted authorities of state and family in multiple ways. Once the magistrate had become aware of the full extent of Woman Hong-Zhou's exploits, it was perhaps no longer a surprise to him that a woman as formidable as her could have overpowered the juvenile boy who befriended her. Her testimony may have even lingered in the minds of the judicial elites who encountered it, for her story played right into the fears of these men who, not unlike Woman Hong-Zhou's husband themselves, likely spent much time separated from their wives and concubines throughout their careers.⁷

As the case of Woman Hong-Zhou makes clear, women engaged in extramarital sex were not always so eager to leave or rid themselves of their husbands. Others attempted to keep their illicit relationships secret, maintaining their affairs alongside their marriages. But pregnancy compelled women to face the difficult to conceal consequences of their illicit intimacies. Even among those women in the previous chapter who had been sexually active with men for some

⁷ It was common for men to be absent from the home, especially among the scholarly elite whose official careers could take husbands away from their families for years at a time. See, Susan Mann, *Talented Women of the Zhang Family*, 59.

time prior to marriage, none mentioned ever being pregnant, or pregnancy having had any influence over their lives. In contrast, we might never have known about Woman Hong and her trysts had her unexpected pregnancy not propelled her to the precipice of exposure.

An extraordinary historical record on numerous grounds, Woman Hong-Zhou's case provides a rare glimpse at the life course and agency of one formidable woman, but it also sheds new light on the little understood topic of paternity in Qing law. The Qing Code granted adulterous fathers' custody of their illegitimate children. According to the section four of the statute on illicit sex about "consensual fornication" or "fornication by the use of tricks [seduction]" it states, "...if illicit sex causes the birth of a boy or a girl, [the child] will be the responsibility of the male adulterer to bring up. The adulterous wife will be sold or married [to another] as her husband wishes..."⁸ With Xu Shoulin sentenced to exile, the court granted the paternal relatives of the male adulterer custody of his child, showing the significance of patrilineal descent in such decisions. But how did Qing magistrates determine paternity in the courtroom? How did they judge *if*, as the statute states, a child had in fact been born of illicit sex? To understand this, we must turn to the legal record. Before reaching a custody decision, the magistrate referred to Woman Hong-Zhou for confirmation of the child's paternity, and as we shall see, the Qing state did not consider all children born in the wake of adultery illegitimate. When it came to the question of paternity, the Qing state granted mothers final say.

Paternity in Qing Law: Coming to Terms with Illicit Pregnancy

What was a woman to do when faced with an unexpected pregnancy? Did women have access to abortion in this period? The answer is both yes and no. Medical texts discuss abortifacient techniques and drugs, but in terms of the real practice of abortion, historians have

⁸ William Jones, *The Great Qing Code*, Art. 366, Section 4, p. 347.

turned to the homicide record, which shows it to be an option pursued by the most desperate of women who feared that their pregnancy had the potential to expose their adulterous affair.⁹ However, since these records exist because the women who sought abortions often ended up dead—the homicide record suggests that the remedies used for interrupting pregnancy, with oral abortifacient drugs being most prevalent, were altogether ineffective means of birth control, resulting in harm to the mother or remaining inaccessible to most women.¹⁰ The degree to which the legal record shows women dying as a result of an attempted abortion could be the result of sample bias, in which some examples come to the attention of the state due to the involvement of a death, and we may never know of the women who successfully carried out abortions. I have yet to see a case in my research in which a woman attempted an abortion or pursued an abortion. The women in the following cases drew upon other strategies for managing unexpected pregnancy.

For Ah Lei, abortion had been accessible, but she refused it anyway.¹¹ Ah Lei, a twenty-three *sui* Miao woman from Libo County, Guizhou, had much in common with the love-struck

⁹ Out of the 31 women in Matthew Sommer's case sample who pursued abortions, all but one of them wanted an abortion because they feared what would happen to them if their illicit sexual activities were known. See, Matthew Sommer, "Abortion in Late Imperial China: Routine Birth Control or Crisis Intervention?" (Vol. 1. *The Social Sciences of Practice*. The Netherlands: Brill, 2014), 125.

¹⁰ *Ibid.*, Sommer, "Abortion in Late Imperial China, 127. As Sommer states, "out of the 24 women who completed abortion attempts, 17 died; of the seven who survived, six did succeed in inducing abortion, but at least two of them suffered severe side effects that made them ill for months..."

¹¹ *Ibid.*, Sommer, "Abortion in Late Imperial China," 138-139. In the sub-section entitled, "Inconvenient Pregnancies Carried to Term," Sommer remarks that he has encountered a greater number of reports of women who carried inconvenient pregnancies to term than those in which women sought out abortions. He also notes that "[r]eferences to infanticide are far more common in legal cases involving unwanted pregnancy..." Interestingly, infanticide was not a solution utilized by the women in my study.

couples discussed in the previous chapter.¹² Friendly since youth, she and her lover Ji Wang grew up together. Ever since then they had a long-standing romantic relationship which they had managed to continue all throughout her marriage. “[I’ve] been married for four years,” she told the court, “[but] my husband is a foolish person (*xichun* 戲蠢), [and] I don’t like him! Before marriage, I got along well with Ji Wang from my village, and when I was married out, Ji Wang and I continued to have consensual illicit sex (*tongjian*) like before...” But unlike the women in the previous section, she and Ji Wang had had no intention of remarriage or absconding from her husband. It was not until she got pregnant that her affair became a problem, but not for the reason one might think. Ah Lei continued, “Last year, in the 8th month, I got pregnant. Ji Wang asked me to take medicine (*yao* 藥) to abort (*daqu* 打去) [the pregnancy]. I told [him], ‘this is my husband’s bones and blood, I won’t have an abortion!’ and I refused...”¹³

With this statement, Ah Lei not only began to recount the events of the crime, but also declared her unborn child’s legitimacy. Unlike Woman Hong who absconded to the nunnery, Ah Lei did not fear that others would view her pregnancy as illegitimate. Her husband had not been away for any prolonged period of time. She likely had been intimate with both men around the same time, but whatever the case, Ah Lei was not only confident in her knowledge of her unborn child’s paternity, she was defensive. Since she was without worry that the baby might expose her illicit relationship, why disturb the status quo? Ah Lei continued, “This year, first month, 23rd day, when [I] was now more than seven months pregnant, my husband went to the county market to see relatives, and the next day I returned to my natal home. Ji Wang and I had fun (*wanshua*

¹² XKTB, 02-01-07-0414-013. Ah Lei (23 *sui*). Libo County, Duyunxin Prefecture. QL 15, (題報都匀心府荔波县民妇阿类与寄王通奸同谋毒死亲夫阿纂拟凌迟处死事). Miao minority.

¹³ This line of Ah Le’s testimony reads as follows: “...小苗婦有了孕寄王姜小苗婦拿藥打去小苗婦說這是丈夫的骨血打去不得的沒有依從...”

頑耍) [together] in secret as [we] usually did, [but] because I was pregnant, Ji Wang said [to me], ‘You are pregnant and will soon need to go look after [a child] and settle down with your husband. [You] won’t be able to come back [here], and [we] won’t be together. I’ve thought about how since your husband is both poor and foolish it would be best if you let me find you some poisonous medicine (*duyao* 毒藥) to kill [him] with. Then [I’ll] wait for you to return [here] to your natal home, [and] I’ll marry you and [we] can be forever husband and wife. Doesn’t that sound good?’ And in that moment,” Ah Lei told the court, “I agreed, for which I ought to die.”

Ah Lei chose to go along with her lover’s plot, likely just as hopeful as he that the violent scheme would end in their marriage, had they succeeded. It was not uncommon for women to visit with their natal families after marriage, as we have already seen in this case and many others, but Ji Wang had reason to be anxious about Ah Lei becoming a mother. With the birth of a child, especially a boy, women strengthened their commitment to their husband’s family, and so for Ji Wang, the idea that the responsibilities of motherhood might sever the bonds of their illicit relationship was a real concern.¹⁴ But what about Ah Lei? If her pregnancy had not aroused such jealousy in Ji Wang, there is reason to believe that she may have remained content enough to carry on with life as it was, even if it meant the eventual growing apart from her longtime companion. This helps to explain the most perplexing aspect of the case: her steadfast belief in the legitimacy of her unborn child despite there being every reason to doubt it. Ah Lei’s refusal to harm the “bones and blood” of her husband by having an abortion contrasts sharply with her

¹⁴ As outsiders in their husbands’ families, wives were regarded with suspicion in their husband’s households. Yet their essential reproductive role as child bearers made them indispensable in the continuation of the patriline. See Charlotte Furth, “Concepts of Pregnancy, Childbirth, and Infancy in Ch’ing Dynasty China.” *The Journal of Asian Studies* 46, no. 1 (1987): 8-9.

later decision to murder him. While unwilling to end her pregnancy because of her husband, she was eventually willing to end her husband's life.

One has to wonder if the vague abortifacient "medicine" (*yao*) Ji Wang first offered Ah Lei was in fact the same "poisonous medicine" (*duyao*) later procured for her husband's murder. She may have opposed the abortion out of a genuine desire to protect her husband's child, as she declared in her testimony, but it may have also arisen out of a real fear for her own life, if not also out of a more hidden desire to keep *her* child. What made Ah Lei so certain of the child's paternity? Why make this claim in her testimony? And more importantly, why did the court believe her?

As Ah Lei's case suggests, the facts of the crime did not provide magistrates with a clear basis for judging the legitimacy of children born to adulterous mothers, nor for understanding the logic behind women's own understandings of their child's paternity. If an adulterous wife had managed to evade suspicion up to the point of pregnancy, the simplest strategy to avoid trouble was to "pass" the unborn child off as her husband's legitimate heir. This, after all, was what Ah Lei had herself done. Despite the ambiguous reality of an unborn child's parentage in these situations, there was always a real possibility that the husband had in fact fathered the child, and if illegitimate, he would surely not have been the first man to raise a child under false pretenses. One might imagine a concern could arise regarding whether the child's appearance resembled that of the "father." This rudimentary test of paternity, while not adopted by the Qing court, appears in fictional dramas in which, for example, fathers reunited with sons upon acknowledgment of shared family resemblance.¹⁵ However, the possibility that this might lead to

¹⁵ Ann Waltner, *Getting an Heir: Adoption and the Construction of Kinship in Late Imperial China* (University of Hawai'i Press, 1990), 24.

exposure in the long run does not appear to have weighed heavily on the minds of the women in these cases. I have yet to come across a case in which a pregnant adulterer expressed any worry that her child might not resemble her husband when born, or that this could pose a problem for her in the future. Recall, for example, the case of the woman who first plotted to purchase and then ultimately stole a baby boy from her neighbor; she expressed no worry about this.

There were, of course, situations that made it difficult for women to utilize this strategy. Woman Guo-Gao (aged twenty-two, for example, thought it impossible to conceal her child's true paternity. She told the court that she had allowed a neighbor named Jia Tu Zhong into her natal home when she visited, and they had sex while her mother and brothers were out.¹⁶ After some time had passed, she noticed her belly growing bigger and bigger by the day. Realizing she was pregnant and not knowing what to do, Woman Guo-Gao went and told Jia Tu Zhong. He, however, did not see what the big problem was, telling her to simply pass the child off as legitimate. "He said, 'Just say it's your husband's baby! What do you have to fear?!'" Woman Guo-Gao had likely considered that plan, but she knew it would not work. "I replied saying, 'My husband is still young and we haven't yet had sex (*jiaogou* 交媾), he won't believe it's his!"

Faced with this predicament, and exposure growing more likely each day, Woman Guo-Gao finally asked Jia Tu Zhong to help her kill her husband, but he refused to have any part in it, telling her she'd do best to forget it altogether. But unlike him, Woman Guo-Gao could not so easily forget. Fearing her husband would declare the baby a bastard and hoping his family thought the marriage consummated, she took action into her own hands to ensure that her husband could not bring her transgression to light, strangling him with a rope one night as he

¹⁶ XKTB, 02-01-07-0287-004. Woman Guo-Gao (22 *sui*). Lucheng County, [Shanxi]. QL 10, LC. (题报潞城县民郭高氏与贾士中通奸勒死亲夫郭昌拟凌迟处死事).

slept. While the punishment she received, immediate death by slow slicing, outweighed what might have happened to her had truth come to light, Woman Guo-Gao went to extreme lengths to avoid the stigma of illicit sex. Similar sentiment motivated another woman named Dong-Mao in Qianlong 28. Complaining that her husband was out for work and could not provide for her, she started up a relationship with another man for financial support.¹⁷ After she became pregnant, she told the court that she poisoned her husband in order to avoid any disgrace that might come to her if people found out that she had given birth to a child outside of marriage.

Ambiguous parentage provided women with grounds to argue for their child's legitimacy, but as Woman Guo-Gao and Woman Mao's cases show, the chance of passing a child off as legitimate *seemingly* vanished when there was clear knowledge that husband and wife were not having sex. Delayed consummation of marriage and hiding this from their parents and parents-in-laws was not an uncommon tactic for young inexperienced newlyweds. As we have seen in Chapter One, newlyweds often encountered problems in the marital bedroom, especially those with a great age difference involved. One of the more anticipated ways this played out was physical separation between spouses in which husbands arrived home after prolonged periods of absence to find their wives pregnant. In such situations, there was often little a woman could do to convince her husband of her chastity, but even under these circumstances husbands did not always react with hostility. For example, Woman Zhao-Li (aged thirty-three) had been married for ten years. Her husband had taken up work in Sichuan and had only returned home once in the past three years. During this period she started up an affair with Li Zeyuan (aged thirty-six) who made a living as a craftsman. She told the court, "Li Zeyuan, seeing that my husband was not at

¹⁷ XKTB, 02-01-07-0864-004. Woman Dong-Mao (unknown *sui*). Shenqiu County, Henan. QL 28, LC. (题为河南沈邱县民妇董毛氏毒死亲夫议准凌迟处死事).

home, [he] and I had consensual illicit sex (通奸) for a couple of years. [I] don't remember what year or month [I] began having illicit sex [with him]."¹⁸ When her husband returned home, she could not conceal her swollen belly. "Seeing that I was pregnant, he questioned me, and [I] told him that while having illicit sex with Li Zeyuan, [and I] had become pregnant. My husband was good by nature and did not beat or scold me. [He] sold our house, and at the start of the 2nd month we moved to my natal home. There we lived for a while. In the 3rd month, 22nd day, [he] took me with [him] to Sichuan." The following day she gave birth. "I had a girl," she told the court, "and my husband drowned her."

While not permitted to keep her illegitimate daughter, Woman Zhao-Li received markedly light punishment from her husband, who chose to run from the problem rather than discipline her or confront the man who cuckolded him. Woman Zhao-Li continued, "This year, first month, in Lao Ceng Village, Li Zeyuan heard that my husband was taking me with him to Sichuan...In the 2nd month I was living in a shack, Li Zeyuan came by four times. The first time, he said he wanted to kill [my husband] on the road. The second time, he said he'd kill [him] in the shack. I told him not to do this." But Li Zeyuan carried out his plan despite Woman Zhao-Li's pleas, taking it upon himself to murder her husband as he slept. Woman Zhao-Li told the court that she did nothing to assist in the murder, but she had taken no action to stop her lover either. The two fled the scene of the crime, posing as a married couple before they were eventually detained.

In the eighteenth century, the physical separation of husband and wife was quite common. In elite and common families alike, men were expected to leave home for lengthy

¹⁸ XKTB, 02-01-07-0325-008. Woman Zhao-Li (33 *sui*). Puqi County, Wuchang Prefecture. QL 12, LC. (题报武昌府蒲圻县民妇赵李氏与李择远通奸谋杀本夫赵以章身死拟凌迟处死事).

periods of time. Men among the upper classes of society could be called away for official postings or business ventures, while those among the lower sectors increasingly left their villages to labor in more profitable areas elsewhere.¹⁹ Oddly enough, this may have made married women's pursuit of extramarital sex, no matter their class, an even more risky venture than it had been in prior centuries, because with a husband's prolonged absence women's claims of legitimacy *could* become increasingly difficult to defend. In another more complicated case, twenty-three *sui* Woman Lin-Liang falsely accused her husband's brother of having fathered her illegitimate child while he was away in hopes of evading punishment. According to her testimony, Lin Longshu, her husband's brother, came upon her and her true lover, Lin Yagui, a neighbor of no relation, in the act one day when her husband was out. "Lin Longshu saw us and scolded us. Lin Yagui fled, and after that we'd only engage in illicit sex when my husband and brother-in-law were both out, no one else knew about it. After my husband returned home, Lin Yagui dared not come back. My husband never mentioned that he knew anything about [our affair]. In the third month, [I] was pregnant. [My] stomach was big, and [I] feared it was soon going to be too difficult to deny [it]. [I] regularly used my hands to conceal [my belly]. In the fourth month, 3rd day, my husband saw that I gave birth to an illegitimate child (私胎) and questioned me. I was afraid that if I told [him] it was Lin Yagui's [child], my husband would not let the matter rest, and so I falsely accused my husband's brother, Lin Longshu, of engaging in consensual illicit sex [with me] in which [I] became pregnant, thinking that because my husband valued and cared for his younger brother, he would not take the matter seriously."²⁰

¹⁹ For an example among elites see Susan Mann, *Talented Women of the Zhang Family*, 26. For examples of non-elite men's absence from home see, Matthew Sommer, *Sex, Law, and Society*, 296.

²⁰ XKTB, 02-01-07-1723-006. Woman Lin-Liang (23 *sui*). Jiayingzhou. QL 50, JJH. (题报嘉应州民妇林梁氏与人通奸诬指夫弟奸孕致其自刎身死拟绞监候事).

Unfortunately, while Woman Lin-Liang's manipulation of her husband's loyalty to his brother might have worked in her favor, her husband addressed the matter directly with his brother. Confronted with such an allegation, Lin Longshu told his elder brother that it had been neighbor Lin Yagui who had committed the affair with his wife, not him, and went looking for the true adulterer to corroborate his story, but he was nowhere to be found. His keeping of Woman Lin-Liang's secret having now come back to punish him, Lin Longshu dared not to return home without the proof he needed to confirm his innocence and consequently slit his own throat. It is not clear whether or not Lin Longshu's suicide was seen as proof of innocence or an admission of guilt, but after this, Woman Liang was subject to further interrogation in which she revealed that she had wrongly accused him, and soon after Woman Lin-Liang gave birth in jail, the child died.

Even when a married couple was cohabitating, there were situations where a husband might view pregnancy as indisputable evidence of his wife's disloyalty. As we have already seen with Woman Guo-Gao, some newlywed women could be married to men too young to have an interest in sex, while others who had been married for some time were confronted with impotence. Thirty-one *sui* Miao Woman Gao, for example, took up with her husband's nephew while cutting firewood in hopes that he could provide her with what her husband could not. She told the court, "[my] (husband's nephew), Ah Sheng, seeing that no one was around, came and flirted with me. I hated (my husband) Ah Zhang because for many years now [we] have been unable to get pregnant and I hoped to have children, so [I] had illicit sex with Ah Sheng."²¹ After that, Ah Sheng would come by often, saying they should kill her husband. "I refused [such a

²¹ XKTB, 02-01-07-0184-007. Woman Gao (31 *sui*). Duyun Prefecture, [Guizhou]. QL 7, LC. (题报都匀府民妇高氏与苏阿生通奸谋死亲夫苏阿章拟凌迟处死事). Miao minority.

plot],” Woman Gao told the court, “I did not conspire with [him].” Woman Gao did not want to leave her marriage, or at least did not see murder as a reliable means out of it, but she did want to get pregnant and saw Ah Sheng’s sexual interest in her as just the opportunity to do so.

It is unclear why Woman Gao was so sure that her childbearing problem lay with her husband and not her own fertility, or if she had simply come to the point where she was determined to eliminate one variable, but she was correct. Soon Woman Gao was pregnant. Her husband must have been just as sure about his impotence as she was, since according to Woman Gao’s testimony, he was sure that the child was not his. “My husband had been aware that Ah Sheng and I were having illicit sex. He repeatedly scolded me saying, ‘the [child] inside your belly wasn’t fathered by me, you’ve had it with Ah Sheng. [I’ll] wait till you give birth and kill you and the bastard (*niang zai* 娘崽) both!’ Because of this I was afraid and told Ah Sheng, and Ah Sheng went to kill my husband.” While not the main conspirator in murder and having had no desire to leave her husband, Woman Gao took the threat he made against her and her unborn child seriously and as such she accepted her lover’s murderous plot, for which she said, “I ought to die.”

At first, Woman Gao attempted to frame her husband’s death as a suicide, telling the magistrate Ah Zhang hung himself while drunk on New Year’s. However, the coroner expressed concern about the numerous wounds on his body, and breaking down under pressure, Woman Gao divulged information about her illicit pregnancy. Unlike the women discussed so far, Woman Gao claimed that her husband had been aware of her affair. But while Ah Zhang seems to have tolerated her adultery, according to Woman Gao, he was unwilling to raise another man’s child, even if he himself had little hope of fathering his own child. In getting pregnant, Woman Gao may have confirmed his own suspicions about his impotence, and in that moment patrilineal

purity mattered to him and not even his nephew's child would do. Woman Gao's illegitimate child, like that of Woman Liang, reportedly died after she gave birth in custody. If the child had survived past infancy, it is likely that the magistrate would have ordered the child to remain within her husband's family. Woman Gao claimed the child as having been fathered by her lover and since that man also happened to be her husband's relative, the child's proper place was somewhere within her husband's family. This is because, as we will see, paternity was the critical determination in deciding child custody.

The treatment illegitimate children could expect to receive from their court-ordered family remains a mystery. Would stigma of their birth follow them throughout life, or would such harsh realities be concealed from them? Would illegitimacy even matter, when your mother was a convicted adulteress who murdered your father? Scholarship has shown that unlike in Europe, people in China did not believe that children inherited their parent's undesirable qualities, and so there is a good chance that there was no stigma associated with illegitimacy. In her work on heredity, Ann Walter states, "The prominence given to notions of blood affinity in early modern Europe has no Chinese counterpart...the horror with which God viewed the children of adulterous unions was fundamentally the fear that they would themselves grow up to be adulterers. The sins of the fathers were inherited by the children. In the Chinese moral landscape, though retribution was sure, the child did not inherit the failings of their fathers... We hear no such arguments against caring for children of uncertain parentage."²² On one hand, the adjudication of paternity in Qing courtrooms supports Waltner's argument, for there appears to have been little anxiety about the consequences of keeping a child *potentially* born out of illicit sex in one's household. On the other hand, while illegitimacy may not have carried with it the

²² Ibid., Ann Waltner, *Getting an Heir*, 34.

same negative social meaning as it did in Europe—paternity clearly mattered in early modern China (or the women in this study surely would not have been asked about it). The case reports in this chapter reveal paternity to be a matter of genuine concern, important enough for Qing courts to insist that children must be placed under the care of their paternal relatives. In the Qing courtroom, paternity was a question that had to be answered, the determination of which held real weight over people's lives. The historical record may provide us with few avenues for understanding what it meant to be an illegitimate child in late imperial China, many of whom surely existed, but it can shed light on the tendency of officials to allow women to determine the paternity of their children.

Contested Paternity: Adulterous Mothers and Their Legitimate Children

In the following cases, the question of paternity became a matter of legal significance when children born in the wake of adultery survived past birth and magistrates needed to reach a decision on child custody. Adjudication shows that Qing judicial authorities thought it important to order paternal relatives custodial guardianship over any orphaned children, and because of this, paternity had to be established. But unlike in cases of questionable virginity, for example, in which the Qing court called midwives to examine a woman's hymen for evidence of penile penetration, the Qing court did not sanction any comparable procedure for testing the paternity of a child born to a legal wife.²³ Without some evidence that it was physically impossible for a husband to have fathered his wife's child, such as in the case of prolonged absence,

²³ For a discussion of court ordered midwives see, Matthew H. Sommer, *Sex, Law & Society in Late Imperial China* (Stanford, CA: Stanford University Press, 2000), 79-81. Ann Waltner discusses ideas about determining paternity in early medical texts and fiction based on a blood test. Waltner mentions that in Pu Songling's story "The Clay Image" a magistrate decided the legitimacy of a widow's son by placing drops of the questionable child's blood on a clay image of his father. The statute absorbed the child's blood, and the magistrate determined that the boy was indeed legitimate. See, Waltner, *Getting an Heir*, 31-33.

acknowledged impotency or celibacy (and sometimes even with it), my research indicates that Qing judicial elites were extremely reluctant to disregard a woman's determination of the parentage of her child, even in some of the most ambiguous cases of parentage. I argue that with the question of child custody at stake, magistrates seemingly had no choice but to rely on women's understanding of their own reproductive system, granting them authority to determine paternity in the courtroom. Ironically, in doing so, the Qing court shifted the matter of patrilineal descent out of the jurisdiction of the patriarchal family and into the hands of some of the empire's most dangerous criminals.

Even when an adulteress failed to conceal her illicit activities from exposure, if she refused to acknowledge her child as a product of illicit sex during interrogation, magistrates supported her claim of legitimacy despite her complicated sexual history. For example, Woman Ma-Liu (aged eighteen *sui*) argued that despite having had extra-marital sex with her lover during her marriage, she knew definitively that her husband, not her lover, had fathered the child in question. She explained that while her husband had never confronted her about her adultery, she had not kept it a secret from him either. She told the court, "My husband saw him coming to the house, and [he] never said a thing," later adding that he must have known what was going on since they had been carrying on this way for the past five years, and she thought he harbored resentment against her because of it. This, she explained, was why he suddenly wanted to sell her off in marriage. But Woman Ma-Liu made it difficult for him to carry out the sale. Unlike most of the women discussed in this chapter so far, Woman Ma-Liu was not childless. At the time her husband made up his mind to sell her, she was a mother to two children and did not want to be separated from them. Woman Ma-Liu told the Qing court, "seeing that I had given birth to a son and daughter, I refused to [let my husband sell me] and quarreled with him [about it]." In order

to thwart the sale, she went into hiding. First, she stayed with her lover, and he then eventually brought her to her maternal uncle's home, where they both resided for a while. Soon, her maternal uncle refused to harbor her, and brought her to her natal home, at which time her father returned her to her husband.

Her physical absence, however, did not prevent her husband from continuing with his plan. Once home, she discovered that he had sold off her daughter in her absence to another family as a child-bride, and only her son remained. After this, Woman Ma-Liu stole some arsenic (*pishuang*) used for killing bugs from a neighbor woman and poisoned him. Pregnant when apprehended and brought in for questioning, Woman Ma-Liu was held in prison until she gave birth to her third child, a boy. The Qing Code forbade torture of pregnant female offenders and required a ninety day stay of interrogation. After her ninety days had past, Woman Ma-Liu confessed to murdering her husband and adultery. The magistrate asked her about the paternity of her new son. "Is the child that you have now given birth to on the 4th month, 7th day conceived in illicit sex with [your lover], or fathered by your husband?" She replied saying, "[my lover] and I only had illicit sex once the month [I became pregnant], the boy that I've given birth to here in jail is my husband's child. I did not become pregnant until the later end of that month. I know with certainty that [this child] is not born of illicit sex."²⁴

It is not clear why Qing judicial elites thought women possessed some inherent knowledge regarding paternity, or how the women themselves made these decisions, but magistrates considered the mother of the child the only one capable of settling the matter, never consulting their lovers or family members on the issue. Woman Ma-Liu offered some

²⁴ XKTB, 02-01-07-0220-007. Woman Ma-Liu (18 *sui*). Jinhua County, Jinhua Prefecture, [Zhejiang]. QL 8, LC. (题报金华府金华县民妇马刘氏毒死亲夫马汝初拟凌迟处死事).

explanation for her paternity claim, perhaps because she testified to having cohabitated with her lover that same year, but more often women with a sexual past just as complex as her provided no justification to defend their determinations. For example, in Qianlong 2, twenty-eight *sui* Woman Zhao was three months pregnant when imprisoned following her husband's death.²⁵ She attempted to deter any suspicion of her involvement, claiming that a rogue thief murdered her husband and that she had nothing to do with it. The accused, a eighteen *sui* married farmer named Song Guangyuan, told the court that he never stole a thing in his life, but he did confess to having illicit sex with Woman Zhao for years. She refused to corroborate his narrative, maintaining that there had been no sexual intimacy between them. The magistrate, eager to test Woman Zhao's commitment to her story, had to wait until she gave birth and then delay another ninety days after that.²⁶ Once interrogated and likely subjected to torture, Woman Zhao admitted to the affair, confessing that she gave false testimony in an effort to avoid punishment. It had been her lover's idea to kill her husband, but she agreed to flee with him after the deed was done. When asked about the paternity of her daughter born in prison, however, Woman Zhao's claim of legitimacy received markedly less scrutiny than her claim of innocence. Woman Zhao said the little girl was fathered by her husband, and the magistrate ordered the child be given to her husband's family to raise. Thus, women's past misbehavior, even lying to the court, did not shake the court's reliance on mothers as the arbiters of paternity.

The practice of deferring to mothers on questions of paternity may stem from the importance placed on pregnant womans' experience in late imperial medical discourse. Without

²⁵ XKTB, 02-01-07-0038-005. Woman Zhao (28 *sui*). Hua County, [Henan]. QL 2, LC. (题报滑县人民妇赵氏与宋光远通奸同谋杀死本夫薛三拟凌迟处死事).

²⁶ William Jones, *The Great Qing Code*, Art. 420, Section 3, p. 400. The Code states that "[if] (a pregnant woman) commits an offence that is punishable with death, have a midwife come to the prison and examine her. Also let 100 days elapse after the birth to execute the punishment..."

fixed methods for managing pregnancy, doctors took women's claims about their pregnancies seriously, validating a wide range of abnormal experiences in childbirth from continued menstruation to short and lengthy gestation periods.²⁷ Yet, despite medical recognition of women's understandings of pregnancy, it is nonetheless puzzling that Qing judicial elites readily accepted claims of child legitimacy from licentious women such as these, especially considering the importance placed on the interrelated principles of chastity and patrilineality in Chinese civilization. Song dynasty Neo-Confucians justified the regulation of a wife's sexuality as an ideal model of gender orthodoxy that ensured both the moral integrity of patrilineal descent and the property interests of the patriarchal family.²⁸ While chastity took on new cultural and social significance in the Qing as rulers honored extreme expressions of wifely conjugal devotion at times counter to the prerogative of the patriarchal family itself, at its origin women's chastity meant the safeguarding of the male patriline. Given this, it is surprising that Qing magistrates granted adulterous husband-killers, women unchaste in every sense of the word whom they saw as deplete of all moral authority, final authority over paternity.

Moreover, when compared with the adjudication of paternity elsewhere during the same period around the world, the decision of the Qing state to enforce adulterous women's claims of child legitimacy seems that much more remarkable. In eighteenth century France, a husband could renounce children of his wife if she committed adultery, and women could not sue fathers for support if the child was potentially conceived in adultery, making all children born in the wake of adultery illegitimate in the eyes of the court.²⁹ Despite both societies being rooted in

²⁷ Wu Yi-Li, *Reproducing Women: Medicine, Metaphor, and Childbirth in Late Imperial China* (Berkeley: University of California Press, 2010), 130-133.

²⁸ Theiss, *Disgraceful Matters*, 26-28.

²⁹ Rachel Ginnis Fuchs, *Contested Paternity: Constructing Families in Modern France* (Baltimore: Johns Hopkins University Press, 2008), 29-30.

principles of patriarchy, paternity suits never became as significant an area of litigation in China as it did in Europe in the early modern period. Perhaps owing somewhat to the lack of a cohesive civil law in late imperial China, scholars have not observed women bringing paternity suits or much activity around the issue of contested paternity at all, while in Europe women brought paternity suits on a regular basis claiming to be victims of seduction. But unlike the paternity decisions above, only women of high moral virtue, often the young and innocent, convinced French courts of their child's legitimacy, while women of less reputable backgrounds, such as prostitutes and actresses, had little hope of being believed. While one might conclude that the Qing state paid little attention to the realities of sex outside marriage when violent crime was not a factor, it may also be that less stigma was associated with children born out of wedlock when the practices of infanticide or the sale of people offered a solution, while in Europe, Christianity discouraged such practices and compelled magistrates to support the claims of women whom they viewed as victims of men's deception.

Interestingly, even fathers were not permitted the same level of conclusive authority over paternity in the courtroom. Even when a man provided some evidence for why it might have been physically impossible for him to have fathered the child in question, the Qing court made it extremely difficult for husbands to challenge the paternity of a child born to his legal wife. In Qianlong 1, twenty-two *sui* Qu Fucheng from Shandong attempted to persuade the court of his purported daughter's illegitimacy. "In Yongzheng 10, 11th month, 19th day, [my wife and I] were married. On Yongzheng 11th year, fourth month, 2nd day, my wife gave birth to a girl, who [we] called Xiaohuan (Little Brightness). I thought to myself, after consummating the marriage, it takes most families between 8 to 9 or 10 months to have a baby. How could [we] have a child when it had only been 4 to 5 months [since marriage]?...I suspected the little girl wasn't my

natural daughter. I wanted to divorce [my wife], but because she had no natal family I could not. Afterward, [I] overheard people from the village saying my wife had given birth 4 to 5 months after our wedding, [they] laughed and called me a cuckold (忘人 *wangba*)!”³⁰

According to Qu Fucheng, thinking his wife an adulteress and his daughter illegitimate, he murdered mother and daughter both. This case, like that of the impotent man in the prior case, sheds light on the social importance of patrilineal purity for men. Although the magistrate was convinced Qu carried out the crime, he remained skeptical of his motive. As we will see, the questions he posed to Qu during interrogation suggest that while Qu may have truly believed *he* was not the father of his wife’s child, the magistrate was less convinced. There was little proof in the allegations Qu raised against his wife’s chastity, and despite having a rationale for why the young girl could not have been his natural child, it was not a reliable test of paternity for the Qing court.

First, apart from his claim about Woman Luo having had a suspiciously short pregnancy, Qu Fucheng had no proof of his wife’s adulterous behavior. According to the Qing Code, the only circumstance in which a husband could legally kill (or divorce) his adulterous wife without penalty was if he did so immediately upon catching his wife and her lover in the act, the logic behind this being that husbands could not be blamed for their homicidal rage after witnessing this transgression. The surge of sub-statutes that emerged in the eighteenth century to account for all of the illicit sex motivated homicides that occurred outside this scenario speaks to the great

³⁰ Ibid., XKTB, 02-01-07-0011-003. Qu Fucheng (22 *sui*). Linqing Prefecture, Shandong. QL 1, JJH. (题为山东临清州民曲付成杀死妻女拟绞监候). Wife/daughter-killing. It should be noted that this case has been discussed before as part of an examination of male shame and jealousy in the Qing legal record. See, Paola Panderni, “Fighting for Love: Male Jealousy in Eighteenth Century China,” *Nan Nü: Men, Women and Gender in Early and Imperial China* 4, no. 1 (March 1, 2002): 51-52.

unlikelihood that it often played out in real life as judicial elites imagined. Regardless, the law itself implies a high standard of proof for adultery in which the husband must be witness to the crime.

Qu Fucheng's accusation fell far from this standard; he could not even name the man who he alleged his wife had taken as a lover. Qu's mother helped to reinforce this point with her testimony. "Qu Fucheng is my son, and Woman Luo was my daughter. She had no natal family and lived with me as a child-bride (*tongyangxi* 童养媳) from a young age...My son said [my granddaughter] wasn't fathered by him...I did not know who Woman Luo had illicit sex with, and I do not know why my son killed Woman Luo and Xiaohuan." The magistrate questioned Qu Fucheng about his mother's lack of knowledge regarding his wife's supposed lover. "Seeing that you believed your daughter not your natural child, [why didn't] you investigate the identity of the male adulterer? Why did [you] wait more than a year to murder both wife and daughter [if you thought this]?" In response to this, Qu could not provide a satisfactory answer but instead emphasized his failure and personal frustration, saying "I did try to look into who my wife had illicit sex with, but she refused to say. I also tried to investigate [the identity] of her lover, but was unsuccessful and endured patiently for more than a year."

Furthermore, the only first-hand knowledge Qu Fucheng had to suggest that Woman Luo would be at all willing to engage in extra-marital sex, was that she had done so with *him*. In his testimony, Qu recounted how she had succumbed to his sexual advances before marriage. "After breakfast on Yongzheng 10, 3rd month, 15th day, when my wife and I were still unwed, my mother went to burn incense at the Temple of the Goddess of Fertility in Dashui Kang Village and wouldn't return for a while. Only myself and Woman Luo were home. I came in the house from outside and saw Woman Luo in the northern room sitting atop the kang. I entered and

grabbed her and [we] had illicit sex one time, and I left to go chop firewood. Toward evening I returned home and seeing that my mother still hadn't returned, I had illicit sex with her again for the second time. My mother finally arrived home at sundown, and after that my mother didn't leave home again, and I was often out at market and not at home. [I] did not have illicit sex with [Woman Luo] again after that.”

Because the Qing state considered all sex outside marriage to be illicit, it also prohibited sex between betrothed men and women. This admission of wrongdoing would have perhaps gone unrecorded if it were not integral to Qu's evidence of his wife's disloyalty. He continued, "...I thought because Woman Luo had so willingly gone along and had illicit sex with me prior to marriage, [she] was obviously an indecent person who would surely have had illicit sex with another man!" Qu argued that his own experience with Woman Luo lent credibility to the rumors he overheard following his daughter's birth, for if she had been willing to have illicit sex with him, who else might she have had illicit sex with? It would be remiss not to note the misogynistic double standard inherent in the logic of Qu's testimony. As the initiator of illicit sex, the fault Qu found with Woman Luo originated in the transgression he first made against her. We do not have access to Woman Luo's perspective in this case, and so know nothing about how she may have responded or reacted, but regardless of this, in surrendering to her fiancée's sexual desire for her, she also compromised her chastity in his eyes, and he decided to use it as evidence against her. It is likely that Qu expected the court to agree with him on this, expressing no concern that his own engagement in pre-marital sex might also damage the court's opinion of him along with her.

But Qu Fucheng's words did give the magistrate pause. He now had even more reason to distrust Qu's declaration of his daughter's illegitimacy. In addition to not being able to identify

his wife's supposed lover and obtain an admission of guilt to support his claim, Qu's evidence revealed that *he* himself actually had sex with Woman Luo prior to the atypically short conception to birth period he strongly felt proved his wife's adultery. Couldn't the child she allegedly conceived out of wedlock be his? If it was true that Qu only had sex with Woman Luo twice on those specific dates, the duration between their first sexual encounter and the birth of Xiaohuan totaled over thirteen months, which indeed exceeded the ten month duration considered typical for a pregnancy term in the Qing. But had Qu really limited his sexual encounters with Woman Luo to those two specific instances? To be sure, the magistrate had his doubts. He questioned Qu, asking, "You yourself first had illicit sex with Woman Luo and afterward only because your mother did not leave [the house] were you unable to have illicit sex with her again. How would she have been able to have illicit sex with another man under these same conditions?...[Furthermore,] why did [you] wait more than a year to finally kill both wife and daughter [if you thought this]? Clearly there is some other reason [for your actions]! Quickly tell the truth so as to avoid torture!"

Qu gave the following response: "My wife often went into the hills to chop firewood, if she was having sex with an outside man [there] and not at home, how would my mother know if it? The day my wife and I were married, I knew [she] was already pregnant but thought [the child] was still mine, conceived out of illicit sex [with me]. Then when she finally gave birth to a little girl in the middle of the 4th month of the next year, I thought to myself it has been nearly 14 to 15 months since the day we had illicit sex before marriage and only 4 to 5 months since the day we were married, clearly [the girl] was not my natural child and she had illicit sex with another man... There is no other reason [for what I did]. Even if you inflict [me] with torture, I will say nothing else [but this]."

The magistrate sentenced Qu Fucheng to strangulation after the autumn assizes in accordance with the law on the intentional killing of a wife by a husband. He noted, however, that Qu would not be permitted a pardon during the annual autumn review, effectively ensuring his execution. This sentence is severe considering magistrates had discretion to grant leniency for a husband who killed his wife, something the Qing Code did not make available for women guilty of the reciprocal crime. Janet Theiss has shown that wifely misbehavior could mitigate a husband's guilt in cases of wife-killing. Qing magistrates considered evidence of unfiliality with great disfavor. Incorporated into the Qing Code's section on the assizes in 1762, judicial officials were likely to sympathize with a husband who used excessive violence to discipline an "unfilial wife" especially if she disrespected her parents-in-law, refusing to conform to the "wifely way."³¹ Husbands who convinced magistrates of a wife's disobedience and that they had not harbored intent when killing, could receive leniency. For example, in Shaanxi in Qianlong 59, a nineteen *sui* man received a stay of execution (*kejin* 可矜) for the murder of his unfilial wife who he hit on the head with a stone after she refused to wait on his sickly mother.³² If the magistrate thought Woman Luo deserved punishment for some type of misbehavior, Qu may have received a lesser sentence, but he did not. The harsh punishment Qu received is a strong indication that the magistrate disapproved of the accusations Qu made against his wife and purported daughter, in addition to the action he took to punish them.

³¹ Janet Theiss, "Explaining the Shrew: Narratives of Spousal Violence and the Critique of Masculinity in Eighteenth-Century Criminal Cases" in *Writing and Law in Late Imperial China: Crime, Conflict, and Judgment* (eds. Robert E. Hegel and Katherine N. Carlitz, 44-63. Seattle: University of Washington Press, 2007), 55-57.

³² XKTB, 02-01-07-1877-018. Xian Prefecture, Shaanxi. QL 58. (题为陕西西安府泾阳县人苟梦元殴伤伊妻刘氏身死议准绞监候事); Located in Assizes document, 02-01-007-024555-0004 (题为秋审奉天可矜人犯施文德应免死减等请旨事, 乾隆五十九年九月十六日).

In addition, it is likely that Qing magistrates would have never considered evidence of abnormal length of pregnancy a reliable test of paternity. Since at least the seventh century, Chinese doctors thought gestation lasted around ten months, but they were also not surprised if pregnancies lasted much longer. As Wu Yi-Lu's work on pregnancy in late imperial China shows, without a dependable method for confirming the start of pregnancy, the length women understood themselves to be pregnant could vary widely, and it was not unheard of for women to experience delayed births that lasted as long as four or five years.³³ Moreover, this belief was by no account exclusive to the realm of medical discourse. Matthew Sommer has encountered a couple cases dealing with pregnant widows that show that Qing judicial elites took women's claims of delayed pregnancy seriously. In one case, a widow pregnant four years after her husband's death successfully refuted accusations of adultery made by her father-in-law. Just like Qu Cunchang, he could not identify a lover and based his claim of adultery on the pregnancy itself. Without this crucial piece of evidence, the widow stuck firm to her own claim of innocence and the magistrate ultimately ruled in her favor. Referring to medical texts, the magistrate reasoned that in grief for her husband the widow had experienced extreme emotional distress that caused the fetus to "dry up" and delayed the birth of her legitimate child.³⁴ Therefore, while Qu Cunchang's argument about pregnancy may resonate with our own modern conception of human gestation length and its natural limitations, it did not align neatly with elite

³³ Wu Yi-Lu, *Reproducing Women*, 130. In a section entitled "Ten Months or More?" Wu states, "Chinese doctors had long agreed that the usual human gestation period was ten months, but from at least the seventh century they also taught that true pregnancies could last substantially longer. A standard reference was Yang Zijian (fl. eleventh century), whose treatise on the "ten kinds of childbirths" stated that some women went into labor at seven, eight, or nine months, while others had pregnancies that could go as long as four or five years before the child was born." Wu also notes that such ideas were in no way exclusive to China; European doctors also considered lengthy pregnancies possible.

³⁴ Sommer, *Sex, Law, and Society in Late Imperial China*, 207.

notions of childbirth, and without a lover's confession, the magistrate had all the more reason to think Woman Luo a chaste wife and Xiaohuan a legitimate daughter wronged by a misguided husband/father being mocked by his community.

Yet, as we have seen, proof of adultery did not prove a child's illegitimacy. Even when both wife and lover confessed to engaging in illicit sex, magistrates considered paternity debatable until confirmed by the mother alone. What explains judicial willingness to rule in favor of women's claims of a child's legitimacy when paternity was in doubt? The process of interrogation under duress as a means of eliciting the truth is perhaps the most obvious conclusion. Perhaps these women's claims are believed for the same reason why magistrates could believe in their narrative of the crime itself. In the case of pregnant widows, Matthew Sommer suggests that perhaps a desire to salvage the reputation of an otherwise virtuous woman may have influenced this judgment.³⁵ However, my research suggests that a more precise logic guided the adjudication of paternity in this and other cases, for magistrates were just as open to take word of adulterous husband-killers, licentious women whom the court surely had no interest in defending, on the matter of paternity. As one final example, consider the case of Woman Shi from Jiangxi. A self-made widow at the age of twenty-one, Woman Shi used a silk ribbon to strangle her husband with the help of her lover in Qianlong 5. Childless throughout her short two-year marriage, she gave birth to a girl prior to arrest but following her husband's murder. The magistrate questioned her about the child's paternity. "The girl you gave birth to last year, is [she] conceived out of illicit sex with Wu Qiyun or is [she] your husband's posthumous child?" Woman Shi responded, "She is my husband's posthumous child, I dare not lie [about this]!"

³⁵ Ibid., Sommer, 207.

Woman Shi admitted to having illicit sex with Wu Qiyun while her husband still lived. She explained that life with her husband had been difficult. They first lived with her parents before they began moving around, renting land from different families. Woman Shi's mother-in-law, who described her as bad natured (性格不好), eventually came to reside with them. When Wu Qiyun first laid eyes on his friend's wife, he told the court he could tell that she was not chaste, saying "[Woman Shi] did not look like a decent [wo]man (樣子不正經)", employing the same phrase Qu Cunchang used to describe Woman Luo's willingness to have sex with him before marriage. Unlike in Qu's case, however, it is not clear what made Wu Qiyun so sure Woman Shi lacked virtue before their first sexual encounter. Woman Shi described the incident like this. "One day, when my husband was out, Wu Qiyun came round with twenty copper cash saying he wanted to buy shoe fabric. I refused his offer [of cash], but he grabbed me wanting to have illicit sex. Because no one was around us, in that moment I had a lapse of judgment, and I agreed to have illicit sex with him." After this, the couple met often. "Whenever my husband was out selling coal," Woman Shi told the court, "Wu Qiyun came by...one cold evening, I don't remember what day, I sat in the house near the fire spinning silk floss, my husband had gone to gather coal and hadn't yet returned, and Wu Qiyun came over for illicit sex, afterward he asked me to leave with him. I told him, 'How can we go with my husband alive?! It would be better to kill him, then I can marry you and we can go and start a family [together].'" After a night of New Year's festivities, she persuaded Wu Qiyun to help her take advantage of her husband's inebriated state.

Woman Shi's case rested on a narrative of wifely disobedience and aggression far removed from elite expectations of virtue, but the magistrate supported her claim of her child's legitimacy nonetheless. If Woman Shi's husband had indeed fathered her child as she claimed,

the length of her pregnancy was not outside “the norm”, born just around nine months after his death. To modern readers, this fact may seem to strengthen Woman Shi’s argument; but, as we have just seen, Qing magistrates did not consider standard gestation length an indication of paternity. If anything, the language Woman Shi employed early on in her testimony may have helped solidify her claim. Characterizing her daughter as a “posthumous child (遺腹)”, a phrase used to describe a child born after the death of a father (not a term not utilized by any other mother in this chapter), Woman Shi evoked a circumstance not unfamiliar to judicial elites and it is striking that the term appeared again when directly questioned about her child’s paternity. This being said, the pattern in my sample of cases suggests that women were not required to provide any evidence in order for their claim of legitimacy to be believed. Thus, it was not that the Qing court had no method for testing paternity when disputes arose, but rather than a physical exam, determining paternity rested solely on the claim of the mother made during interrogation which no magistrate challenged.

Conclusion

One cannot overlook the strength of women’s testimonial power in the cases in this chapter. Husbands’ attempts to challenge paternity in the courtroom were met with much harsher skepticism, but the claims of women guilty of adultery and homicide were not documented as pressed through further questioning. Without any medical procedure for testing paternity and existing medical discourse yielding authority to a wide range of pregnant women’s experiences, judicial elites granted “female criminals” the authority to determine the paternity of their children in the courtroom. What explains judicial readiness to accept these women’s claims of paternity? One possibility is that Qing jurists were reluctant to be personally responsible for intervening in matters of patrilineal descent; rather than disturb, they wanted to preserve the

patriline as a legal fiction if nothing else. Qing authorities perhaps did not want to intercede so fundamentally in the inner workings of the family, and thus the only persons they allowed to interrupt the line of patrilineal descent were the same women who had already intervened. This being said, judicial readiness to accept these women's claims may simply be linked to their readiness to accept her testimony as to her own culpability; if they choose to believe that, how can they choose to disbelieve her word on this? Truth, as produced in the courtroom through the process of interrogation, was left in her hands.

The case of Woman Hong, the woman who fled to a Buddhist nunnery to give birth to her child, is the only report involving paternity that I have found in which a wife confessed to illegitimacy and her child survived after birth, leaving custody to be determined. The order of the Qing state to give the child of one man's wife to the family of another man is quite a remarkable decision. In the other cases discussed, it may seem unlikely that a culture which valued chastity so deeply would consider a child born in the wake of an illicit union to be legitimate, but this was likely seen as the least disruptive choice available, as it allowed custody of the child to remain with the husband's family. In Woman Hong's case, her decision to declare her child illegitimate was the motivating factor for her extreme actions which ultimately resulted in her husband's death. As a result, the court had no choice but to take the step of acknowledging her determination, placing a child that was the product of a husband's legal wife with the family of her illicit lover.

As we move from the account of Woman Hong and the implications of her actions in pursuing a man much younger than herself, we will now in the next and final chapter explore older women pursuing their sexual desires for men significantly younger than themselves, in which consideration of pregnancy was of little to no consequence.

Chapter 6

‘Cougars’ in the Courtroom:

The Female Sexual Predator in Qing Law

Winter

In 1738, Qing authorities questioned Woman Zhang about her husband’s death. They apprehended her in the company of another man, far away from her husband’s body, which was discovered buried in a grassy field, naked, with wounds to the head. Slow to divulge the truth, Woman Zhang portrayed herself and her husband as both the unfortunate victims of this strange man’s malice, claiming that he killed her husband to abduct her as his wife.¹ This was, after all, a plausible story. When violent crime occurred, women were more often the victims rather than the perpetrators of violence. Woman Zhang’s tale of victimization made only too real judicial worries about the dangers of poor rootless men without wives roaming about.² For a younger woman, perhaps this tale may have been persuasive enough to draw the matter to a close, but for Woman Zhang it seemed only destined to fail.

Her alleged assailant, Zhangjin, offered up Woman Zhang’s advanced age as compelling counter evidence against her, casting her otherwise credible narrative into doubt. He argued that if there had been another victim in this incident, it was *him*, not her, saying, “Woman Zhang

¹ XKTb, 02-01-07-0139-009. Woman Zhang (45 *sui*). Jinxian County, Jinzhou Prefecture. QL 6, LC. (题报锦州府锦县人潘有良之妻与张进奸谋死亲夫拟凌迟处死事). Upon marriage Woman Zhang resided in Funing County, Hebei with her husband.

² Qing scholars have observed a rise in violent crime during this period (such as sexual assault, banditry, and rebellion) committed by men at the margins of society often referred to as “bare sticks” (*guanggun*). Authorities imagined these men who were without a wife, family, or property to be sexual predators. They embodied elite fears about the potential for men outside the bounds of moral and social order to undermine patriarchal norms See, Matthew Sommer, *Sex, Law and Society in Late Imperial China* (Stanford, Calif.: Stanford University Press, 2000), 14.

often seduced me into having illicit sex with her (*zhangshi shichang gouyin xiao de yu ta tongjian* 張氏時常勾引小的與他通姦)...I certainly did not plan on abducting her. [She's] nearly fifty! I'm just around twenty-one or twenty-two *sui*. [I] had no scheme to make her my wife or concubine." Seemingly constrained, if not also convinced, by the generational logic in his statement, the magistrate reinterrogated Woman Zhang, this time with the threat of torture, and she produced a narrative in which she was far less innocent.

As we have seen in Chapters Four and Five, adulterous women were by no means one-dimensional figures in the Qing legal case record, and the intersectionality of age and gender is a critical lens for understanding their experiences both in and outside the legal system. In this final chapter, I explore the 'female sexual predator' as a previously unknown legal archetype and social reality in Qing law. Among the thousands of reports about women-initiated homicide (*xingke tiben*) that exist in the First Historical Archives in Beijing, many we have just encountered in this dissertation in the form of husband-killing, emerges a select pattern in which jurists designated women, rather than men, to be the chief instigators of illicit sex. It appears that they did not consider just any woman competent enough to subvert gender norms in sex, however. Jurists predominantly judged older women—typically between the ages of 40 to 50 *sui* found to have engaged in extramarital sex with men at least two decades younger than themselves—to be the instigators of this crime.

Past scholarship on illicit sex has tended to underestimate the potential of criminal records to capture sincere expressions of women's sexual agency, owing in large part to the principles of Confucian patriarchy known to imbue Qing law. Philip Huang, in his seminal work on the role of women in illicit sex, concludes that Qing law granted women only a restricted form of what he terms "passive agency" in their sexual interactions with men. He explains, "[i]t

attributed to them choices between consenting to and resisting abusive treatment...the man was the active agent...and the woman was the passive entity, though not a will-less one.”³⁴ Thus, women certainly initiated extramarital sex with men out of their own free will, and although this reality found its way into legal reports through perpetrator testimony, observed most clearly in Chapter One, Qing judicial assumptions about the proper performance of gendered power in sex ought to make it unlikely, if not impossible, to find a record of illicit sex that positioned a woman in the role of abuser rather than the abused. Yet as the case of healer Woman Zhang has just begun to show, the ‘female sexual predator’ nonetheless exists in the Qing legal archive.

Qing jurists held a more expansive notion of women’s sexual agency than historians have previously understood. A shift in evidential foundation—away from the violence men did to women to instead center on the violence *women* did to men—reveals the extremes of female sexual agency, showing records of women as aggressive criminal agents, capable of dominating men physically and sexually in crimes of homicide and illicit sex. The ‘female sexual predator,’ both an unlikely archetype of gendered criminality and arguably the most transgressive manifestation of the “female criminal (犯婦)” in the Qing legal record, attributed excessive blame to older women in extramarital sex while also preserving powerful evidence of women’s lived sexual autonomy.

³ Philip C. C. Huang. “Women's Choices under the Law: Marriage, Divorce, and Illicit Sex in the Qing and the Republic.” *Modern China* 27, no. 1 (2001): 3; 13-15. While showing that Qing jurists did not envision women as “simply passive” under Qing law, the extreme form of women’s sexual agency recorded in the case reports that comprise this chapter complicates Huang’s conclusion about Qing jurists’ narrow view of women’s agency in sex.

⁴ For example, Philip Huang argues only that “[i]t attributed to them choices between consenting to and resisting abusive treatment,” which, See, Philip C. C. Huang, “Women's Choices under the Law: Marriage, Divorce, and Illicit Sex in the Qing and the Republic,” *Modern China* 27, no. 1 (2001): 3.

To date, most of what historians know about women's sexuality in the Qing comes from literature, imagined from the point of view of male authors. For instance, a well-known work of erotic fiction that deals with the dangerous consequences of unchecked female sexuality is the vernacular Ming novel *The Golden Lotus (Jin Ping Mei)*.⁵ On the other hand, elite women's writings, while invaluable first-hand sources into the experiences of some women, rarely delve too deeply into their private sex lives or hidden desires.⁶ We do, on the other hand, have evidence of men's sexual fantasies that encompasses male same-sex eroticism.⁷ In the following cases, magistrates not only granted non-elite women room to speak about sex, they insisted they do so. Their testimonies shed new light on older women acting upon their sexual desires, *not* for survival in marriage or even necessarily romantic love, but instead in the pursuit of personal sexual fulfillment.

Transcending boundaries of both legal and literary paradigm, the 'female sexual predator' sheds new insight on the complex motivations that shaped older women's involvement in and desire for extramarital sex. Despite what has been previously assumed about women's sexuality, with these women's testimonies we gain unprecedented access to this most intimate realm of life which women may have only felt emboldened enough to indulge in their later years. While their representation in the archive certainly echoes archetypes created by anxious men about the

⁵ A notable exception to men's writing about sex is the woman-authored *The Tale of an Infatuated Woman (Chipози Zhuan)*. For more information about male depictions of sexually aggressive women in late imperial fiction see Anne McLaren, *The Chinese Femme Fatale: Stories From the Ming Period* (Broadway, NSW: Honolulu, Hawaii: Wild Peony; International distribution, University of Hawaii Press, 1994)., and Mark J. Stevenson and Cuncun Wu, *Wanton Women in Late-imperial Chinese Literature: Models, Genres, Subversions and Traditions* (Leiden: Brill, 2017).

⁶ Dorothy Ko, *Teachers of the Inner Chambers: Women and Culture in Seventeenth-century China*, Stanford, Calif.: Stanford University Press, 1994.

⁷ Cuncun Wu, *Homoerotic Sensibilities in Late Imperial China* (London; New York: Routledge, 2004).

destructive nature of untamed female sexuality, read from a feminist lens, it also provides some of the most subversive evidence of women acting upon their own desires and embracing their passions both at great risk to themselves and in defiance of the gender norms in which they lived.

The following testimonies therefore preserve troublesome and inconvenient truths about women and men for the Qing state that fell outside jurists' expectations of both criminality and gendered behavior. Men, not women, were thought to instigate violent crime. This made Woman Zhang's initial tale of abduction an all too likely account of homicide motivated by illicit sex. And yet, the magistrate in this case seemingly could not invoke this narrative because her assailant emphasized in his testimony that Woman Zhang was *too old* for him to reasonably take her as a bride. To be sure, Woman Zhang was made to account for this new evidence during her second round of interrogation. But the criminal narrative she produced, while convincing enough to the Qing court, was also by far a more exceptional and unexpected story.

Woman Zhang Takes Pleasure in Her Work

There was more to Woman Zhang (aged 45 *sui*) than her maturity alone that would have likely made it difficult for any magistrate to imagine her as a victim. Woman Zhang described herself as a woman who earned a living as a healer, saying, "I have an ability to cure [people's] illnesses (*hui yi zhi bingzheng* 會醫治病症), and have long earned money for treating the sick."⁸ The report provides little insight into the precise nature of her work, such as what methods she may have employed to heal her patients. The only thing we know for sure is she and her husband (aged 40 *sui*) of nearly thirty years were constantly on the move, residing in the houses of her

⁸ Ibid., XKTB, 02-01-07-0139-009. Woman Zhang (45 *sui*). QL 6, LC.

clients for a few days at a time before moving on.⁹ Married for nearly thirty years, her husband was from Funing County, Hebei, and they had one daughter together who had since married out. He seemed to have had no role in her work other than as chaperone, relying on her skilled labor for support.

The life that Woman Zhang depicted was far from the imagined existence of a typical peasant woman. Entering and exiting the homes of strangers on a regular basis, she belonged more to the outer, rather than the inner, realm of society traditionally thought to define the lives of women.¹⁰ This unconventional lifestyle put her in contact with outside men, serving to denigrate her moral character by casting doubt on her chastity. Her “ability” to cure the sick also made it likely that she may have been considered a witch. Belief in the supernatural was commonplace during the Qing and healers were thought particularly disposed to wield magic to cure their patients.¹¹ While evidence is scarce, the legal record indicates that people could label such women a “witch” to vilify their otherwise benign and in-demand services.¹² Strikingly, however, Woman Zhang avoided this accusation altogether, which speaks to the influence she

⁹ Within the month of her life documented by the report, she entered the homes of four different clients, both men and women; while Woman Zhang treated Zhangjin’s sister-in-law, the report does not specify the gender of any preceding patient but given the tendency for men to be the default gender when gender was left unspecified there is good reason to believe that her practice included both men and women.

¹⁰ In recent years, the social reality of gender segregation, in which women remained cloistered within the inner domestic space of the home while men traversed the outside world, has been shown to have been less rigid than previously thought. See Susan Mann, “Separating the Sexes,” in *The Inner Quarters: Marriage and the Lives of Chinese Women in the Sung Period* (Berkeley: University of California Press: 1993) 25-27, and Janet Theiss, *Disgraceful Matters: The Politics of Chastity in Eighteenth-Century China* (Berkeley: University of California Press, 2004) 11-12.

¹¹ Philip A. Kuhn, *Soulstealers: The Chinese Sorcery Scare of 1768* (Cambridge, Mass.: Harvard University Press, 1990) 95-96; 114.

¹² Paola Paderni, “Between Constraints and Opportunities: Widows, Witches, and Shrews in Eighteenth-Century China,” in *Chinese Women in the Imperial Past: New Perspectives*, ed. Harriet T. Zurndorfer (Leiden: Brill, 1999), 258-285.

herself held over her testimony.¹³ If the narrative had been about her, rather than from her, her depiction in the case report may have been quite different. Moreover, the magistrate may have had little reason to turn Woman Zhang into a witch, for the illicit activities she and her accomplice confessed to incriminated them plenty.

Woman Zhang first met Zhangjin (aged 21/22 *sui*) when she and her husband had just journeyed to Ningyuan looking to practice medicine.¹⁴ Called to the house to treat his ill sister-in-law, Woman Zhang soon became interested in having Zhangjin as a sex partner. She described their initial encounter like this:

My husband and I resided in Zhangjin's home for a couple of days. Zhangjin casually referred to me as godmother. I had a desire to have illicit sex with him (*xiaofuren yuan you yi yao yu ta jianshu* 小婦人原有意要與他姦宿). In this month, 15th day, I told Zhangjin to go along with [me] to Laodou gulley to treat [someone] ill at the Chen family home. My husband remained at Zhangjin's house and no one accompanied us. That night, [we] stayed at Chen's home and Zhangjin and [I] slept in the same bed. Zhangjin made his way into the quilt wrapped around me. I didn't make a sound and [we] had illicit sex. I had illicit sex with him a couple more times after that.

Far from a depiction of a woman submitting to a man's sexual urges, Woman Zhang's testimony emphasizes her agency in sex in multiple ways. Foremost of which being the initiative *she* took in not only selecting this particular man as a desirable sex partner but also arranging the site for their illicit liaison. We gain the sense that this was perhaps not the first time Woman Zhang had

¹³ For instance, in one of the few other cases I have come across involving a woman healer, the woman was specifically labeled a "witch doctor" (*wuyi* 巫醫) in the magistrate's summary. Much like Woman Zhang herself, Woman Sun (aged forty *sui*, with two children) earned money going from house to house to treat the sick (*gei ren jia zhibing* 給人家治病). In this case, however, Woman Sun ended up the victim. Married for over twenty years, her husband saw that she had become an "improper woman" (女人不正經), and overcome with fear of her dark powers, he hacked her to death. Given his animosity toward his witch-wife, he lobbied a damning account of her craft to the magistrate, saying that she made offerings to an idol of a female celestial (*xianggu* 仙姑) and frequently left the house, even while he and their son suffered from illness.

¹⁴ This line in Woman Zhang's testimony reads as follows: "...去年九月內小婦人同男人出關來在寧遠地方行醫..."

organized such a meeting, her husband's willingness to stay behind and allow his wife to go out with another man perhaps a reflection of the routine nature of the encounter, disparaging of his own role as husband. Rather than yelling out for help, Woman Zhang is recorded as having not "made a sound," a detail indicating her consent.¹⁵ Here, however, we have something much more than a woman submitting to a man's sexual urges. In this regard, Woman Zhang's desire for illicit sex is represented as greater than that of Zhangjin who is depicted as simply following her lead even though he may have "made his way" into her quilt. This is because she intentionally arranged the encounter. She desired him, and acting upon that desire, she created a situation in which the two of them could be alone together, letting what she likely suspected would be a natural next step take place.

This is not to say that Zhangjin comes across as indifferent to her sexual initiative, far from it. By calling her "godmother," a term of endearment, Zhangjin expressed both affection and affiliation with Woman Zhang. The expression likely served two purposes: as camouflage against suspicions about the potential indecency of their association, as well as to simply imply their closeness to one another. For while Woman Zhang made the arrangement for their intimate and private contact, it is noteworthy that Zhangjin was nonetheless described as the one who first invaded her sleeping bag, not the other way around. Consequently, Zhangjin may have convinced the magistrate that Woman Zhang was too old for him to want to take her as a bride, but not so old that he did not desire to have sex with her. In doing so, the case built up

¹⁵ Phrases such as this are recurring rhetorical markers in cases of illicit sex meant to highlight women's consent in illicit sex. In the view of judicial elites, if a woman did not consent to sex, she would have yelled out for help, among other things, to demonstrate objection. See, Janet M. Theiss, *Disgraceful Matters: The Politics of Chastity in Eighteenth-Century China* (Berkeley: University of California Press, 2004), 143-142.

Zhangjin's guilt alongside that of Woman Zhang, stressing his consent in their illicit sexual relationship, and thus creating a reasonable explanation for what happened next.

Woman Zhang's testimony continued as follows:

In the 3rd month, when [we were] in the Gou family village, I privately told Zhangjin that it was inconvenient for [my husband] to be [with us], and that it would be better just to kill him. Zhangjin agreed to this, and no one else plotted with us. Because we did not come across a convenient place, we did not carry out [the murder] then. In the 7th month, my husband and I brought Zhangjin along with [us] to treat [someone] sick at the home of Housi and resided there for about ten days. On the 20th, [we] left his house and [I] went elsewhere to practice healing. On the 21st, [we] reached Peaceful Goat Village and in the south part of the vacant wilderness as it was getting late, we let the donkey out to eat some grass and [my husband] sat on the ground. Next to him were some stones. I grabbed a stone and hit him on the right side of the ear.

After striking the first blow, Woman Zhang recounted how Zhangjin picked up a stone for himself and hit her husband in the head just as she had done. Then they buried him and quickly headed off. Woman Zhang sat on the donkey and Zhangjin walked behind, wearing her husband's clothes. They had sex along the way to the West Mountains of Yizhou, but before making it to her daughter's house, where they had planned to hide out for a while, they were arrested by a runner of the court.

Woman Zhang's final recounting of the events leading up to her husband's death inverted the usual performance of gender in sex. Unfortunately for her, doing so left the magistrate unconvinced by her initial claim to be a virtuous woman victimized at the hands of an outside male. But if the over twenty-year age difference made the notion of Woman Zhang's abduction and marriage to a young man implausible to the court, it certainly did not stop the pair from having sex, nor was their sexual relationship rejected as an insufficient motivation for homicide.

Woman Zhang and Zhangjin's extramarital relationship is quite different from most of those described in reports about wives who plotted with lovers to kill their husbands. Young women, as we saw in Chapter Four, often did so to pursue love-marriages with men from their

natal villages that they had become fond of while growing up. Woman Zhang, on the other hand, had no interest in marrying Zhangjin. She did not talk about ‘spending good days’ with him, and this is not to say that she did not have any, but her testimony includes nothing about her having any sort of deep-seated affection (*qing*) for him, a sentiment typically expressed in such cases. Nor, for that matter, was she in need of escaping an abusive marriage, raising no complaint whatsoever about how her husband treated her (other than that his mere presence made it difficult for her to engage in sex with another man). What is more, she did not need Zhangjin for support. He had no occupation to speak of, and as we know, she earned her own money. The nature of her work perhaps made a male escort a necessity, but her husband had at least adequately fulfilled that role. What did she want Zhangjin for, exactly?

She wanted him for sex. It is her only recorded motivation for killing her husband, and yet it is not fully articulated in the case report until the final sentence of her testimony. “It was all my idea,” Woman Zhang admitted at last, “[Our] ages are wrong. I [killed my husband] to make it more convenient for [Zhangjin and I] to have sex. [I] certainly didn’t want to get married.” Simply put, Woman Zhang, a competent woman in the later stage of life, desired youthful Zhangjin for her pleasure and her husband was getting in the way. If the official narrative is to be believed as the county magistrate and his reviewing officials came to accept it, it cannot go without an acknowledgment from the Qing court of not only Woman Zhang’s criminal agency, but most importantly, her aggressive sexual agency.

The Female Sexual Predator in Qing Law

While Woman Zhang’s story is remarkable for many reasons, including that it provides a rare glimpse into the life of a woman healer, it is particularly striking for the emphasis it places on women’s subversion of judicial assumptions about gendered power in sex. Rather than

depicting women as victims of male force and coercion, the legal record contains numerous homicide reports that portray older women like Woman Zhang as formidable agents in pursuit of their sexual desires.

This portrayal, however, is far from the most common representation of women's involvement in illicit sex. Qing jurists typically judged women to be either consenting to or resisting unwanted sexual advances from men, not the initiators of sexual encounters.¹⁶ Whether they ultimately judged illicit sexual encounters to be consensual or not, the legal record predominantly contains accounts of women falling prey to men's sexual urges.¹⁷ And given that magistrates were indeed skeptical that a woman *could* even kill a man without help, it seems only more unlikely that they would consider women capable of dominating men sexually.

To understand the logic of sexual coercion at play in these cases about women's seduction of men, the importance of age and its relationship to power in sex is key. As Matthew Sommer has shown, age was the pivotal factor in the state's determination of male same-sex rape, as he states, "only a powerless male could be penetrated against his will—and the most

¹⁶ In Philip Huang's discussion of "passive agency" he describes illicit sex and seduction in Qing law as acts "...done by men to women...He, the law presumed, was the leader (*weishou*) and she the follower (*weicong*)." See, Philip C. C. Huang. "Women's Choices under the Law," 13-14. In comparison, the cases in this chapter show that jurists often bypassed this conservative understanding of women's sexual agency to view women as "active agents" in the adjudication of illicit sex.

¹⁷ Most of the case examples that appear in the work of Janet Theiss (*Disgraceful Matters*) and Matthew Sommer (*Sex, Law, and Society in Late Imperial China*), two authors that also draw largely from the archival category of "illicit sex and marriage" located at the First Historical Archives in Beijing, depict women's passive reluctance or objection to propositions of illicit sex, such as in cases about women committing suicide after sexual assault. Sommer's most recent publication, *Polyandry and Wife-Selling in Qing Dynasty China*, is somewhat of an exception. In this book, Sommer includes a discussion of women who pressured their husbands to sell them in order to escape destitution. However, such cases do not depict women as active consenting agents in illicit sex, only that they encouraged secondary marriages.

unambiguous form of male powerlessness was youth.”¹⁸ In other words, if lawmakers expected women to forcefully challenge a male rapist, then surely adult men should have no problem defending themselves against sexual assault by men. This, of course, did not reflect reality, but from the point of view of the Qing state, it meant all sexual intercourse between adult men was viewed as consensual. Thus, reports of sodomy crime only record instances of young boys being raped, those who had not yet reached maturity who were thought vulnerable and weak enough to be sexually coerced by an adult man.

Yet, if Qing jurists did not think adult men could be raped by other adult men, why were they so willing to believe that they could be sexually coerced by mere women? While concerns about the exploitation of children may be at the core of Qing sodomy laws, exploitation is not at issue in cases about older women tempting young men. The oldest victim in Sommer’s study was fourteen, but the male lovers under examination here, while much younger than the women they slept with, were in all cases considered adults, the youngest being eighteen at the time of trial (although only fifteen at the time the illicit sexual relationship began). If adult men “could not be penetrated against their will”, surely, they could not be made to penetrate either, as they would have been seen as more than physically capable of defending themselves against older women. Thus, these women’s advanced ages, in combination with their gender, ought to have made it only more unlikely for magistrates to view them as holding any real power, sexual or otherwise, over the young adult men they encountered. While jurists may not have spilled much ink over concerns about adult men’s consent in sex, whether it be with men or women, remarkably

¹⁸ Matthew Sommer, “The Penetrated Male in Late Imperial China: Judicial Constructions and Social Stigma,” in *Modern China* 23 (2), 1997: 155.

enough, in these cases composers of legal testimony went to great lengths to document this gender-bending reality in which women did sometimes assert sexual dominance over men.

This is made clear in the testimony of the young-adult male lovers who plainly state that these women propositioned them for illicit sex, not the other way around. In Suzhou in 1712, Wang Zhihong (aged twenty-eight *sui*) told the court that married Woman Xia (aged fifty-five *sui*) approached him one day after she saw him begging outside of the gate of a nearby home. He told the magistrate that she had originally offered him work, and that was why he accompanied her to her home that day. He said, “She then gave me food to eat and then seduced (*gouyin* 勾引) me into having illicit sex. We had illicit sex one more time after that, but I don’t remember what day.”¹⁹ The term “*gouyin*”, meaning “to seduce” has also been translated as “to proposition” or “to entice.” The term is most often associated with men’s sexual harassment of women, and would come to appear in the Qing Code under the 1740 sub-statute on flirtation suicides, which outlined the punishment for men who “without having seductively (*gouyin*) touched, intimidated, or harassed and insulted [a woman], but only having spoken with improper familiarity” causes her to commit suicide.²⁰ The term “*gouyin*” appears frequently in the cases under review here, found in the testimony of men like Wang Zhihong, meant to emphasize their initial reluctance and powerlessness in sex.²¹

¹⁹ XKTB, 02-01-07-0034-003. Woman Xia (55 *sui*). Jiangdu County, Yangzhou Prefecture, Suzhou. QL 2, JJH is the sentence of the male lover, Wang Zhihong. (题为苏州扬州府江都县人王之洪与夏氏通奸致氏被本夫殴死拟绞监候事). Wife-killing.

²⁰ Xue Yunsheng, *duli cunyi* (Lingering doubts after reading the substatutes), *juan* 34, sub-statute 12.

²¹ In his description of how Qing magistrates reacted to cases involving women who willingly engaged in illicit sex, Huang states, “We might speculate that jurists groped for new terms to fit the facts of the cases that came before them. But they never went so far as to spell out a legal formula that would acknowledge women as active agents in illicit sex.” However, upon closer analysis of women-initiated homicide, we see not only the application of the act of predatory

In this case, despite the close to thirty-year age difference between them, Wang Zhihong was by no means juvenile, and yet as a man nearing thirty without occupation or family, he was nonetheless vulnerable. Woman Xia's offers of support therefore come across as calculated rather than genuine, and her motives predatorial as food is exchanged for sex in the moments leading up to their first sexual encounter. Consequently, the magistrate, unable to draw upon a pre-conceived archetype of the 'female sexual predator' (for her likeness appears nowhere in the Code), nonetheless borrows the language of sexual predation in characterizing this woman despite the gendered expectation that adult men could not be sexually assaulted, let alone raped.

Ideas about sexuality during this period may help explain judicial willingness to document the lived reality of sexually aggressive women. For while legal reports typically emphasized women's passive reluctance to sex, this did not mean that the behavior of 'female sexual predators' fell entirely outside preexisting attitudes toward women's sexuality.²²

According to Vivien Ng, "Chinese men probably regarded themselves as disadvantaged, vis-à-vis their women, as far as sexual enjoyment was concerned. While a man's yang essence was severely limited in quantity, the women's yin essence was inexhaustible."²³ This belief placed

seduction (*gouyin*) to women, suggestive of the gender fluidness of the action, but also testimonial evidence of women having done illicit sex (*jian*) to men in testimony ("That was the first time Woman Zhang enticed me into having illicit sex with her and I agreed." *zhangshi yuan shuci gouyin xiaode tongjian xiaode yiyun le*) as well as syntactical representation of women as leading agents of such offenses in case summaries ("Woman Zhang and Zhangjin plotted to kill [her] husband because of illicit sex." (*zhangshi yu zhangjin yin jian mou si qinfu*). All of this indicates that Qing courts were equipped and ready to acknowledge women's agency in sex and crime using the same discursive legal framework typically employed when talking about men. See, Huang, "Women's Choices Under the Law," 15-16.

²² I am not the first scholar to call attention to testimonial descriptions of women taking the initiative in illicit sex. See Paola Paderni, "I Thought I Would Have Some Happy Days: Women Eloping in Eighteenth-Century China," *Late Imperial China* 16 (1995): 16.

²³ Vivien W. Ng, "Ideology and Sexuality: Rape Laws in Qing China," in *The Journal of Asian Studies* 46, no. 1 (1987): 64.

women in impossible situations and is at the core of Qing discourse on rape. Despite the great value the Qing state placed in the preservation of chastity, the law required women claiming sexual assault to demonstrate that they had fought fiercely against their rapist, because as Ng states, “Qing lawmakers believed that sexual assault could be pleasurable for the woman.” Given this assumption, it is indeed possible to imagine that a magistrate might be willing to accept a scenario in which a woman would proposition a man for sex, especially when the testimonial evidence supporting such a conclusion was most convenient. As such, evidence of women’s pursuit of sexual pleasure outside marriage not only provided a counter image to the chaste maiden/widow, but also brought to life men’s fears about the potential social chaos women could create if their sexuality was left to their own devices.

It is once again crucial to emphasize the importance of age in cases involving sexually aggressive women, for it seems that Qing jurists did not believe a man could be seduced by just *any* woman. Strikingly, the female “seductress” in Qing law is almost always a woman in the later stage of life (mid-forties and fifties), beyond child-bearing years, and notably older than the young-adult men who they were alleged to have enticed, often at least by two decades or more. The rate at which this particular age dynamic is encountered in reports of women sentenced for the premeditated murder of a husband who were also judged to be both the chief initiators of sex suggests that when it came to law, age seniority prevailed over gender inferiority in judicial assumptions about power in sex, even when it came to illicit heterosexual relationships involving women and adult men.

Lustful Women in Late Imperial Literature

This notion that jurists would have viewed older women as seductresses comes as somewhat of a surprise especially given the emphasis placed on the allure of feminine beauty

epitomized by young women in late imperial fiction. It is indeed difficult to even broach the subject of female seduction without conjuring up the image of the supernatural “fox-spirit,” female temptresses made infamous in Ming/Qing vernacular folk stories.

The fox woman is typically extremely beautiful and seductive and loves to prey on unsuspecting young men who are novices in the matter of love and sex. The consequences of such liaisons are predictable—his vital essence gradually sapped by the fox woman, the young man grows progressively thinner and weaker until he is, quite literally, reduced to a ghost of his former self.²⁴

The older women at the center of these cases do not quite fit this narrative. While in some iterations the fox-spirit is both young and old, thought to be an experienced and knowledgeable spirit who has long preyed on naive young men, it is nonetheless youthful beauty that attracts the young man to her. This well-known archetype may have had some influence on judicial readiness to portray the women in these cases as sexual predators, but I have yet to locate a single case that characterizes an alleged seductress as beautiful, young, or even similar in age to her lover.

It is likely that magistrates did not consider physical attractiveness an explanation for what drew young men to much older women. Unsurprisingly, the men provide little explanation for why they submitted themselves to these women in the first place, undoubtedly a consequence of the uncomplicated way in which jurists traditionally approached the topic of men’s consent in sex. But it should be noted that their sexual willingness often took place in the context of an exchange, such as for money or food. This, however, does not mean that they were not attracted to these older women, just that they were not asked to articulate their sexual desires in the courtroom. Thus, the age difference between these women and their lovers, in combination with

²⁴ Ng, “Ideology and Sexuality,” 64.

less than stable financial and familial backgrounds, made it possible for magistrates to believe that men could indeed fall victim to the enticement of mature female sexuality.

Outside the possibility that these men may have engaged in sex with older women solely for material support, what sexual power did judicial elites envision mature seductresses wielding over young adult men? They may have been familiar with the popular northern proverb: “women in their thirties are like tigers and in their forties like wolves,” which suggests that women’s sexual appetite increased with age and that their libido often outpaced that of their husbands throughout marriage.²⁵ While the origin of this saying is unclear, anxiety toward older women’s sexuality resonates with the legal characterization of ‘female sexual predators,’ making it plausible to Qing jurists that an older woman might seek out a younger lover to compensate for the passion absent from her marital bed.

Conspicuously absent from popular literature, outside of the legal record this unconventional archetype also emerges in erotica. The exploitation of young men at the hands of older women was a recurring motif in Ming and Qing pornographic fiction. The writers of such tales told of sexual exploits between lustful women over sixty and young men.²⁶ The women in these erotic musings were often in positions of authoritative power over their lovers. According to Keith McMahon, purported scandals of this type were sensationalized in writings about some of China’s most infamous imperial women, such as Wu Zetian herself who had numerous male favorites during her reign, such as the “two half-brothers in their twenties...who were known for

²⁵ This well-known proverb is mentioned in William Jankowiak, *Sex, Death, and Hierarchy in a Chinese City: An Anthropological Account* (New York: Columbia University Press, 1993), 233.

²⁶ Keith McMahon, “The Polyandrous Empress: Imperial Women and their Male Favorites,” in *Wanton Women in Late-imperial Chinese Literature: Models, Genres, Subversions and Traditions*, edited by Mark J. Stevenson and Cuncun Wu (Leiden: Brill, 2017), 38.

their delicate beauty.”²⁷ None of these discursive models offer a perfect representation of the men and women in these cases, but they do reveal an elite fascination with women’s pursuit of sexual pleasure in their later years.

While judicial officials may have been willing to document female sexual predators when they encountered such women in the courtroom, this does not mean that an average county magistrate would have ever expected ordinary women to behave this way. Take, for example, a 1770 case from Jiangsu in which the magistrate, unconvinced that fifty-one *sui* Woman Luo could have carried out the particularly violent murder of her husband singlehandedly, pressed her to conform her testimony to a more familiar story and admit that a lover assisted her. While openly confessing to homicide, Woman Luo challenged the accusation this made against her chastity, and she replied, saying, “I am an old woman of over fifty *sui*! What business would I have with matters of illicit sex!?”²⁸ Her age, in addition to her gender, were precisely why the magistrate had thought it impossible for her to have committed this crime in the first place, but her response is included in the final case report to prove to reviewing officials that for Old Woman Luo, a lover was indeed unlikely, and any further investigation into her sexual history that might have produced an accomplice was dropped. In this case, gendered logic about age deterred jurists from viewing this woman as a sexual being, but as we shall see, there was indeed much business to be had for older women in the realm of illicit sex.

²⁷ Ibid., 37.

²⁸ Ibid., XKTB, 02-01-07-1151-014. Woman Luo (51 *sui*). Songzi County, Hubei. QL 35, LC. (题为湖北松滋县人罗氏谋死伊夫张泰珍议准凌迟处死事). Case previously referenced in Chapter Two.

What Women Want: Seeking Sex for Pleasure

Unlike their male lovers, the women in these cases were asked to articulate their sexual desires in the courtroom. It seems that for women to be considered initiators of illicit sex, their sexual impulses required some form of explanation. It was not enough for women to confess to having arranged and anticipated these encounters; the Qing court wanted to know what drove them to pursue sex outside marriage. In so doing, these reports provide the historian with some insight into women's thoughts about their ideal sexual partner.

Older women often pointed to the charm of male youth as the motivation for their adulterous intent. In a 1766 case, Woman Liu-Yan (aged forty-two *sui*) confessed to having had illicit sex with her son-in-law, Wang Zhechun (aged twenty-three *sui*).²⁹ The case record contains many examples of daughters-in-law falling victim to predatory fathers-in-law. Given close living arrangements and blurred lines of women's filial obligations, such violations were shocking betrayals of patriarchal authority, but not necessarily uncommon or unthinkable.³⁰ Allegations of predatory mothers-in-law, on the other hand, likely stunned the court. According to Woman Liu-Yan, her husband, Liu Yulu (aged fifty-two *sui*), originally hailed from Shanxi, but had long resided in Inner Mongolia, in "the area north of the Great Wall," where he made a living as a farmer in Old Goose Village. She had been married to him for twenty years and had four children, three daughters and one son. All were under the age of seven, except for her eldest daughter, who was married to Wang Zhechun.

²⁹ Ibid., 02-01-07-0975-007. Banner Woman Liu-Yan (42 *sui*). Salaqi [Mongolia], Shanxi. QL 31, LC. (题为山西萨拉齐民妇刘闰氏与伊婿王者春通奸杀死本夫议准凌迟处死事)

³⁰ Vivien Ng, "Sexual Abuse of Daughters-in-Law in Qing China: Cases from the "Xing'an Huilan," in *Feminist Studies* 20, no. 2 (1994): 373-91.

The couple lived a mere five *li* away, and Wang Zhechun made frequent visits with his wife back to her natal home. There had been an opera in town the day Woman Liu-Yan became intimate with her son-in-law. In her testimony, she described what transpired between them as follows: “My husband went to watch opera in Tuosi He’er village and said [he’d] return after the night performance. That evening, my son-in-law, Wang Zhechun, came to my house [after also having been at the opera]. [We] sat down in my room and talked for a while. My son-in-law said he became drunk during the show and laid down on my bed and slept. I saw that he was young, and I suddenly had a wicked thought (*xienian* 邪念). I told my middle daughter to take eldest daughter and her son [with her] to go sleep in the southern part [of the house], then I lit a lamp and closed the door. I got in the bed with my son-in-law and had illicit sex with [him].”

With this description of how she turned her “wicked thought” into a reality, Woman Liu-Yan presented herself as the initiator of illicit sex and pointed to the physical allure of a young man in his early twenties as the origin of her transgressive desire. Throughout these cases, women pointed to their lovers’ youth to explain their motivation for propositioning them for sex. Like Woman Liu-Yan, in the case involving beggar Wang Zhihong discussed above, he mentioned that Woman Xia had also highlighted his youth when she first saw him on the road, saying to him, “How can it be that a man as young as you hasn’t any food to eat?! Come with me and you can work on my farm!”³¹ It is rare to find a written record of women’s sexual attraction, let alone to discover women expressing such sentiments in the legal record. As previously mentioned, young women who plotted with a lover to intentionally kill their husbands often had re-marriage in mind. The end goal of their illicit decision was to start over in a life with a man with whom they “got on well.” However, for the female sexual predator, marriage seems almost

³¹ XKTb, 02-01-07-0034-003. QL 2.

antithetical to their pursuit of pleasure. Overall, these older women were in otherwise comfortable positions, in established marriages with multiple children, usually without complaints of abuse, malnourishment, or other signs of desperation.

Take, as another example, the case of Woman Hao-Li (aged fifty-four *sui*) who, as it is stated in the opening of the report, had “a love for illicit sex (*lianjian* 恋姦)” and wished to be with a man twenty-two years her junior, who was without a wife, family, or occupation.³² According to the lover’s testimony, the affair was all her idea. He told the Qing court, “[We] had illicit sex many times [and I] never gave her gifts or money.... Woman Li secretly told me that her husband was away from home [and she] invited me to the capital to reside. She longed for illicit sex. [I] refused to reside with her and [we] argued. She got the idea to kill her husband and afterward it would be convenient for [her] to be with me [and] we could forever have illicit sex (*changjiu jianhao* 長久姦好) and she pressed me to help [and] I agreed.” Interestingly, despite their plans to remove her husband from the equation, there was no talk of marriage. Reports about attempted elopements often include couples expressing a desire to become ‘forever husband and wife (*changjiu fuqi*),’³³ but it is far less common for the “husband and wife” part of the phrase to be dropped and replaced with what seems to have been the only conceivable aim of Woman Hao-Li’s relationship with her younger lover: sex.

According to the reports, these older women were attracted to these particular men because of their youth, and finding themselves in their company, they took advantage of the

³² XKTB, 02-01-07-3041-022. Woman Hao-Li (54 *sui*). Xiangfu County, Kaifeng Prefecture, Henan. DG 11, ZLJ. (题为河南开封府祥符县民妇郝李氏恋奸谋杀本夫郝范林伤而未死议准斩立决事).

³³ Ibid., Paderni, “I Thought I Would Have Some Happy Days: Women Eloping in Eighteenth-Century China”: 4.

chance to fulfill their yearning for a sexual partner in the prime of his life. Thus, in their attempt to incriminate these women, magistrates established them as chief criminal agents in illicit sex, consequently preserving extraordinary evidence of ordinary women's aggressive search for sex for pleasure. And given the unwillingness of the court to acknowledge that adult men could be sexually assaulted, recurring documentation of these men's youth and sexual coercion mattered precisely because it served as an important marker meant to build up these women's legal culpability in their desire for and pursuit of sex.

What is more, as discussed above, there was little that made these men attractive to these seemingly well-provided for married women beyond the appeal of their young bodies. Such men often made a living as beggars and menial laborers, or they were simply unemployed. Given their vulnerabilities, it is difficult to read these cases without contemplating the consent of the young men who became the target of these women's passions. For example, the testimony of the beggar Wang Zhihong comes as close as I have seen to an adult man expressing a sentiment of having been forced to engage in illicit sex against his will. He told the Qing court, "Woman Xia came to the temple and told me that her husband had left for New Years and wouldn't return for a few days and told me to come by her house...I stayed at her house for one night and wanted to leave in the morning but Woman Xia would not let me leave." Thirteen days later, Woman Xia's husband (aged fifty-five *sui*) finally returned home. Wang Zhihong tried to leave, but according to Woman Xia's husband, "[she] held onto him," which only served to further incite his anger.

While Qing jurists may not have overly concerned themselves with matters of men's consent in sex, it is striking that these men's testimonies nonetheless stress their "passive" consent. Consider again the case of Wang Zhechun who had illicit sex with his mother-in-law. He told the court, "[My mother-in-law] got into bed and seduced (*gouyin*) me. In that moment, I

thoughtlessly took off my clothes, and so did mother-in-law, and [we] had illicit sex. After the illicit sex, [we] slept.” By ‘thoughtlessly taking off [his] clothes,’ Wang articulates that he, while not the initiator, willingly agreed to the illicit liaison. The phrase “thoughtlessly (*mei zhuyi* 沒注意)” is frequently included in women’s descriptions of their decisions to engage in illicit sex, meant to simultaneously acknowledge their consensual participation while at the same time downplaying their agency in the sexual encounter. Thus, like with many cases involving women, although coercion may have taken place, these men’s eventual submission made them willing participants in illicit sex despite the predation that took place.

Furthermore, while these older women’s testimonies stressed sexual attraction to youth as their prime motivation for involving themselves with these men, other factors certainly shaped their decision as well. For example, a 1751 case involving Woman Wu (aged forty-three *sui*) from Fujian, who had an affair with the household tailor (aged twenty-two *sui*), suggests that more complex motives also shaped older women’s pursuit of young men.³⁴ Woman Wu had formerly been on good terms with her husband, Xu Jiuhua, until the day he at last discovered that she and her brother had been stealing from him for some time. She explained, “My husband left the management of all the household duties and money to my elder brother, Wu Zhongyou (aged sixty-seven *sui*). When my husband found out that Wu Zhongyou personally spent over thirty *liang* of his money, and I had also taken some of that money for [myself], he hurled insults at Wu Zhongyou and no longer allowed him to administer [the household finances].” Needless to say, this incident created some discord between husband and wife. At this point Woman Wu’s testimony makes an abrupt and seemingly unexpected detour to her liaison with Tailor Su. She

³⁴ XKTB, 02-01-07-0430-002. Woman Wu (43 *sui*). Jiangle County, [Fujian]. QL 16, LC. (题报将乐县民妇伍氏与萧成祖通奸听从堂兄伍中友同谋毆死本夫余九华拟凌迟处死事).

continued, “Last year, 11th month, Su Chengzu came to [our] house to make clothes. I asked him to make a hat and he flirted with me. I thoughtlessly had illicit sex with him. I gave him a bag with one thousand copper cash.”

While we do not know how much time passed between Woman Wu’s first transgression and the next, the arc of her testimonial narrative suggests a connection between the two incidents. According to Tailor Su Chengzu, Woman Wu had downplayed her role in the sexual encounter in her retelling. He told the court, “I don’t remember what day, but when Woman Wu came in asking [me] to make [her] a hat, she then seduced (*gouyin*) me with talk, and I also engaged in the banter.” While Woman Wu herself makes no mention of having initiated Tailor Su in seductive conversation, he made sure to note it, characterizing their one and only sexual encounter as one in which he did not deny his willing participation, but emphasized that it was Woman Wu who originally approached him. In addition, despite their twenty-year age difference, Woman Wu did not remark on Tailor Su’s youth, which as we have seen was a common feature of ‘female sexual predator’ testimony, but it seemed that she did not need to, Tailor Su’s testimony helped to fill this conspicuous gap in her narrative. For as it turned out, Woman Wu was not the only, nor the first, person in the household to take a sexual interest in him.

Tailor Su explained in his testimony that he had first been the object of Woman Wu’s husband’s affection before ever stepping foot in their home. He explained, “In Qianlong 13, 7th month, Xu Jiuhua saw that I was young and seduced (*gouyin*) me, bringing [me] inside his family temple and coaxing me into committing sodomy with him. After that, [I] often resided in

his home and made clothes.”³⁵ If Woman Wu was aware of her husband’s relationship with Tailor Su, she made no mention of it in her testimony. It was one thing for a woman to admit her own sexual desire, but perhaps her acknowledgement of her husband’s sexual encounter with a young man was too much for the Qing court to handle. Either way, one thing is clear: if Tailor Su’s youth had made him attractive to her husband, it is likely that she also *saw that [he] was young* and this likely attracted Woman Wu to him as well. Moreover, it is noteworthy that Tailor Su described the sexual advances of both husband and wife in the same way, evoking the term “seduction” (*gouyin*) when talking about either incident. In so doing, Tailor Su emphasized that despite gender expectations, he had played a secondary role in *both* sexual encounters. By showing that Woman Wu’s sexual advances toward him had been not unlike those of her husband, Tailor Su stressed that for him, his sexual encounter with Woman Wu had also been predatory.

What differed, of course, was whose pleasure was socially permissible. While likely frowned upon, it was Woman Wu’s husband’s prerogative to enjoy this type of pleasure. She, however, was afforded no such leeway. Tailor Su continued in his testimony, saying, “Afterward, people found out about [what Woman Wu and I had done that day]...and her husband knew too. I was driven out and not allowed to return...Nowadays [I] have been cut off from them...I make clothes in the village now, and do not live with them.” It was the exposure of Tailor Su’s relationship with his wife, not his own, that shamed Xu Jiuhua into casting him from their residence to save face. The dynamics at play here were clearly more complicated than in a typical case of a married woman’s illicit affair. Not only had Woman Wu committed illicit sex,

³⁵ It should be noted that this case also provides evidence of judicial willingness to break from assumptions about gender performance in illicit sex to characterize adult men as victims of sodomy.

but she had also done so with her husband's male lover and removing him from the house was probably something he did begrudgingly. This likely only added to the dissatisfaction he felt with his misbehaving wife, who had first secretly taken his money and now his lover.

Woman Wu described the situation after Tailor Su's departure as follows: "[My husband] constantly scolded me for being a woman with a lover (*yanghan* 養漢). [He] also took precautions against me having any personal cash and became increasingly strict [with me]. Because of this, I hated him." It is difficult not to ponder an alternative motive for Woman Wu's visit to Tailor Su that day that had little to do with a hat or even her longing to satisfy some veiled sexual desire, for if she wanted to take revenge against her husband for tightening her purse strings after the initial incident involving her brother, having sex with this man certainly seemed like a way to do it.

Finding Companionship With A Young Lover

Despite their large age gaps, we should not assume that these women never looked to their younger sexual partners for companionship. In the legal case examples we turn to next, the predatory language typically attributed to the 'older woman' in such cases dissipates; and instead, the couple's agency in the affair is portrayed as having been on an equal footing, regardless of any assumption about the power of age in illicit sex. Still, however, the idea of remarriage remained notably outside the parameters of their unconventional pairings. For instance, in 1765, Woman Wang (aged thirty-eight *sui*) of Hubei Province had been married to her husband (aged fifty-two *sui*) for most of her life.³⁶ Wed at fifteen, she was with him for twenty-three years, giving birth to four children, two girls and two boys. She told the Qing court

³⁶ XKTB, 02-01-07-0896-007. Woman Wang (28 *sui*). Jingshan County, [Huguang]. QL 30, JJH. (题报京山县人王氏殴伤伊夫王四自缢身死拟绞立决事). Husband-suicide.

that in recent days, her husband's longtime acquaintance, Nie Fengcai (aged twenty-three *sui*), had often come by her home looking to collect a debt of five-hundred copper cash, but her husband always happened to be missing when he stopped by. On one such day, Woman Wang explained, "Nie Fengcai flirted with me and [we] had illicit sex, after that [we] had illicit sex a couple more times. My husband had no idea about it." Apparently, they got on well enough that the following month Nie Fengcai accompanied her and her children to watch opera at a nearby temple. Woman Wang said, "In the afternoon, I told Nie Fengcai to carry my little son as [we] returned home, [once home] we sat alongside each other in the central room chatting and laughing."

While their initial sexual encounter may have been at the consequence of Nie Fengcai's growing impatience with her husband's failure to repay his debt, it seemed that Woman Wang came to enjoy his company. Once they returned from the opera, Woman Wang's husband also arrived home and seeing them laughing, he scolded them. While her husband had encountered them showing a suspicious amount of familiarity toward one another, Woman Wang did not think herself deserving of his judgment. She continued, "Nie Fengcai quickly got up and left. My husband continued to yell at me, and [we] argued for a while. By evening, my husband started up with me again. I told him, "If you hadn't owed him money, he wouldn't have come by to collect!" Her husband, as one might expect, was not happy with her reasoning. She continued, "My husband became so enraged that he picked up a rod and beat me, wounding both of my legs. I grabbed the rod from him and beat my husband in the head. He tried to get it back from me, but I refused to let go." She ended up hitting him and he later committed suicide.

Legal testimony also reveals that older women's young male lovers sometimes went to great lengths to maintain their sexual relationships with them too, expressing equal, if not

greater, desire for the affair than the women themselves. In these cases, the men involved were not as powerless as those discussed above. With seemingly stable employment, a wife, and children, they were far from vulnerable, and yet they nonetheless chose to pursue sex with these older women despite the risk. Take, for example, Woman Liu-Wei (aged fifty-two *sui*) who started an affair with her young daughter-in-law's father, Hu Zhengzi (aged thirty-two *sui*).³⁷ The two became well-acquainted during his frequent visits to her home to see his daughter and soon they began having sex while her husband (aged fifty-three *sui*) was out. Like in the former example, evidence of the couple's familiarity with one another made her husband suspicious. One day he happened to come upon the two of them laughing outside his house. Woman Liu-Wei described the incident as follows: "I saw that [Hu Zhengzi's] handkerchief and clothes were all stained [and] jokingly said a few words [to him] when my husband suddenly came by and saw. [He] scolded me [saying] I ought not to joke and laugh with men outside the gate." Accusing his wife of harboring deep feelings for this man, he beat her. Days later, he told her that the poor quality food she served him was indication enough of her disaffection for him. He beat her again, this time threatening to kill her. Confiding all this in her lover, it was Hu Zhengzi who first suggested that they kill her husband and Woman Liu-Wei hesitated. Her three boys were still young, and she worried that they would have no one to rely on if she ran off with him. Despite having a wife of his own to support, Hu Zhengzi told Woman Liu-Wei not to worry, he would support them all.

In another such case, Gui Erpang (aged twenty-five *sui*) started an affair with recently widowed Woman Cao (aged forty-seven *sui*). He had been helping her manage her house after

³⁷ XKTB, 02-01-07-1452-015. Woman Liu-Wei (51 *sui*). Suicheng County, [Hubei]. QL 41, LC. (题报穀城县民妇刘魏氏与胡正梓通奸谋死本夫刘悦贤拟凌迟处死事).

her husband's death and they soon got on well together. Woman Cao, knowing that Gui Erpang already had a wife, arranged for a matchmaker to find her a new husband, thinking it difficult for them to maintain their illicit relationship long-term.³⁸ As soon as her new husband arrived, however, she quickly realized that she had made a mistake. This man was not only unable to manage the house, but he also constantly scolded and beat her. Describing him as "mad and deaf," she told the Qing court, "I feared he'd seriously beat me to death [and] no one would be around to watch over my children." She entreated Gui Erpang to kill her husband, promising that she would not look for a husband after that but allow him to work for her as before. He agreed.

Conclusion

Women and their younger companions jeopardized everything to try and build some type of life together outside the confines of traditional marriage. Advanced age likely placed most of the older women discussed in this chapter outside the fertile reproduction period, and consequently pregnancy and its implications had little hold over their lives. Perhaps it was precisely because they were freed from the cycle of reproduction, that women felt emboldened to take control of their own sexuality and seek sexual pleasure with men they desired. Powerful evidence of ordinary women having led expansive emotional lives has long existed in the Qing legal archive. Yet women's violent crime and the promise it holds for the study of society and culture of the period has until now been at the periphery of serious historical inquiry.

The testimonies explored in this chapter portray women willing to assert their sexual prerogative with men despite the potential for penalty and the violation of norms of femininity, changing both our understanding of sexual gender relations in the Qing and the way we conceive

³⁸ XKTB, 02-01-07-0985-011. Woman Cao (47 *sui*). Zhenning zhou, Guizhou. QL 31, LC. (题报镇宁州民妇曹氏与桂二胖通奸同谋致死本夫拟凌迟处死事).

of law itself, especially its relationship to women. While the portrayal of the ‘female sexual predator’ may have brought to life elite men’s fears about the dangers of untamed female sexuality, it is likely that the magistrates themselves could not have imagined such women existed in real life if they had not stood in their courtrooms. Placing the discomfiting reality of women’s domination of men at the center of adjudication, the reversal of gendered power in sex depicted in these cases fell outside the typical representation of the sexually transgressive woman in the Qing legal record.

In sentencing these women as chief instigators of illicit sex in the wake of husband-murder, Qing jurists not only ensured their severe punishment but also recognized their pursuit of sexual satisfaction and their ability to sexually overpower men. Their documentation in the Qing legal case record provides invaluable evidence of ordinary, non-elite women’s engagement in sex for themselves, for their own personal pleasure—not for survival or for the sake of someone else. The actions and sentiments recorded about them reveal their bodies were in fact theirs—not mere tools harnessed by men for the reproduction of the patriline. They challenged patriarchal authority over their sexuality in their everyday life, and however briefly, claimed autonomy over themselves.

Epilogue

Rope

Chopsticks

Hands and Feet

Neck

Two turns

And he was dead.

In Qianlong 1, 2nd month, a group of villagers came to the Baodi Yamen with news of a suspicious death. Among them was village leader Zhou Dezhang. He had been tending to some routine matters when on the seventeenth he overheard villagers saying that just days earlier a man called Li Ba had hung himself. He went to investigate. Upon examining the corpse, he identified cuts on the man's throat that looked to him more like marks inflicted during a physical altercation than a suicide. Why had two days passed since *this* man's death and no villager alerted him?

Village leader Zhou made inquiries. The *paitou* (head of the *baojia* household), who ought to have been the next in the chain of command looking into the matter, had been away working when the incident took place. In Zhou Dezhang's company that day at the yamen were two of Li Ba's neighbors. On the fifteenth, they heard about his death from his wife, Woman Wang. They had been intent on notifying Zhou Dezhang about this, but because Woman Wang said Li Ba committed suicide, meaning that she did not suspect foul play, both men decided there was no need to make a report. Even Li Ba's brother, Li Guoxiang, had found little reason to bring the matter to the authorities, even after viewing the body himself, saying, "My brother always drank a lot and often fought with his wife. On the fifteenth, I heard from Woman Wang

that Li Ba had hung himself the night before. I went to look at him and saw there were marks on his neck but still only thought that he himself committed suicide. To know if this is the truth, simply go ask Woman Wang.”

The next testimony in the official record was not that of Li Ba’s wife, but rather his adult son, Li Si (aged 20 *sui*). He had known more about his father’s death than anyone but nonetheless kept quiet. He told the court, “On the night of the fourteenth, I was sleeping soundly in the west room when my ma called for me to come [and] said, ‘Your father has beaten and scolded me brutally, so I have used a rope to strangle him.’ She told me when outside to say only that he hung himself. I said [to her], ‘Although father beat and scolded [you], how could you be so cruel (狠心 *henxin*) as to strangle him like this?! Later because father had died and would not recover, I did not say a word [about what had happened].”

The [second] questioning of the deceased’s wife, Woman Wang:

How old are you today? How old were you when you first married Li Ba?
What animosity existed [between the two of you] normally?
On the night of Qianlong 1, 2nd month, 14th day, what incited [you] and with whom did you plot [to kill your husband]?
How was your husband strangled?
Who else helped [in this plot]?
Did your boy or girl know anything?
Speak the truth!

Woman Wang’s Response:

Today I am 54 *sui*. Because [my] mother, Woman Ma, married Li Ba’s father, from the age of 8 *sui* I went with my mother to Li Ba’s house. At 20 *sui*, Li Ba [and I] were married [and] have been now for over thirty years.
小的今年五十四歲了因小的娘馬氏轉嫁與李八的老子小的從八歲上跟小的娘到李八家到二十歲與李八做的親至今有三十多年了

Since [we] have been married [Li Ba] often beats and scolds me. After father-in-law and [my] mother had died [my] husband started to drink even more and became increasingly violent. Every time he got drunk and returned home [he] either beat or scolded me. I gave birth to one son with him named Li Si and one daughter named San Ge. Both [children] are grown [and] still [my husband] did not treat me like a person.

自從做親之後時常要打罵小的後來公公與母親死後男人越發吃酒行兇每常吃醉回家不是打就是罵小的跟他生了一個兒子叫李四一個女兒叫三哥俱已長成還不把小的當做個人

In Yongzheng 11, 8th month, [I] don't remember what day, [Li Ba] got drunk and jabbed [my] left eye with [his] finger. After the bleeding [had stopped], [I] could no longer see [out of it].

雍正十一年八月裡記不得日子吃歲了酒用手指將小的左眼戳的流血候來就看不見了

On Yongzheng 13, 3rd month, 1st day, [Li Ba] bought a wild goose and told me to prepare it [and] I cooked it. Before he had eaten, I gave a portion to [our] children. He quickly cursed me and quarreled with me over the portion I had given [our] son and daughter. I talked back and he beat and scolded me. [He] also used his hands to blind me in my right eye. After that I could not see out of either eye.

雍正十三年三月初一日他買了一隻鳥叫小的收拾小的做熟了他沒吃小的分了點子與孩子們，他就嗔小的把為各分給兒子女兒就合小的吵嘴小的說說他就打罵小的又把小的的右眼也用手戳瞎了小的如今兩隻眼都看不見

Truly, [I] could not have been more miserable. [I] decided to commit suicide. [I] did not want to go on. [But] each time [I tried] to hang [myself] they rescued me. I had suffered most bitterly but also was unable to die.

實因受苦不過立意尋死不想上了幾次吊都被他們救活了服過鹽滷又不能死

This year, second month, twelfth day, husband told me to brush the pot, but because I could not see out of either of my eyes, I could not get [it] clean. [Husband] then began to beat and scold me. [He] then gave me a rope and with a knife told me to go kill myself. I went to go hang myself when he came and took the rope away from me and beat me with a bamboo rod.

今年二月十二日男人叫小的刷鍋小的因兩眼看不見原不能乾淨就把小的打罵起來，還給了一根繩子把刀子叫小的自己尋死小的就去上吊他又把繩子奪過去又把小的打了一頓棍子

Truly, I was infuriated [and] could stand [him] no longer. On the evening of the 14th, [my] husband was again extremely drunk and [he] returned and slept on the kang fully unaware of anything. I thought about the way he treats me every day [and] in that moment I was infuriated. [I] grabbed a rope and a pair of chopsticks and quietly went and first tied his hands and feet [with rope] and then also tied rope firmly around his neck. [I] placed pressure on his chest with [my] knees [and] using the chopsticks with two twists [of the rope], he was dead.

實在受氣不過到了十四日晚上男人又吃的大醉回來睡在炕上不看人事小的想他平日待小的的情狀一時恨起來就拿一根繩子一雙筷子輕輕的上去先把他手腳細了又把他項脖也用繩子套住把踝壓住他胸膛用筷子絞了兩絞他就死了

Truthfully, I did this alone. No one plotted with or helped me. My son Li Si is a fool [and] was sleeping in the west room. My daughter San Ge is today only just 13 *sui* and

when in the *kang* sleeps soundly. She knew nothing and did not help. Only after I had strangled [my] husband and [he] was dead did I alert my daughter and son and called for them to come. [I] told them to say only that [their father] had hung himself and died. I did not think the village leader and others would report [my husband's death] and examine [his] body. [I] have already confessed everything. This is retribution for bad deeds done in a previous life. I have nothing else to say.

實是小的一個人做的事並沒有同謀加功的人小的兒子李四是個傻子在東屋裡睡女兒三哥今年才止十三歲上炕就睡著了實沒有知情加功的事後來是小的把男人勤死之後才叫醒小的女兒合兒子起來對他們說知叫他們只說是自己吊死的不想被鄉長們稟報驗尸時已把實情都供明了這是前生的冤孽小的也沒別的說等情詰

It was her own son who exposed her. Or at the very least that is what the order of testimonies provided in the final report suggested. This may not necessarily reflect the reality of the situation nor how Woman Wang became the chief suspect in this case. It is customary in these homicide reports that the sequence of testimonies moves from least involved witness to alleged culprit. We do not know what may have been happening outside the confines of the written report. Village leader Zhang, for instance, may have had suspicions of his own, especially since Woman Wang had been the one who so assuredly told her neighbors that Li Ba's death had been a self-induced suicide.

Yet everyone else up to this point, the village leader Zhou, *paitou*, neighbors, and Li Ba's brother, appeared not to cast allegations against Woman Wang. Perhaps yielding under the pressure of interrogation after having kept his mother's secret for as long as he could, once an investigation was underway, Li Si betrayed his mother's confidence. It is certainly possible that Woman Wang could have been the first to cast the blame her own way, maybe even in defense of her son. An able-bodied man in the prime of his life could have easily made a more plausible perpetrator of homicide than a fifty-four *sui* woman, and in the days ahead, the prospect of this would come under heavy scrutiny. Li Si lived with them, knew of her torment—not just the scolding and beatings, but the other things too—and yet in his testimony he maintained

ignorance, shock, and surprise at the news of what his mother had done. He possessed clear knowledge of her homicidal actions but suspiciously little about her motivation.

Woman Wang's initial statement following that of her son is brief and sparse in comparison with the detailed narrative that she would give later but it did contain some crucial information. It included a description of how she, with minimal physical effort, stealthily employed a couple of ordinary household items: a rope, a pair of chopsticks, in combination with the pressure of her own body weight to end her husband's life as he lay inebriated and her children asleep. This technical explanation remained essentially the same in the second round of questioning. She also described Li Ba's excessive drunkenness and the intolerable cruelty she frequently experienced in the form of both physical and verbal abuse. This description lacked many of the components explored above, except for one new piece of information that had up to this point remained entirely absent from the testimonies of all the men—including that of her son and brother-in-law—when she said, "...[He] even made [me] blind in both of my eyes... (還將小的兩眼弄瞎...)"

We do not know just how evident Woman Wang's blindness would have been to those around her. The brutality of the attacks she describes suggests that her face may have been permanently disfigured, the enduring marks on her body visible to all who might encounter her. Yet the report provides no description of what the damage done to her eyes might have looked like, nor does it mention her having had any form of visual impairment until she herself presents it as evidence of the excessive abuse she suffered in her marriage to Li Ba. Other than the trouble she had fully cleaning cookware, there is little information about the degree to which her blindness limited her faculties, her ability to move around or engage with others in the world. But given that Woman Wang admitted to having had some trouble fully cleaning a pot, one

might assume that her blindness was severe. On the other hand, the magistrate only brought up Woman Wang's gender, not her blindness, as a factor that might have made it physically impossible for her to have murdered Li Ba alone. Even though the language in her testimony plainly states that she could not see out of either eye (小的如今兩隻眼都看不見), the magistrate did not question whether this impairment would have rendered her incapable of locating the rope, tying up her husband, attaching the chopsticks to the rope, etc. While the magistrate, or village leader Zhou for that matter, may have known that Woman Wang was blind before she herself informed the court, what is evident is that neither man had been aware that her blindness was intentionally inflicted upon her by her husband and alleged victim Li Ba.

With this newly acquired information, Woman Wang's eyes and what had happened to them over the course of her marriage came to shape the course of this investigation. The magistrate did not take Woman Wang's word for this alone. He sought out confirmation of this singular detail from each of the men who had previously testified. During the first round of the initial interrogation, all of them had characterized Li Ba as a well-known drunk, with some even expressing their awareness of his tendency to fight with his wife. However, it is only in the subsequent round of questioning, once Woman Wang spoke of the permanent injury Li Ba caused to her eyes, that each of the men addressed whether they were aware of the conditions surrounding Woman Wang's blindness and if her claim about what Li Ba had done to her eyes was true. And if true, why had no one mentioned it before?

The magistrate soon discovered that the history of Woman Wang's blindness at the hands of the deceased Li Ba had been far from a secret in their community. "Woman Wang's eyes were good before," Li Ba's brother responded to the magistrates, recalling a time prior to marriage when Woman Wang's eyesight was still intact. He continued in his testimony, saying, "It was in

the Autumn of Yongzheng 11 that [Li Ba] got drunk and quarreled with her [and] used his fingers to gouge her left eye...” Woman Wang’s maiming was also common knowledge among Li Ba’s neighbors, who knew of it well, with two of them jointly testifying, “He would get drunk and quarrel and fight with his wife. It was Li Ba who blinded her.” Even village head Wang who, as one will recall had been away at the time of Li Ba’s death, when questioned about his knowledge of the possibility of longstanding enmity between the couple knew about what Li Ba had done to Woman Wang’s eyes, saying, “Later I heard it was because Li Ba always drank and often beats, scolds, and humiliated his wife, [he] even made her blind in both eyes. Woman Wang hated him something awful.”

Why had the history surrounding Woman Wang’s blindness been so critical to this investigation? On one hand, it provided an incredibly clear motive for premeditated homicide. If true, the debilitating and permanent physical injury Li Ba inflicted upon Woman Wang provided reviewing officials with not only narrative evidence, but also physical evidence, of a longstanding grudge and a source of profound enmity between this married couple that could easily explain the feelings of hate Woman Wang allegedly harbored against him, making the unimaginable imaginable, even for a fifty-three *sui* wife to premeditatively kill her able-bodied husband of over thirty years who was father to her children.³⁹ Li Ba’s cruelty and the pain Woman Wang had suffered because of it made her homicidal fury conceivable and thus her confession credible.

But in this case, the record of excessive abuse Woman Wang suffered in marriage to her husband Li Ba—detailed in her testimony and confirmed by others who knew of her—served

³⁹ In many cases throughout this dissertation, magistrates have expressed surprise that violence could erupt after many years of marriage.

another function as well. Just as it provided incontrovertible proof of premeditation, condemning Woman Wang to a fate of death by dismemberment in accordance with the statute on wives who plot to kill their husbands, it also presented extraordinary grounds for leniency. Although inexorably linked to Woman Wang's incrimination, it seemed that the genuine injustice she experienced in marriage had not gone unnoticed. After review of this case, the Board of Punishments concluded the following:

The examination [has found] that Woman Wang because [her] husband Li Ba gouged out both of [her] eyes rendering [her] blind, repeatedly and excessively beat [her], and would not permit [her] to commit suicide, [she] strangled Li Ba to death. Although [her case] is unlike [the typical case] of those who premeditatively plot to kill a husband, this is [nonetheless] a matter that concerns human relationships (*lunchang*), [therefore] it is recommended that Woman Wang's sentence be changed [from death by slicing] to immediate beheading. All other judgments remain the same. We the ministers dare not make final judgment on this case [and await the judgment of your majesty the emperor. With respect [your loyal ministers]].⁴⁰

查王氏因夫李八挖瞎雙目復屢次痛打今其自盡以致不甘即將李八絞勤致斃雖與因他故謀死親夫者有間但事關倫常應將王氏改為擬斬立決餘仍照刑部等衙門前議臣等未敢口便口

This outcome may leave readers disappointed. Despite the Board of Punishment's acknowledgment of Woman Wang's inhumane treatment at the hands of her husband Li Ba and reduction of sentence, she was nonetheless sentenced to death, with one form of death penalty replaced by another. But the reduction of sentence she received was indeed extraordinary. Listed among the "ten abominations" preceded only by the plotting of rebellion and treason, Woman Wang's crime was one of gross unfiliality in which a junior kills a senior. According to the Code, "These ten abominations are crimes of the most serious and evil nature. The law of the

⁴⁰ XKTB, 02-01-07-0031-009. Woman Wang (54 *sui*). Baodi County, Zhili. QL 2, JLJ. (题为直隶宝坻县民妇王氏勒死亲夫李八拟斩立决事). The closing language here regarding the inability of the Board to reach a final judgment here is standard and is in no way unique to this case.

Empire does not permit them. When the penalty extends to death, it certainly will not be pardoned by an amnesty...This will cause men to know what they should be warned of.”⁴¹

The reduction itself has no explicit precedent in the Code nor under the statutes or sub-statutes. Even though there is no legal precedent for doing so, the maiming of Woman Wang by Li Ba seems to be the most compelling mitigating factor for the Board that had sway in this case (although her husband’s prevention of her suicide and regular excessive beatings were also listed as reasons she killed him). Excessive beating of a wife was prohibited, and according to the Code, Woman Wang’s physical maiming was grounds for divorce as well as punishment for her husband. According to Article 302 of the Qing Code, “Anyone who...blinds someone in one eye will be punished with 100 strokes of heavy bamboo and penal servitude for three years.”⁴² The injury inflicted upon Woman Wang would have certainly been considered an injury that caused serious disability to another. However, because the relationship between husband and wife is not one of ordinary persons, the Code stipulates, “If a husband strikes his wife and...it amounts to fracturing or worse” then reduce the penalty for an ordinary person two degrees.” This would have meant that the husband would receive 80 strokes of the heavy bamboo (reduced to 30) and two years of penal servitude. It should be noted that this punishment could only be enforced if Woman Wang complained to the authorities. A husband would also need to complain if the situation were reversed. The statute provides the following instructions: “First examine the couple to see if they wish to divorce. If so, decide the penalty and decree the divorce. If they do not wish to divorce, then investigate (the injury to see if there must be punishment). The punishment may be redeemed by cash payment. (Moreover, they may remain together.)”⁴³

⁴¹ Jones, *The Great Qing Code*, 34.

⁴² Jones, *The Great Qing Code*, 285.

⁴³ *Ibid.*, 299.

Although it was clearly against the law for a husband to blind his wife, Woman Wang never reported the incident. As such, the emphasis placed on Woman Wang's blindness was likely solely due to its relevance to her motive and premeditation, despite the striking reduction in sentence from the Board in the final administrative stages of the case.

Officials at every bureaucratic level agreed that Woman Wang had premeditatively killed her husband, but she did not receive the corresponding punishment. While reducing the sentence, and indicating that the way her husband treated her was not correct, the Board also made clear that her action could not be excused. The language of the decision is remarkably opaque, omitting what kind of "difference" makes this iteration of the crime of premeditated husband killing different than others or what mechanism was used to justify the reduction of sentence. The Board never goes as far as to articulate an attitude towards Li Ba or what he did to his wife. Rather, they chose to emphasize her transgression. And yet the sentence was reduced.

The Politics of Wifely Defiance

What room was there for married women's righteous anger against their husbands under Qing law?⁴⁴ It seems none. The case of Woman Wang is the only legal report I have located in my review of hundreds of legal reports in which a woman who engaged in premeditated homicide of her husband received institutional leniency from the Board. Even when granting leniency, the highest levels of formal state power did not, and seemingly *could not*, permit a willfully defiant wife to go unpunished, no matter how sympathetic her case might be. Yet

⁴⁴ The concept of righteous anger and the question of who is allowed to possess it has been at the center of historiographical discourse before in discussion of women's suicides as viewed by Qing officials. Janet Theiss states, "...Qianlong emphasized that however well-intentioned [female chastity martyrs] might be, moral sentiments like righteous indignation...had to be expressed and enacted in appropriate contexts by the right people to be ritually proper." See Janet Theiss, *Disgraceful Matters*, 105.

Woman Wang's report, her testimony, and that of so many other women explored in this dissertation proves just the opposite. Married women's righteous anger existed, and the Qing state documented it in many cases and with many variations. These women are shown as full people with emotionality and sentimentality and often with legitimate complaints about how they were treated in marriage.

Homicide is political, these women's crimes are political, and the adjudication and movement of their reports through the government is political. These men are reviewed and their careers if not also their personal reputations are at stake in these highly volatile and disturbing reports of the lives of ordinary people in the empire. The Qing state, officials, and the Board of Punishments in this case, were worried. They were concerned not necessarily about the dangerousness of women but what destructive women signal in society: a failure of husbandly authority. If wives destroy their husbands, what does this say about the stability of the empire? If the family is a microcosm of the state, what is reflected in this mirror? The fragility of the empire in which men—fathers and husbands—those assumed to have the greatest invested interest in orthodox society emerge as a destabilizing force unable or incapable of running their households as envisioned. Their weakness, disquieting.

Because of this anxiety—Woman Wang, and other wives both like and unlike her, must face severe punishment, for their actions were political, and thus cannot be conceived outside this highly charged political space, no matter the reason. Yet despite the absolute and strict nature of the adjudication of husband-killers in Qing law, the Board's decision to lessen Woman Wang's sentence, a wife proven and agreed upon by all levels of adjudication to have premeditatedly killed her husband—exposes a moment of extraordinary extralegal sympathy that reveals official attitudes towards the disturbing reality of failed masculinity at full display in

this case. By lessening Woman Wang's punishment, the Board of Punishments is expressing a clear attitude toward her husband here, however vague the language may be. The Board determined that Woman Wang did not deserve the full punishment allotted for her crime—meaning that what Li Ba had done to her mitigated her actions, even if this could not be explicitly said. Thus, while not “approving” of her actions, the Board could not conclude this case without a record of their disapproval for this husband, although the exchange of one death penalty for another may have been of little solace to Woman Wang.

There may have been truly sympathetic magistrates who encountered such women, but we cannot know of them. Their sympathy was expressed through their silence, through their willingness to see a purported suicide as a suicide and nothing more. Shrouded in vagueness, we are perhaps seeing in this legal report some small display of that same sympathy through silence for the blinded Woman Wang. But make no mistake—this is not a record of sympathy. Woman Wang was put to death for a crime that was regarded as tantamount to treason, although “different” in some unexplained way. It is more a record of Qing judicial insistence on documenting the mindset and motivation of a woman in order to solve a murder.

Conclusion

In this dissertation, I have demonstrated the diversity of ways married women in traditional China defied manifestations of patriarchal power, whether it be in the pursuit of companionship, sexual desire, property, or whatever else they saw as theirs in life. The most important contribution of this scholarship is that I have incorporated the experiences of ordinary, non-elite women and their expectations of married life into our understanding of traditional Chinese womanhood. Through word and action—these women’s testimonies and the case reports generated about them reveal the impact of their emotional, working, and material lives on shaping early modern Chinese society and change our understanding of what it meant to be a person in Qing China. I have compelled a re-envisioning of our understanding of women’s agency to grapple with the brutality of the hierarchical and patriarchal gender system in which women persisted and operated. I have shown that women’s emotional well-being was always in some way integral to their survival no matter their economic standing. Furthermore, I have revealed married women’s reproductive life course to be an instrumental organizational and analytical structure for bringing into frame dimensions of women’s lived experience that might otherwise be overlooked, such as premarital sex, household work, management of property, paternity claims, and sexual enjoyment.

Across six chapters, we have seen married women as agents in both their own lives and in the eyes of the Qing judiciary, openly defying the power structures meant to contain them. I have offered a new model of gender analysis called “weak patriarchy” for understanding the performance of patriarchal power at the level of the individual. This paradigm shift has challenged presumptions about the strength of the male-dominated household and strongly suggests that there is a broader failure of masculine authority in the Qing than we have

previously acknowledged. The notion of “weak patriarchy” does not imply that fathers, husbands, or brothers inside the household were flexible or persuadable to the demands of the women in their lives—that may have been a show of strength. Instead, the “weak patriarch” manifests himself in this dissertation as exceedingly brittle—fragile and destructively rigid to the detriment of the patriarchal family which was the source of his authority.

Drawing upon the women-initiated homicide record in which wives stood at the epicenter of investigations into their husbands’ deaths, this dissertation has approached the extraordinary and the extreme as an untapped site for understanding the ordinary yet fundamental elements of personhood. We have seen the invisible dimensions of women’s working lives made visible. We have observed how women attempted to manage property, small and large. We reconstructed the emotional and sentimental, the longing for companionship and sexual fulfillment. We have seen the prevalence of premarital sex and the ways in which it did or did not matter in young women’s ideals about themselves.

This dissertation demonstrates that the divide between the material and immaterial in many women’s lives was largely illusory. Their desire for affection was often deeply material, something tangible to them that they were not willing to go without, much like food. The imprints of real life contained in these pages, whether fleeting or profound, have taught us that emotion is intertwined with property, lust entangled with inheritance, and affection woven with labor, creating an intricate pattern of yearning and perseverance that newly reveals the extraordinary fabric of the interiority of every woman.

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