

Legitimizing and Constraining Womanly Violence in Ming China (1368-1644)

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LEGITIMATING AND CONSTRAINING WOMANLY VIOLENCE IN MING
CHINA (1368-1644)

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This dissertation investigates socially-recognized, legally-allowed violence performed by women in positions of authority—mothers, wives, and masters—in fourteenth- to seventeenth-century China. I argue that during this period, changes in family structure both provoked new conflicts and led people to prioritize consanguineal relationships. Examining legal, didactic, and literary texts, this research identifies apparatuses that legitimated—and in certain contexts constrained—womanly violence. Violence by wives at the time had become inseparable from accusations of jealousy. Such violence was constrained when it challenged the premier value of the patriarchal family—having heirs; yet, wifely violence was considered legitimate when it was motivated by the maintenance of hierarchical order between the wife and the concubine. Mothers' violent disciplining of children was considered to be a moral performance. Whether or not motherly violence was considered to be an appropriate form of discipline or transgressive depended on the relationship between mother and child. In disciplinary violence against consanguineal children, mothers were expected to exhibit the fatherly virtue of strictness. Disciplinary violence against non-consanguineal children was deemed more problematic. Violence by female masters was legitimated as a performance of status rather than gender. Women's expected

gender performances could, in certain circumstances, come into conflict with status performances. Ming Literati used the hierarchical metaphor the parent-child relationship to legitimate their control and ownership over servants. Yet, being “parents” constrained masters’ violent abuse of and sexual access to their “children”-servants. My research thus reveals the ways in which women’s violence was integral to the changing structure of Chinese families. I argue that women, far from being passive victims of patriarchy, played essential roles in maintaining, reproducing, and transforming familial order in late imperial China.

BIOGRAPHICAL SKETCH

Shiau-Yun Chen (Chen Shiau-Yun 陳曉昀) received her B.A in History at National Taiwan University in 2006, and her M.A. in History at National Normal Taiwan University in 2009. Between 2009 to 2012, she worked as an assistant editor of *East Asian Science, Technology, Society: An International Journal* (Quarterly, published by Duke University Press). She was awarded a Ph.D. in the Department of History, with a minor in Feminist, Gender, & Sexuality studies at Cornell in 2019.

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NOTES ON CONVENTIONS

Women's names:

In Ming China (1368-1644), when literati wrote about women, in most cases (especially legal documents), instead of their first names, they referred them by their natal fathers' or husbands' family names and the suffix *shi* 氏. For example, a woman born to a father with the family name Chen and married to a husband with the family name Li might be referred to as Chen *shi*, Li *shi*, or Chen-Li *shi*. In my writing, I refer to women recorded in historical documents by their natal family names with *shi* unless their first names were emphasized in the original documents, as was common in novels featuring female protagonists.

Pinyin convention:

This dissertation examines a wide array of primary sources written in literary Chinese. For many words and phrases (especially legal terms), there are no equivalent English translations. In such cases, I use the Hanyu pinyin transliteration system.

When translating words or phrases of literary Chinese, I provide first English translation, and then pinyin and Chinese characters in parenthesis.

Examples:

“adopted bondservants” (*yi nan yi fu* 義男義婦)

“adopted men” (*yi nan* 義男)

“adopted son” (*yi zi* 義子)

“adopted women” (*yi fu* 義婦)

“wives of adopted men (*yi fu* 義婦)

“adopted daughters” (*yi nü* 義女)

In general, for transliterations, I put spaces between each syllable. There are cases in which I refer words or phrases of literary Chinese by their transliterations because 1) an equivalent translation does not exist, 2) the word or phrase has multiple meanings in literary Chinese (especially common in legal terminology), and/or 3) the word or phrase appears many times in one paragraph, and translations would break the flow of the sentence. For transliterated terms and phrases, I add translations in parentheses where necessary for clarification.

Examples:

Yi nan yi fu (transliteration: adopted men and women)

Yi nan yi fu (translation in Ming legal context: adopted bondservants)

yi fu (adopted women)
yi fu (wives of adopted men)

I run together titles of pre-1912 books of two characters, in which the last is generic, such as *Shijing*, *Songshi*, *Mingshi* (詩經, 宋史, 明史). I transliterate book titles and official posts of three characters or more with separate syllables.

Examples:

Illustrated Instructions for Inner Chamber (*Gui fan tu shuo* 閨範圖說),
hereafter, *Illustrated Instructions for Inner Chamber* or *Gui fan tu shuo*

The Chief Surveillance Bureau (*du cha yuan* 都察院)

CHAPTER 1

INTRODUCTION

Prolog: Two Kinds of “Wifely” Violence

In seventeenth-century China, the jealous and violent wife was a popular motif in novels and dramas.¹ In these narratives, these “abnormal” women were ultimately punished and reformed. The illustration on the left, for example, collected in the novel, *Bottle Gourd Filled with Vinegar* (*Cu hu lu* 醋葫蘆), features a jealous wife and shows the scene in which the wife is captured and chained by ghost soldiers (Figure 1.1). The mirror in the right of the illustration reflects the reason why she is in hell: for beating her husband (Figure 1.2).



Figure 1.1

The Jealous wife, Du *shi* 都氏, being captured and chained by ghost soldiers in hell. From Xin Yue Zhu Ren, *Cu hu lu*, preface, 16:1b.



Figure 1.2

¹ Yenna Wu, “The Inversion of Marital Hierarchy: Shrewish Wives and Henpecked Husbands in Seventeenth-Century Chinese Literature,” and *The Chinese Virago a Literary Theme*.

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In addition to condemning shrewish wives and mocking henpecked husbands, literati at the time also enjoyed writing or compiling didactic books to educate women. In these didactic books, when intending to educate female readers, literati listed exemplary women only. Jealous and violent wives were excluded from these didactic books; yet, one story about a jealous wife was incidentally collected in a famous and popular didactic book for women, *Illustrated Instructions for Inner Chamber* (*Gui fan tu shuo* 閨範圖說). The moral exemplar in the story is not the wife, of course, but a submissive concubine. In the story, the wife is angry about her husband having a beautiful concubine in a separate household. The wife thus brings several servants with her to that household, where she finds the concubine combing her hair, and pulls out a knife to attack her. Facing the ferocious wife, the concubine remains calm and continues to comb her hair, tranquilly accepting the fact that the wife is about to kill her. The wife is touched, and she says, “I see you and also feel how lovable you are. Imagine how the old man might feel!” She then brings the concubine home and treats her well. Interestingly, the compiler of the didactic book did not reproach the wife at all. He commented,

I recorded the story to teach all the concubines in the world: if principal wives don't like you, perhaps they are not entirely to blame.

吾錄之以訓世之為妾者，不得於嫡，未必皆嫡之罪也。²

In other words, the moral lesson here is that a concubine should know how to behave. If she does not, and if the wife does not like her (and wants to kill her), the concubine should reflect on herself. Comparing the novel and the didactic book, one might wonder about the radically different attitudes toward these two forms of “wifely”

² Lu Kun, *Gui fan tu shuo*, 4.93b-94a.

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violence—violence towards husbands, and violence towards concubines. These two forms of violence, as I argue in Chapter Two, were considered as typical behaviors of a wife.



Figure 2.1

The illustration shows the moment in which the wife is about to attack the concubine with a knife. Details of the scene in Figure 2.2.

The daughter of the King Shu (*shu zhu zhi nu* 蜀主之女). From Lu Kun, *Gui fan tu shuo*, 4.93a.



Figure 2.2

Even though both materials (novel and didactic book) describe wifely violence, one form of violence is harshly constrained; the other is, if not considered legitimate, at least tolerated. The difference between these two forms is apparent: violence against one's husband was forbidden, but violence against one's husband's concubine was permissible. This difference is one of the key arguments in this dissertation: the legal and moral systems at the time were both gender and status asymmetrical. Violence

against one's superior was unacceptable; violence against one's inferior was acceptable.

Scholars working on domestic violence have pointed out the structural violence against women in premodern and modern legal systems.³ However, few of them articulate the ways in which women in positions of authority, like patriarchs and men in general, enjoyed legal privileges and rights to use violence to discipline their subordinates. In imperial China, the legal system inscribed and reinforced the structure of the patriarchal family, including the husband's domination over his wife. Violence against one's wife would be considered legitimate discipline. For example, in the Ming dynasty (1368-1644), there was no law against a husband beating his wife, as long as the beating did not result in bone fractures or facial mutilation (broken teeth or wounded ears or nose); in contrast, if a wife beat her husband, regardless of whether the beating caused injury, the punishment for the wife was a flogging of one hundred strokes with a heavy bamboo stick.⁴ The same statute specified that "If a wife strikes and injures a concubine, she shall be punished the same as for the husband striking his wife." In imperial China, the legal system assumed husbands' domination over wives, and harshly punished and constrained wives' violence against their husbands.

The same legal system also assumed that people in superordinate positions properly dominated people in subordinate positions, even by violent means. The law deemed wives' violence against concubines and male servants, for example, as legitimate discipline in certain circumstances. In this context, the principle of status-asymmetry overruled the principle of gender-asymmetry. This dissertation, thus,

³ Theoretical discussion on violence and women, See Cardi and Pruvost, "Thinking Women's Violence"; Lokaneeta, "Violence." Discussion on domestic violence in early modern England, see Amussen, "Being stirred to much unquietness": Violence and Domestic Violence in Early Modern England." Discussion on domestic violence in imperial China, see Qu Tongzu, *Zhong guo fa lu yu zhong guo she hui*, 132-148; Theiss, "Explaining the Shrew: Narratives of Spousal Violence and the Critique of Masculinity in 18th-Century Criminal Cases."

⁴ *DML*, 185.

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examines “womanly violence”—forms of gender performances that were considered as moral behaviors—focusing on three positions of authority—wife, mother, and female master—in Ming China (1368-1644).

In my dissertation, I use the term “womanly violence” to denote behaviors that people thought were typical of or suitable for a woman. In the chapters on wives and mothers, I show that violence was something expected as a moral duty of a woman in these positions. In contrast, I use “women’s violence” (or wife’s or mother’s or female master’s violence), to more generally describe violent behaviors committed by women, whether or not those acts of violence were considered legitimate. The distinction draws attention to what I refer to as “legitimate violence.”

Employing Judith Butler’s concept of performativity, I consider womanly violence as a form of gender performance. Instead of focusing on the ways in which historical actors impersonated images that were recognized by others, as Erving Goffman argues,⁵ I emphasize the apparatus of the “script.” Namely, I examine historical discourses that sanctioned and proscribed violence performed by women. Moya Lloyd’s explanation of Butler’s usage of the theatrical metaphor provides a clear sense of what I mean “script”:

Within the context of a theatrical performance, the staging of a play, for example, acts are a shared, collective experience encompassing actors and the audience; actors embody roles that are scripted and rehearsed; although scripts might be enacted in different ways by different actors, nevertheless those enactments are always constrained to some degree by the terms of the script.⁶

Butler does not diminish the importance of individual actors, but her emphasis is on how the “script” sanctions and proscribes one’s performance of gender. However, the script itself is unstable, being constantly revised and contested. This instability is the place in which agency emerges. Butler states,

⁵ Brickell, Chris. “Performativity or Performance? Clarifications in the Sociology of Gender.

⁶ Moya Lloyd, “Performativity and Performance,” 575-576.

To say that gender is performative is to say that it is a certain kind of enactment; the “appearance” of gender is often mistaken as a sign of its internal or inherent truth; gender is prompted by obligatory norms to be one gender or the other (usually within a strictly binary frame), and the reproduction of gender is thus always a negotiation with power; and finally, there is no gender without this reproduction of norms that risks undoing or redoing the norm in unexpected ways, thus opening up the possibility of a remaking of gendered reality along new lines.⁷

Limited by the available historical sources, which were mostly written by men, I employ the idea of gender performance and performativity to examine the ways in which various historical texts sanctioned and proscribed womanly violence. As I show in later chapters, these norms were under constant revision and negotiation.

My research investigates socially-recognized, legally-allowed violence performed by women. I argue that in the fourteenth to seventeenth centuries, changes in family structure both provoked new conflicts and led people to prioritize consanguineal relationships. In the process, the legal and more broadly the moral demarcations of legitimate from illegitimate violence in the household came to be firmly based on whether or not that violence served the interests of the patriarchal family in reproducing and preserving the consanguineal patrilineal line.

The Gender System in Ming China

This dissertation engages with three major sub-fields of late imperial history: historical studies of changes to family and gender structures, feminist scholarship that works to recover women’s agency, and legal history as it relates to gender and family.

This dissertation focuses on fourteenth-to-seventeenth-century China, and in particular, on developments in family and law under the Ming dynasty. Scholars

⁷ Judith Butler, “Performativity, Precarity and Sexual Politics,” i.

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usually categorize the Ming and subsequent Qing dynasties (1644-1911), as “late imperial” China. However, some scholars also point to continuities that stretch over an even longer duration, between the eleventh and nineteenth centuries.⁸ For example, Francesca Bray argues that ideas about the subjugation of women developed through “the building of houses, the weaving of cloth, and the producing of children” across this time period.⁹ I focus on the Ming dynasty because it is a key period for the development and contestation of hierarchical differences between femininities and masculinities.

In women’s history, the Ming era is best known for the wide spread of limitations on women’s mobility: through footbinding, which became nearly universal throughout the populace, and through the confinement of elite women to household inner quarters. The period also saw the growth of widow chastity cults, which celebrated and thus encouraged self-mutilation and suicide by widowed women, and even by betrothed girls whose fiancés died.¹⁰ These multiple constraints on women—which had begun to take hold among elite families in the eleventh and twelfth centuries, and in some respects reached new heights of rigidity later, in the eighteenth to late nineteenth centuries—featured prominently in early twentieth-century depictions of women’s historical “oppression” that justified the stereotype of China’s so-called “backwardness.”¹¹

⁸ Guy, “Song to Qing: Late Imperial or Early Modern”; Bray, *Technology, Gender and History in Imperial China Great Transformations Reconsidered*.

⁹ Bray, *Technology and Gender: Fabrics of Power in Late Imperial China*, 4.

¹⁰ Ropp, “Passionate Women: Female Suicide in Late Imperial China-Introduction”; Lu, *True to Her Word: the Faithful Maiden Cult in Late Imperial China*; Hymes, “Sung Society and Social Change.”

¹¹ Dorothy Ko argues that the ahistorical claim that women were victims under the stagnated “Chinese tradition” was an invention. The May Fourth movement (the New Cultural movement), the Communist revolution, and western feminist scholarship together created this political claim and have affected the

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More recently, scholars of Chinese gender history have historicized such simplistic narratives, which treat women as passive objects and victims. Beyond arguing that women have agency,¹² scholars have deepened their understandings of historical transitions by revealing the ways in which women's agency was an integral part of the formation of ideological, economic, and social systems. Dorothy Ko, for example, argues that in the seventeenth century, the agency of talented female writers came with their voluntary investments in dominant gender norms. While women negotiated and intentionally manipulated norms for their own benefit, ironically, they reinforced the resilience of the gender-asymmetrical, patriarchal system.¹³ Controversially, Ko also argues that women voluntarily participated in the patriarchal system, and supports that argument with evidence of the multiple desires that perpetuated the practice of footbinding among women.¹⁴

Janet Theiss and other legal historians emphasize the constant confrontations and strategic compromises made under Confucian gender systems, showing that there was no coherent gender orthodoxy. Focusing on sexual crimes against women in the Qing period (1644-1912), Theiss reveals how the norm of chastity actually allowed women to challenge patriarchal authorities (fathers and husbands) by invoking an

ways in which later scholars have understood and written about women, which ignored the flexibility of the gender system in China and the rich life that Chinese women had in the past. Ko, "Gender and the Politics of Chinese History" in *Teachers of the Inner Chambers: Women and Culture in Seventeenth-Century China*, 1-28.

¹² Thomas, "Historicising Agency."

¹³ Ko, *Teachers of the Inner Chambers: Women and Culture in Seventeenth-Century China*.

¹⁴ Ko, *Cinderella's Sisters: A Revisionist History of Footbinding*.

indisputable moral value— namely, chastity, wives' loyalty to their husbands, which was analogous to officials' loyalty to the emperor.¹⁵

Building on these inspiring studies, my dissertation reveals the ambiguities and contradictions embraced in late imperial gender systems, focusing on women's violence as it was built into the hierarchical structure of the family and sanctioned by Confucian ideology and law. On the one hand, women in positions of authority— “principal mothers” (*di mu* 嫡母), “principal wives” (*zheng qi* 正妻), and “female masters” (*nü zhu* 女主)—violently challenged the submissive image that Confucian gender systems imposed upon them. On the other hand, these women actively participated in the patriarchal system, articulating violence in accessible idioms of morality, for example, framing corporeal discipline as education of disobedient inferiors. I thus take violence by women in superordinate positions as a vantage point from which to examine the mechanisms of status and gender domination, social change, and the creative agency of both presumed dominating and dominated parties.

Conceptualization

I locate violence performed by women through a nexus of three critical lenses, those of gender, family, and state. Thinking about violence by women destabilizes understandings of masculinity and femininity, and interpretations of family as a physical entity and as a symbol of social order.

¹⁵ Theiss, "Female Suicide, Subjectivity and the State in Eighteenth-Century China"; Theiss, *Disgraceful Matters: The Politics of Chastity in Eighteenth-Century China*.

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I conceptualize my research from the perspective of the masculinization of socially approved, state-sanctioned violence. Scholars working on violence sanctioned by the state have focused on the ways in which state have come to monopolize violence during the transition from the premodern to the modern period, and on the rhetorical strategies used to justify state violence, such as military occupation, the death penalty, or torture.¹⁶ Feminist scholar Carole Pateman has neatly pointed out the exclusion of women during the process of establishing the patriarchal state.¹⁷ Although Pateman's observations are based on her analysis of Western political theories about the social contract, her analysis inspires me to think about the assumption of the "a-violence" of women in ideological, legal, and political systems.

In the case of late imperial China, not only were women excluded from the privileges of being in the military and the police, but they were assumed to be protected and dominated by men's violence. Women who did not fit in this framework were considered to be either masculine or unfeminine, and either exceptional or abnormal.

Current studies on violence performed by women in late imperial China can be loosely separated into those that examine violence that was promoted by the imperial court, and those that examine violence that was constrained by the imperial court.

The Ming court promoted two forms of violence by women, both of which were self-inflicted, as moral performances: suicide or self-mutilation as a demonstration of loyalty to one's husband, and slicing off pieces of one's own flesh as medicine or nourishing food as a demonstration of filial piety to one's parents and parents-in-law

¹⁶ Lewis, *Sanctioned Violence in Early China*; Lokaneeta, "Violence."

¹⁷ Pateman, *The Sexual Contract*.

(*ge gu* 割股). *Gegu* was the more controversial practice, and was not a gender-specific moral performance,¹⁸ whereas committing suicide or mutilating one's own body to pledge chastity for a husband was a prominent form of woman-specific morality. Reports of chaste widow suicides and self-disfiguring leaped in frequency in the sixteenth century, and the incidence of these events does seem to have increased.¹⁹

Scholars explain the radical rise of chaste women from several perspectives. One direction is to investigate the social and cultural settings that motivated women to prioritize their chastity. For example, a widow's lifestyle was easier than a wife's and it was a rational choice in a sixteenth-century context.²⁰ Influenced by popular religion, women might also believe that a "dead woman's vengeful ghost would be better able to persecute her enemy than if she were living on earth."²¹ The strong belief in the afterlife encouraged women to commit suicide for a righteous reason, i.e. defending their chastity.

From the perspective of discourse production, scholars have claimed that the power mechanism of the imperial award system (*jing biao* 旌表) encouraged and produced if not chaste women, at least writings about chaste women.²² Men of letters actively wrote about chaste women and their self-inflicted violence because of their

¹⁸ Qiu, Zhonglin, "Bu xiao zhi xiao— Bu xiao zhi xiao: sui tang yi lai ge gu liao qin xian xiang de she hui shi kao cha"; Jimmy Yu, "Nourishing the Parents with One's Own Flesh" in *Sanctity and Self-Inflicted Violence in Chinese Religion, 1500-1700*, 62-88.

¹⁹ Paul S. Ropp's review article demonstrates the ways in which scholars in different generations explain what triggered mass amounts of women participating and performing chastity, and what produced the enthusiastic attitude of writing and disciplining chaste women's bodies. Ropp, "Passionate Women: Female Suicide in Late Imperial China-Introduction."

²⁰ Chang, "Ming qing shi qi gua fu shou jie de feng qi li xing xuan ze(rational choice) de wen ti."

²¹ T'ien, *Male Anxiety and Female Chastity: A Comparative Study of Chinese Ethical Values in Ming-Ch'ing Times*, 114.

²² Elvin, "Female Virtue and the State in China"; Fei, *You dian fan dao gui fan*; Lin Liyueh, "Cong xingbie faxian chuantong: mingdai funüshi yanjiu de fansi."

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own frustration of failing the civil service examination. They gratified their unsatisfied desires for political positions and social influence by criticizing the failing imperial reward system and claiming that their writing about women's fidelity could amend the corrupt system.²³ In an analysis of Ming didactic books for women, which included many stories about women's self-inflicted violence, Katherine Carlitz points out that didactic books include both texts of exemplary women and illustrations of dangerous and sensationalized female bodies. Her analysis explains the popularity of these didactic books in the highly commercialized publishing industry of late imperial China.²⁴

Research on violence performed by women in late imperial China shows that self-inflicted violence was mostly considered a demonstration of feminine virtue. A woman's exceptional, dramatic, self-sacrificing violence marked her as a paragon of chastity or filial piety. Informed by this scholarship, the core research question I ask is: was there socially approved womanly violence *against* others in late imperial China?

I separate wives' violence against others into three categories: violence against one's superordinate, against one's equal, and against one's subordinate. This categorization is based on the distinctive character of the legal system in imperial China: the purpose of the law was to regulate the hierarchical order of the society. Foundational to this hierarchical order were the principals imbedded in Confucian

²³ Fei, "Writing for Justice: An Activist Beginning of the Cult of Female Chastity in Late Imperial China."

²⁴ Carlitz, "The Social Uses of Female Virtue in Late Ming Editions of *Lienü Zhuan*" and "Pornography, Chastity, and 'Early Modernity' in China and England, 1500-1640." Carlitz supports her argument by pointing out that the woodblocks of the illustration in the didactic books were carved by the same artists and craftsman who carved erotic albums.

rituals, which were based on a particular familial ethics: the Five Relations (*wu lun* 五倫), which denote “love between father and son, duty between ruler and subject, distinction between husband and wife, precedence of the older over the young, and faith between friends.” To wit—the law maintained a social order modeled and built on the hierarchical familial order. (Figure 3)

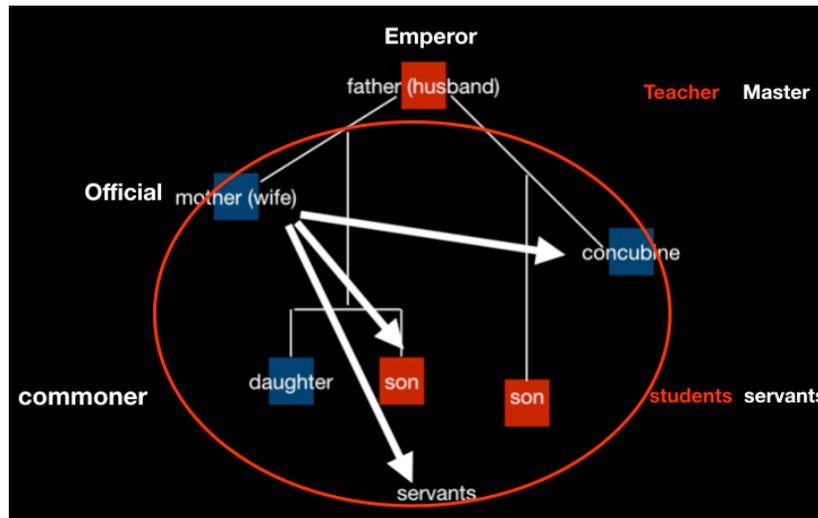


Figure 3 Hierarchical Structure of the Five Relations

The Five Relations were the principles organizing the order of the family, the society, and the state. Within these five relations, only the relation between friends (outside the frameworks of family and state) was one of equality. In other words, almost all relationships were hierarchical. Within the boundary of the family, the father was the superior to his son, the older to the younger, and the husband to his wife. In the context of the polity, the ruler, by analogy to the father, was superordinate to his subjects. Outside the context family, many other social relations were organized based on familial ethics. Officials often used the metaphor of the husband and the wife to describe their relationships to the emperor. Teachers were fathers to their students,

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and masters were fathers to their servants. When people were relationally located in superordinate positions, they guided their subordinates, and in those contexts, violence against inferiors was considered appropriate discipline and a legitimate tool for maintaining the order and *status quo* of the society. This moral principle realized itself in the imperial legal systems in China, including in the demarcation of legitimate and illegitimate violence as performed by women. In this hierarchical family structure (see Figure 3), although the position of the wife was subordinate to that of the husband, it was superordinate to the position of the concubine. Similarly, mothers were superordinate to their children, and female masters (including daughters of the head of the household) were superordinate to their servants.

Women's violence against their own superordinates was constrained. Specifically, if such violence was against one's husband, it deemed depravity. Wives' violence against their husbands was often associated with discourses of jealousy, and literary writings ridiculed husbands who were beaten by their wives for lacking masculinity. Such behavior would be either disciplined or be reformed, as in Figure 1.1, in which the jealous wife is chained in hell and punished for her behavior. In the novel, that wife is later reborn as a wife who is incapable of feeling jealousy.²⁵ Janet Theiss argues that sentencing in legal cases of men who killed their wives resonates with fictional understandings of the failure of a marriage, i.e., "the unfilial shrew is clearly the impetus for social chaos in the form of family conflict, division, violence, and criminality. But she is able to wreak such havoc only because family authorities, chiefly her husband but also his parents, have failed to educate and admonish her

²⁵ Yenna Wu, "The Inversion of Marital Hierarchy: Shrewish Wives and Henpecked Husbands in Seventeenth-Century Chinese Literature."

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effectively.”²⁶ In other words, these wife-killing husbands were condemned not because they killed their wives, but because they allowed wives to behave inappropriately, to challenge patriarchal authority and domination in the first place. In sum, the system of social and political order was based on the subjugation of women. Wives who challenged that foundation were to be punished, either by the law or by their husbands; similarly, husbands who failed to maintain their domination over their wives were subject either to mocking or outright condemnation.

Women’s violence against their equals (against people without familial relations) was often criticized because such behavior was against the ideal image of womanhood that advocated womanly submissiveness and gentleness. However, in one specific situation, women’s violence against their equals, or even superordinates, was considered to be a moral performance—when such violence was done in revenge for one’s wronged family. A woman avenging her family was recognized as performing filial piety or loyalty to one’s husband. However, the presumption of such revenge was a wronged or broken family. Because female avengers were deemed to have been forced outside the boundary of the family, they were considered abnormal and exceptional. Their violence was a “manly” moral performance. The following image (Figure 4), for example, illustrates a story in which a female avenger dressed as a man to kill those who had murdered her father and her husband. The story was so famous that it was collected in didactic books for women, in multiple local gazetteers, and was rewritten as a novel and a drama. In didactic books for women and in the novel, this female avenger was praised for her masculinity. When a novelist rewrite the story, he

²⁶ Theiss, “Explaining the Shrew: Narratives of Spousal Violence and the Critique of Masculinity in 18th-Century Criminal Cases,” 61.

even added a new element and specified that the female avenger's body was strong and shaped like a man's body (*shen ti zhuang shuo ru nan zi xing* 身體壯碩如男子形).²⁷ Morally exemplary female avengers were often referred to as “female men” or “female gentlemen.” In other words, they were as good as men.²⁸ Female avengers crossed gender boundaries (being outside of the household and engaging in violent behaviors), but their behaviors were acceptable because they were already outside of the family, and therefore, their abnormality was exceptional and tolerable.



Figure 4.1
Woman Xie Killing Robbers (*Xie e sha dao* 謝娥殺盜). From Lu Kun, *Gui fan tu shuo*, 2.15a.



Figure 4.2

The above studies on violence performed by women in late imperial China demonstrate the assumption of women's “a-violence” in the patriarchal system. The system assumed men's domination over women; not only was wives' violence against

²⁷ Chen Shiau-Yun, “Lu Kun ‘Gui fan’ Xie e sha dao yu xiang guan shi liao zhi fen xi.”

²⁸ Chen Shiau-Yun, “Ming dai nü jiao shu zhong de fuchou, xing bie yu lun li.”

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their husbands harshly constrained and punished, but also women's violence against their equals, even when it was considered a moral performance, was considered to be "manly" and abnormal. The system was both gender- and status-asymmetrical. Women's violence against their subordinates (including sons and male servants) was considered appropriate and legitimate, under the condition that such violence did not challenge the interests of the patriarchal family. However, as I show in later chapters, when women conducted violence "appropriately," i.e., against their subordinates and in the interest of the patriarchal family, such womanly violence was still often seen as "manly." In contrast, when women inappropriately used violence against their inferiors, such violence was often attributed to their feminine nature.

Masculinity was the norm of morality. Not only did the system assume men's domination over women, but it assured that masculinity was the archetype of excellence. The highest praise one could receive, despite their gender, was being masculine; a woman would be considered to be masculine when conducting moral performance, and a man to be feminine if he was deemed depraved. While both men and women could contribute to this performativity of gender—one could be both masculine and feminine—their performances reinforced the hierarchical positions of men as superordinate and women as subordinate.

In sum, my research on women's violence does not simply show that women were capable of using violence, but rather brings readers' attention to the ways in which women's violence emerged as integral to the very structure of Chinese families, and to the essential roles that women played in maintaining and reproducing the patriarchal familial order.

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This understanding changes the interpretation of late imperial China as an era in which “boundaries that concealed women defined the system, and the sexuality and status of every man and woman in the empire was measured in relation those boundaries. The boundary divided people who were respectable from everyone else.”²⁹ Precisely because of the increasing emphasis on the demarcation between men-outside and women-inside the household at the time, women were increasingly positioned as guardians of the family, and were given legal and moral privileges to discipline their inferiors in order to maintain the ordered family.

From the perspective of the family as a physical entity, women, when occupying positions of authority, enjoyed control over most of the familial members. This was especially true in officials’ families, since men spent most of their political careers away from the household to participate in the civil service examination, to serve in their appointments, and to travel to the capital to report their governing performance. The following illustration (Figure 5) in *Instructions for Inner Chamber* (*Gui fan* 閨範), for example, portrays a mother disciplining her adult son inside the household, and outside the household, there are two men standing outside.³⁰ This illustration not only shows a mother’s authority and control over his son in a literal sense, but also implies a mother’s influence across the physical boundary of the household. Figuratively, family and the women in it were often used as metaphors of local society, and of the empire. For example, Chapter Four, on female masters’ violence, shows that judges would compare how a female master appropriately disciplined

²⁹ Mann, *Gender and Sexuality in Modern Chinese History*, 3.

³⁰ Lu Kun, *Gui fan*, 4.32a.

servants to how they disciplined criminals in court. This kind of ideal and legitimate womanly violence is the subject of my research.

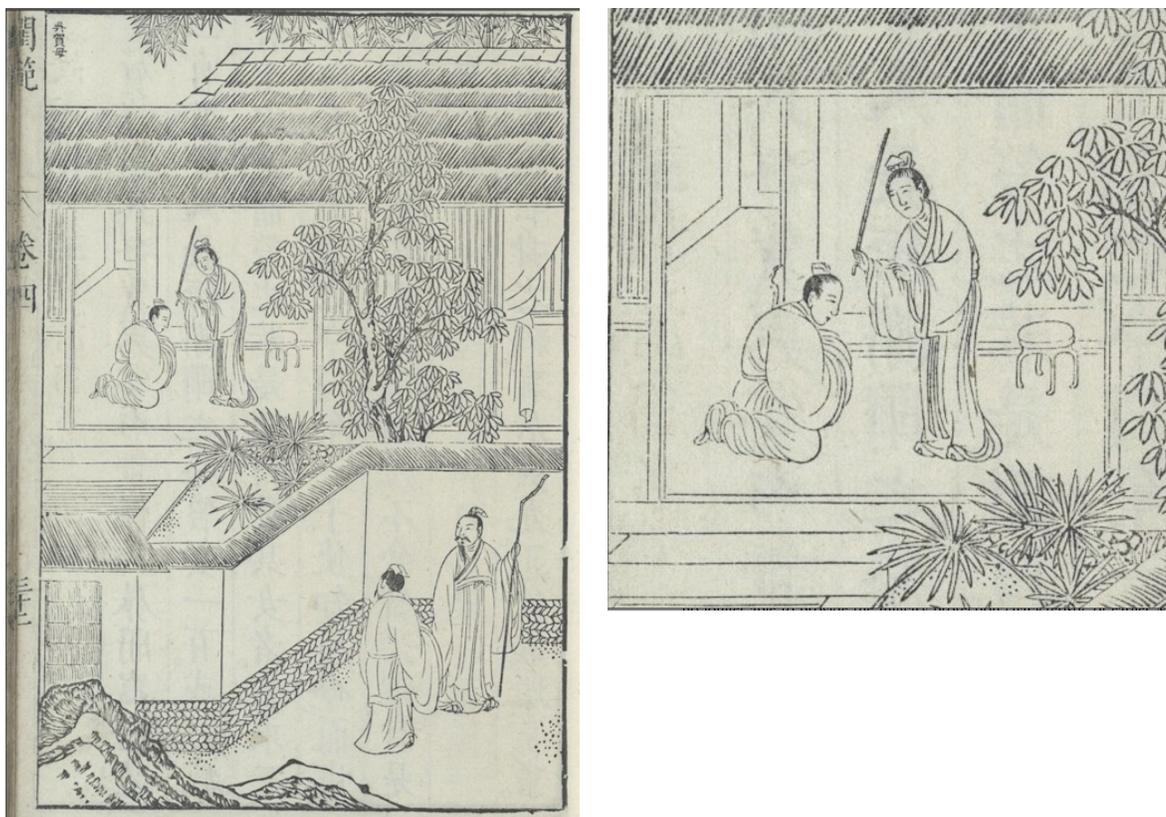


Figure 5. Wu He's mother, (Wu He *zhi mu* 吳賀之母). The mother in the story always eavesdrops her son's conversation with his guests. She beats him when she overhears that he is gossiping and commenting other people. From Lu Kun, *Gui fan*, 17th century edition, 4.32a.

Sources and Chapter Summary

The Ming legal code gave legitimation to disciplinary violence performed by women in superordinate positions, so women committing violence from these positions rarely produced legal cases. I therefore use a wide array of primary sources, including the legal code, legal cases and commentaries, imperial court records, official histories, biographical writings, familial instructions, medical recipes, anecdotes,

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myths, fictional stories, and dramas, to identify apparatuses that legitimated—and in certain contexts constrained—womanly violence. Namely, my research analyzes the “script” of a specific type of gender performance—“masculine” (in this specific context, moral and serving the interest of patriarchal system) behaviors conducted by women.

I started my analysis of violence performed by women with the legal code and legal commentaries to analyze how the imperial court both authorized and constrained womanly violence. Building on that research, I used documents written by Ming literati outside their official capacities to investigate how they framed women’s violence, finding that they shared rationales with the imperial court. Through investigating how women’s normalized violence operated in daily life, my dissertation challenges two images of Ming women as “abnormal”—licentiously jealous viragos and exemplarily chaste martyrs—both of which circulated widely and contributed to the story that rooted women’s oppression in Ming China.

I organize my chapters based on women’s positions of authority. I start with women’s legal status in Ming families, and then move to each position of authority based on a woman’s normative life course in her husband’s family: becoming wife, mother, and then female master. When entering her husband’s family, a woman was at first a wife responsible for producing blood-related heirs. She then, ideally became a birth mother or, in a wealthy family, a principal mother of sons born to concubines or female servants. Although a woman could be a female master when she was still a daughter in her natal family, because the hierarchy between a master and a servant

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simulated the parent-child hierarchical relationship, I put the chapter on violence by female masters after the chapter on motherly violence.

Chapter One outlines Ming changes to women's legal status within families. I locate two major historical transitions in families—the incorporation of women into their marital families and the domestication of concubinage—that came to be translated into changes to women's legal statuses within the family. I demonstrate that the superordinate status of the wife, which was rooted in proper rituals, was challenged by a new emphasis on the criterion of “bodily connection,” through sex and reproduction, with the head of the patriarchal family (a husband or male master). This new emphasis thus influenced the ways in which people at the time conceptualized legitimate violence by women.

Chapter Two is about wives' violence against concubines. I deal with the historical specificity of wifely violence and how it could operate in the name of morality. I find that in the Ming era, wives' violence became inseparable from accusations of jealousy. Such violence was constrained when it challenged the premier value of the patriarchal family—having heirs; yet, it was considered legitimate when it was motivated by the maintenance of hierarchical order between the wife and the concubine. When it did not challenge the mission of reproduction, jealousy was celebrated by the literati as an expression of a valued emotion: feelings of attachment between husband and wife. Thus, in the name of reproducing heirs, wifely “non-jealousy” received recognition in biographies as an archetypal moral performance. However, such biographies did not necessarily condemn wives who intervene in their husbands' sexual lives by sending away concubines without their husbands' consent.

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Chapter Three examines mothers, whose violent disciplining of children was considered to be a moral performance only when such violence was against their consanguineal children. The legitimacy and morality of maternity changed according to complex calculations based on diverse types of mothers (consanguineal and non-consanguineal, or social) and their relationships to diverse types of children (including birth children, stepchildren, and children by their husbands' concubines). The norm of ideal parenthood included both strictness and loving-kindness. Fathers were assumed to be naturally strict, and mothers to be naturally loving and kind. Fatherly strictness was considered to be not only indispensable but also superior to motherly loving kindness. Birth mothers were supposed to strive to emulate strict fathers, and overcome their own natural kindness to administer corporal discipline to misbehaving children. In contrast, ideally, social mothers were restricted to the problematic and morally inferior role of loving-kindness.

Chapter Four deals with female masters whose dominance was manifested in violence against and sexual relationships with servants. While women were commonly described as sexually passive, when a female master had sex with a servant, the master was automatically assumed to be the initiator since, in theory, her superordinate position would prevent her from being forced to do anything by an inferior. Their dominant position also authorized female masters to discipline servants with violence, which was considered a legitimate device for maintaining the hierarchical order of the family. Literati used the hierarchical metaphor that emerged from the parent-child relationship to legitimate their control and ownership over servants. Without this parent-child hierarchy, servants could not serve the master because, in Ming China,

both of master and servant possessed the same legal status, commoner. Ironically, assuming responsibility as “parents” constrained masters’ violent abuse of and sexual access to their “child”-servants.

Womanly Violence in Ming China

This dissertation examines the mechanism that legitimated womanly violence. I focus my analysis on the codification of the law. Instead of claiming to find details of people’s daily lives in legal cases, this research emphasizes locating common patterns behind a diverse array of documents. By using biographies and epitaphs written about women, this dissertation thus unpacks a social history of cultural constructs of womanly violence in the household.

I demonstrate how men of letters pragmatically legitimized specific types of violence to contribute to the interests of the patriarchal family. During the Ming era, preserving patrilineal descendants became the priority of the patriarchal family. As long as women’s violence did not challenge this priority and was enacted against subordinates in the family, such violence was permissible. In many circumstances, women’s violence would also be seen as a necessary tool for ensuring the order and a promising future for the patriarchal family. Thus, in the name of contributing to the patriarchal family, a woman could use violence to assert her authoritative status in the family, to reinforce her relationships with her husband and children, and to gain agency within the constraints imposed upon her. I consider that a woman’s legitimate violence as a kind of gender performance. It reinforced the system’s gender-asymmetry, but it was also subversive. Analyzing discourses that sanctioned and

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proscribed womanly violence, I argue that what was considered as “appropriately” and “manly” violence was under constant negotiation and interpretation. Performers (in this case, women) gained their agency when realizing these changing gender norms.

When occupying different positions of authority, women were assigned different responsibilities to contribute to their marital families. Discourses about womanly violence changed according to women’s positions as wife, mother, or female master. Despite the different focuses of writings about violence performed in different positions, these writings shared common concern with women’s “bodily connections” to the patriarchal family. I deconstruct the historically constructed assumption that “women should not be violent.” I investigate the social and cultural contexts in which the demarcation of “normality” and “abnormality” emerged, and the hierarchy between femininities and masculinities was established. I argue that violence was gendered based on the effects such violence produced: it was praised as “manly” and supported by men of letters if contributing to the patriarchal family, but was attributed to feminine nature when failing to maintain the interests of the family.

CHAPTER 2

TRANSFORMATIONS TO THE PATRIARCHAL FAMILY IN MING CHINA

From the perspective of law, this chapter maps specific changes in Ming families that influenced women's legal status in the family and changed discourses that addressed "womanly violence." These changes included the incorporation of women into their marital families and the domestication of concubinage.

I argue that comparing with the legal systems in previous dynasties, Ming legal system further straightened a woman's tie with her marital family and severed her tie with her natal family. In addition, the domestication of concubinage substantially changed the ways in which a woman (and her sons) was assigned to a position of authority within a family, which shifted from being bestowed mostly through the rites and social status of her birth family to being granted by sexual relations and the ability to give birth. Such change not only influenced wealthy families that could afford concubines, but families in relatively lower social status that sent (in a sense, sold) their daughters to be concubines and female servants.

The domestication of concubinage not only institutionalized concubines in the kinship system through legal and ritual mechanisms but also institutionalized the idea that producing children qualified a woman to be included in a family. An unintended consequence emerged: sexual relations with the head of the household (a husband, father, or male master) became the marker of formal familial membership. In other words, these developments in the Ming legal system changed the configurations of authority attached to various positions occupied by women in a household.

The law sanctioned women who attained familial positions of authority to discipline people in positions subordinate to themselves: wives were sanctioned to discipline concubines), mothers to discipline children, and household masters to discipline servants. In later chapters, I explore the ways in which violence performed by women was deemed “appropriate” if it was based on maintaining the proper familial hierarchy and if the violence served the interests of the patriarchal family. First, in this chapter, I discuss changes in Ming families and their ramifications for revisions to legal encoding of women’s legal statuses.

Re-establishing Confucian Families

The creation of *The Great Ming Code* (*Da Ming lü* 大明律) responded to the political needs of the early Ming government; the code in many ways was a product of imperial ideology. The Ming government wanted to demonstrate its affinity to “Confucian” traditions and its distance from Mongolian customs. Although the government claimed that it was restoring Confucian traditions established in the Tang dynasty (618–907), it had its own interpretation of the norms of the Confucian family, which were modeled on the peasant family; a model in which women were fully incorporated into their husbands’ families. Because *The Great Ming Code* was designed to establish norms for both elites and commoner-peasants, those norms had the potential to spread throughout Chinese society. The norms set early in the Ming were, over time, reinforced and elaborated, and over the course of the Qing (1644–1911) came to be widely accepted by peasant families.

Transformations to the Patriarchal Family in Ming China

The Ming dynasty directly inherited two legal systems that were established in the Tang (619–906) and Yuan (1206–1368) dynasties. The Ming dynasty was the successor to the Yuan dynasty, so it is not surprising that the Ming would adopt a code that acknowledged existing social changes that had occurred under the Yuan rule. At the same time, however, the Ming court based its legitimacy through claims that it had purged Yuan influence and adopted the model established during the Tang.

As the founding emperor of the Ming dynasty, Zhu Yuanzhang 朱元璋 (b.1328; r.1368–1398) propagated his legitimacy as a Confucian sage king who allegedly inherited the cultural superiority of the Han Chinese. Modern scholar Zhang Jia points out that, contrary to modern nationalist historiography, literati at that time exhibited an aloof attitude to the transition from the Mongolian Yuan empire to the Han-Chinese Ming empire. Most “Han” literati at the time did not draw sharp boundaries marking ethnic differences, but they did have ironclad ideas about dynastic differences: they cared more about their loyalty to the previous Yuan dynasty than to sustaining discourse that was historically constructed to distinguish indigenous “Han Chinese” from alien Mongolians. In addition, the literati also had a hard time accepting Zhu Yuanzhang’s social background: he was an uneducated peasant who had been a monk, and his army originated in a dubious local cult. The late Yuan literati referred to Zhu Yuanzhang’s army as “red bandits” (*hong kou* 紅寇) and “red thieves” (*hong zei* 紅賊) because the soldiers all wore red turbans. Zhu Yuanzhang needed to reinvent himself as an appropriate emperor—as a Confucian sage king—to stabilize the legitimacy of his

regime. He required multiple means demarcating his reign from his own past and from the Mongolian empire.¹

As part of his propaganda campaign, Zhu Yuanzhang and his officials, during the process of establishing *The Great Ming Code*, explicitly emphasized how the Ming legal system represented the legal paradigm of the Tang dynasty: “the Confucianization of the Law.”² Six months after promulgating *The Great Ming Code* in 1368, Zhu Yuanzhang felt it was imperfect and began studying the Tang code with his officials to inform their modification of the new code. In 1373, Zhu Yuanzhang ordered officials in the Ministry of Justice (*xing bu* 刑部) to reorganize *The Great Ming Code*, following the organization and the structure of the Tang code.³ *The Great Ming Code* was modified substantially again in 1389 and the final version was promulgated in 1397. Modern scholars Jiang Yonglin and Wu Yanhong argue that Zhu Yuanzhang emphasized the Tang legal system’s noticeable influence on the Ming legal code so he could claim that the dynasty he founded had inherited and followed the example of the “Confucian” tradition.⁴ In so doing, the Ming differentiated itself from the previous Mongol Yuan regime and claimed legitimacy on bases coded as both ethnic and ritual.

To proclaim his legitimacy as a Confucian sage king, Zhu Yuanzhang issued a series of prohibitions aimed at restoring “Confucian” customs that had allegedly been undermined or corrupted by alien Mongols. In addition to claiming the Tang influence on the Ming code, Zhu Yuanzhang also tried to purge Mongolian influence from family

¹ Zhang Jia, *Xin tian xia zhi hua: Ming chu li su gai ge yan jiu*.

² Wu Yanhong and Jiang Yongling, *Ming chao fa lü*, p.27. Geoffrey MacCormack, “zhonggu you han zhi tang de ‘fa lü ru jia hua’.”

³ Liu Weiqian, “Jin Minglü biao,” in Xue, Yunsheng, *Tang Ming lü he bian*, 1.

⁴ Wu Yanhong and Jiang Yongling, *Ming chao fa lü*, 27.

norms through the new law. For example, levirate marriage—a northern steppe custom according to which a widow should marry a member of her late husband’s family—was harshly constrained by on several fronts, including *The Great Ming Code* and *The Grand Pronouncements* (*Da gao* 大誥). A man who married his father’s concubine or his brother’s wife or concubine faced the death penalty.⁵ Apart from changes to marital customs, Zhu Yuanzhang’s reforms of dress also demonstrated this dual feature: restoring Tang and purging Yuan styles.

Although Zhu Yuanzhang’s reforms demonstrated the Ming law’s similarities to the Tang model, the Ming law had its own “Confucianization of the Law” and its own interpretation of the Confucian family model. In addition to purging Mongolian marital practices from the law, especially the levirate, *The Great Ming Code* also forbade marrying people with the same surname and marrying cousins. The latter had been common marital practices not only in the early Ming but also in previous “Han-Chinese” dynasties. These practices were banned because they created confusion in mourning ritual—one of the most important practices in the Confucian ritual system. *The Great Ming Code* also included detailed regulations about who could be adopted; adopting one’s younger brother as one’s heir—a popular social custom then—was forbidden because the custom undermined the hierarchy of the Confucian family.⁶ The relatively equal fraternal relationship should not be changed to an unchallengeable hierarchical parent–child relationship.

⁵ Zhang Jia, *Xin tian xia zhi hua*, 122.

⁶ Zhang Jia, *Xin tian xia zhi hua*, 111-173.

Although modern scholars largely agree with Ch'ü T'ung-tsu's theory that the implementation of Confucianism is the distinguishing legal tradition of imperial China, this seemingly trans-historical observation needs to be revised because interpretations and understandings of the Confucian classics and ideology changed over time. A legal code not only represents a state's cultural legitimacy, it also serves the state's political interests. In the case of the Ming law, the Ming state implemented "Confucianism" by purging "alien" customs and reestablishing the familial hierarchy, even if this "Confucianization of the Law" sometimes ran against prevailing social customs.

The Ming court also established its "Confucian" hierarchical family through literally integrating its version of the ritual mourning system into the code, with diagrams specifying degrees of ritual mourning for seven relationships.⁷ The system of ritual mourning mattered in all the legal systems in imperial China because it articulated the distance between and the hierarchy dividing familial kin from non-kin relationships; relationships between people, such as one's relationship to a distant superordinate as opposed to a relationship to a close subordinate, was a core legal principle in sentencing intra-familial crimes. This legal principle represented the materialization of Confucianism in imperial China.

⁷ These relationships includes one's "Formal Mourning Degrees for the Relatives of Nine Generations and Five Mourning Degrees within One's Own Lineage" (*ben zong jiu zu wu fu zheng fu zhi tu* 本宗九族五服正服之圖), "Wife's Mourning Degrees for Husband's Relatives" (*qi wei fu zu fu tu* 妻為夫族服圖), "Concubine's Mourning Degrees for Household Head's Relatives" (*qie wei jia zhang zu fu zhi tu* 妾為家長族服之圖), "Married Daughter's Reduced Mourning Degrees for Her Own Lineage" (*chu jia nu wei ben zong jiang fu zhi tu* 出嫁女為本宗降服之圖), "Mourning Degrees for External Relatives" (*wai qin fu tu* 外親服圖), "Mourning Degrees for Wife's Relatives" (*qi qin fu tu* 妻親服圖), "Mourning Degrees for Three Fathers and Eight Mothers" (*san fu ba mu fu tu* 三父八母服圖). Details of the diagrams see *DML*, 9-14.

Contemporary scholar Wu Shuchen points out that two legal concepts—“benevolence” (*ren* 仁) and “rites” (*li* 禮)—are legacies that Confucius left to Chinese legal traditions. The concept of *ren* emphasizes the importance of human qualities, especially the importance of benevolence in a ruler, while *li* guides human behavior through rituals and moral leadership.⁸ Wu argues that *Xunzi* (ca. 298–234 BCE), as a follower of Confucian philosophy, “combined the Confucian tradition of rites with codified law”; “rites and moral principles were the theoretical foundation of law and punishment, and law and punishment were the application of moral principles.”⁹ The incorporation of mourning ritual relationships into the legal system elaborated *Xunzi*’s approach in the context of legal sentencing. For example, one of the legal principles of the imperial laws was that, in cases involving physical conflict, if the perpetrator was related to the victim, the perpetrator’s sentence would be reduced if he or she was superordinate to the victim in a familial relationship; however, the sentence would be increased if he or she was the subordinate. The closer the familial relationship as articulated through the ritual mourning system, the more a sentence might be increased or reduced. For instance, parents, who mourn their children to the highest degree in mourning rituals and vice versa would not be punished for beating their children as long as a beating did not leave bodily mutilations, but children would be punished with the death penalty for any form of beating their parents.¹⁰ Although dynastic codes always

⁸ Wu’s argument is summarized by Ming-te Pan. See Pan, “Confucianism and the Chinese Legal Tradition: Recent Scholarships on Chinese Legal History and Jurisprudence Studies”; the quotation appears on page 224.

⁹ *Ibid.*, 225, 226.

¹⁰ In the Tang, Ming, and Qing codes, any form of beating of parents by children would incur the death penalty, even if the beating did not result in injuries; the Yuan code applies the death penalty only when such a beating results in injuring the parents. Qu, *Zhong guo fa lu yu she hui*, 34-35.

incorporated ritual mourning as a foundational legal principle in imperial China, it was not until the Ming dynasty that the codified law directly encoded a system of ritual mourning.

The Ming code's distinctive designation of degrees of mourning is the product of a shift, from the founding of the Ming, in the state's relationships toward its principal legal subjects—commoners. Kathryn Bernhardt points out that a distinctive feature of both Ming and Qing legal codes was their absorption of popular social practices, a “peasantization of law.” Building on Bernhardt's framework, Matthew Sommer argues that, “between the Tang–Song [618-1279] and Ming–Qing periods, the emphasis of codified law shifted away from aristocratic priorities toward those of ordinary commoner peasants.”¹¹

The inclusion of the mourning system in the Ming code bears out Sommer's observation. In the Tang–Song legal systems, the “commoners” (*liang* 良) were ruling elites who were familiar with Confucian ritual systems and proper distances between people. There was no need to articulate the content of the ritual system in the law. In contrast, the “commoners” in the Ming legal system were commoner-peasants, who were not familiar with ritual systems initiated by the ruling elites. *The Great Ming Code* situates the mourning system at the beginning of the text to guide its readers accordingly. This placement indicates at least two points: (1) the Ming state imposed its new version of the Confucian familial order through the law, and (2) during the Ming era, the

¹¹ Bernhardt, “A Ming-Qing Transition in Chinese Women's History? The Perspective from Law.” Building on Kathryn Bernhardt's observation, Matthew Sommer examines sexual morality in the Qing code and argues that the main concern shifted from the aristocratic household in the Tang code to the commoner-peasant's household in the Qing code. Sommer, *Sex, Law, and Society in Late Imperial China*, 14-15, 112.

Confucian ritual system—which centered on the mourning system—was no longer a high moral and cultural standard applying to the aristocracy, but had become a baseline moral and legal system that everyone of all social statuses should follow, even though they might not be familiar with the ritual system.¹²

The previous two points can also be observed in Zhu Yuanzhang's ritual reform, which extended the ritual system to commoners. Modern scholar Ho Shu-Yi points out that, as a founding emperor, Zhu Yuanzhang needed to restore the social order after it was fractured by the end of the Yuan dynasty. Zhu Yuanzhang not only harshly punished anyone who violated the law, especially officials, but also conducted interrelated legal and ritual reforms.¹³ Instead of transmitting received ritual practices, Zhu Yuanzhang established a revised ritual system, and spent substantial energy designing rituals for commoners (*shu ren* 庶人). Ho argues that Zhu Yuanzhang's ritual reform focused on restoring the social hierarchy, which must be materialized through *li* 禮, which in imperial China denoted “rites,” “rituals,” and “decorum.”¹⁴ The ritual system included not only sacrifices to spirits, but also daily practices that reinforced the social hierarchy. The way people ate, drank, and dressed as well as the styles appropriate in housing and traveling varied according to social status. A member of an official's family would behave differently from a member of a commoner's family. Ho points out that, compared with the ritual codes of Tang and Song (960-1279) China, the ritual code that Zhu

¹² Peter Bol has shown how Neo-Confucian scholars influenced the spread of Confucian mourning rituals across local society. Bol, *Neo-Confucianism in History*.

¹³ Ho Shu-Yi points out that Ming Taizu's policy emphasized the importance of both the law and the ritual, which differ from classic Confucian ideas, but Taizu's intention to proclaim himself a Confucian sage king by discussing and creating the ritual system (*zhili* 制禮) is quite evident. Ho, *Ming dai shi shen yu tong su wen hua: yi sang zang li su wei li de kao jiu*.

¹⁴ *Ibid.*, 33.

Yuanzhang promulgated in *The Great Ming Collection of Rites* (*Da Ming ji li* 大明集禮) substantially added rituals for commoners, including their daily and mourning rituals. In other words, Zhu Yuanzhang used both the legal and ritual systems to create a new social order and to reform not only officials but also commoner-peasants.

The hierarchical family norm that the Ming code established applied to people of all social statuses. Women's shifting legal positions, which were articulated in the Ming code, applied to, at the minimum, local gentry, merchants, and land-owning farmers, if not peasants of low social status. As I show in later part of the chapter, these changes include women's incorporation into their husbands' families, and the increasing mobility of women in concubine and female servant statuses.

From Daughters to Daughters-in-law

Ming legal reforms responded to Yuan governance in two ways: by reacting strongly against Yuan legal codification of family structures deemed by the early Ming court to be antithetical to Han Confucian norms, and by quietly continuing Yuan innovations that strengthened the patriline. As Bernhardt argues, the legal systems of late imperial China had “a greater emphasis on patrilineal as opposed to bilateral kinship ties and on a woman's role as wife/daughter-in-law as opposed to her role as daughter.”¹⁵ In this section I demonstrate the ways in which the Yuan government impacted a woman's position in the family as articulated in the Ming legal system.

Bernhardt discusses the new transformation in the configuration of the patriarchal family from a legal perspective:

¹⁵ Bernhardt, “A Ming–Qing Transition in Chinese Women's History?” 47

revisions [that affected women] signified a greater legal incorporation of a woman into her marital family and a concurrent weakening of her legal ties to her natal kin.¹⁶

Bernhardt shows that, in late imperial China, changes in betrothal, marriage, divorce, and property rights all positioned women only in relation to their marital families. Bernhardt argues that these changes show post-Song law gradually absorbing popular social practices and expectations. Bernhardt labels this process “the peasantization of law,” and argues that it “had the effect of narrowing the gap between codified law and customary practice.”¹⁷ In other words, state ideology and social practice increasingly overlapped. Bernhardt emphasizes the ways in which popular social practices influenced codified law, but the gradual overlap between state ideology and customary practice worked in both directions.

Bettine Birge’s research reveals the Mongol Yuan dynasty’s influences on the Ming legal system. She argues that “the Yuan administrators, when faced with the challenges of governing a multi-ethnic empire, devised new and hybrid forms of law that sought to reconcile Chinese Confucian sensibilities with those of steppe peoples and other constituents of their empire.”¹⁸ Among these new and hybrid forms of law, Yuan inheritance and marriage laws unintentionally reinforced patrilineal kinship, and emphasis continued under the Ming.

Bettine Birge argues that both of the patriline-friendly legal innovations in question stemmed from a “steppe culture [that] emphasized control of people rather than land.”¹⁹

¹⁶ Ibid., 40.

¹⁷ Ibid., 48.

¹⁸ Birge, “How the Mongols Mattered: A Perspective from Law,” 87.

¹⁹ Birge, “Women and Confucianism from Song to Ming: The Institutionalization of Patrilineality,” 217.

Transformations to the Patriarchal Family in Ming China

From the perspective of inheritance rights, pre-Song (960–1279) laws appointed a daughter as the second inheritor after sons; if a man had no sons (including adopted sons), his daughter could inherit his properties by default. However, adopting the Yuan (1271–1368) precedent, the Ming law designated daughters as third inheritors, after brothers and male cousins from the father's side.²⁰ Birge argues that these changes in women's inheritance rights stemmed from differences between Song and Yuan approaches to taxation and military service. Song taxation was based on land. As long as someone, regardless of gender, paid taxes based on the amount of land owned, the Song government did not care whether the land was inherited by a son or transferred to another patriline, such as a daughter's marital family. In contrast, following steppe traditions, the Yuan government based taxation and military service policies on human resources. The Yuan government categorized and ranked households based on the "services" they provided, as embodied in careers as soldiers, weavers, or winemakers. Based on this logic, if a daughter inherited her parents' household assets and married into another family, the government would lose the service that had been assigned to her parents' household.

For the Song government, the merging of two households made no difference to revenue collection, which in turn paid for military service. In contrast, under the Yuan system, organizing households with fixed patrilineal lines helped to ensure continuity in service provision. The Yuan thus denied daughters the right to inherit "extinct households" (*jue hu* 絕戶), or households without sons to inherit them from their parents,

²⁰ Birge, "Women and Confucianism from Song to Ming: The Institutionalization of Patrilineality."

unless those daughters could find uxorilocal husbands to maintain the “patrilineal” lines attached to those households. In cases in which an agnatic relative inherited an extinct household, he also had to inherit military service or other responsibilities assigned to the household as a necessary condition of claiming an inheritance. Birge concludes that keeping males as sole successors of family lines “coincided with Confucian ideals of patrilineality, which Confucian reformers in the Ming were to capitalize on.”²¹

Another Mongol Yuan innovation that agreed with Confucian patrilineal ideals appeared in its marriage law. Beginning in the Yuan dynasty as a customary law, and continuing in Ming and Qing codified law, certain statutes forbade widows from keeping their dowries if they decided to remarry. In steppe traditions, marriage was a means to obtain human resources. A prospective husband “paid” (with valuables or years of labor) the family of his prospective wife to obtain ownership over his bride. The payment was expensive and was for life because a nomad did not have a fixed domicile and a married daughter “belonged” to her husband completely after he paid the price. The levirate custom should be understood from the perspective of keeping certain human resources within a patrilineal line. This marital custom cut women’s ties with their natal families and resulted in changes in a widow’s right to control her dowry.

Compared with Yuan married women, Song women had more control over their dowries. If they became widows, they kept their dowries from a first marriage when they remarried; if they decided to remain chaste, they would typically stay with their natal families. Song women thus remained relatively independent from their husbands’

²¹ Birge, “How the Mongols Mattered: A Perspective from Law,” 99.

families and close to their natal families.²² In contrast, Yuan women were incorporated exclusively into their husbands' families, according to Mongolian marital practice. Wives were considered literally as the property of their husbands; their dowries belonged to their husbands, and widows were obligated to remarry their late husbands' relatives (usually brothers, and sometimes sons if the widows were not biologically related to the sons).

The levirate custom prevented women from ever leaving their husbands' families directly challenging Han Chinese Confucian familial norms that emphasized maintaining appropriate distances between family members. Levirate ignored the maintenance of proper distances between family members. The Yuan government first legalized and then outlawed levirate marriage for non-Mongolian families. In 1271, the government issued an imperial edict ruling that distinct ethnic groups should follow distinct marital customs and forbade Han families from practicing levirate. Yet, ten months later, the Yuan emperor issued another edict asking all ethnic groups to practice levirate.

This new statute generated numerous legal disputes. Therefore, in 1276, the Yuan government revised its policy: a widow did not have to marry one of her husband's male relatives if she decided to remain chaste. This, according to Birge, produced the practice of widow chastity that later became such a pervasive phenomenon. After this new pronouncement, the government continuously produced new legal precedents that further articulated the practices of levirate marriage and of controlling women's dowries. Finally, in 1330, the Yuan government resumed its 1271 policy and forbade Han families from

²² Ebrey, *The Inner Quarters: Marriage and the Lives of Chinese Women in the Sung Period*.

practicing levirate, a policy reversal that came too late to remove Yuan traces from marital law and custom.²³

Although the levirate custom provoked disputes, the complete incorporation of women into their husbands' families incidentally corresponded to familial norms promoted by neo-Confucian scholars. Neo-Confucian ideals were incorporated into state orthodoxy early in the Ming era. The change in family norms that merged women into their husbands' families was reinforced in Ming and Qing legal systems, and came to dominate marital practice across regions and status groups. Widows lost control over their dowries when they remarried. Widows' parents-in-law, not their natal parents, came to arrange widows' second marriages. Widows stayed in their parents-in-law's families if they remained chaste, and the promotion of widow chastity developed and reached its peak under the Qing.²⁴ After the Yuan, women's ties to their natal family became attenuated after marriage, and women's primary identities shifted from daughter/wife to being daughter-in-law/wife.

Similar observations also apply to the categorization of "children," for example in the "Striking Paternal Grandparents or Parents" statute in *The Great Ming Code*, the assumed perpetrators under this statute included sons, grandsons, and sons' and grandsons' wives and concubines. In contrast, when constraining violence against parents, the Tang legal system treated wives and concubines under separate statutes, and both wives and concubines in the Tang were punished less severely than in the Ming for striking parents-in-law. Conversely, Tang parents-in-law would be punished more

²³ Birge, "Liao Jin Yuan fa lu ji qi dui zhong guo fa lu chuan tong de ying xiang."

²⁴ Ibid., Birge, "Women and Confucianism from Song to Ming: The Institutionalization of Patrilineality"; Birge, "How the Mongols Mattered: A Perspective from Law."

severely if they used excessive violence against their daughters-in-law. The Ming statute's categorization of wives and concubines as daughters further buttressed the folding of women into their husbands' families.

In the Ming penal code, unmarried daughters were categorized as the "sons" of their natal families, and married women—reflecting the nearly lifelong status that most women had—as the "sons" of their husbands' families. In this patriarchal legal system, a woman (as a wife or a concubine) was a child of both her natal family and her husband's family, but a man was always solely a child of his birthparents.²⁵ The Ming legal structure produced a perpetual identity crisis for a woman—she was simultaneously a "son" of her natal family and of her husband's family.

Ironically, a woman's existential crisis provided her an alternative when encountering domestic violence. Such alternative was not open to men. In cases in which parents' abusive violence disabled daughters-in-law, as legal "sons" in both their natal and their husbands' families, they could be sent back to their natal families and the abusive parents would be obligated to support them financially (*yang shan* 養贍).²⁶ While actual practice might differ from the regulations encoded in law, the legal regulation favors the perspective of female family members. Daughters-in-law could leave their marital families but sons were always sons; their connections with their patrilineal families could never be broken even if their parents were using abusive and

²⁵ The punishment for a man striking his parents-in law is 100 strokes of beating with a heavy bamboo stick, which is severe but still significantly lighter than the punishment for a woman striking her parents-in-law, which is decapitation. See *DML*, 187-188.

²⁶ According to Birge, the concept of *yang shan* 養贍 was also one of the results of Yuan influence. Birge, "How the Mongols Mattered: A Perspective from Law."

illegal violence against them.²⁷ The strength of the bond between a person and his or her patrilineal family determined his or her position in the family. A man could never leave his patrilineal family, but he enjoyed privileges as a legitimate and stable descendant. In contrast, until a woman bore a child for her husband's family, thereby establishing an unbreakable bond, her position would be insecure. In the context in which women were recognized only as wives/daughters-in-law, the need for women to have children to be secured in their husbands' families intensified, producing anxiety.²⁸

These new familial norms emphasizing patrilineal descent were a contingent influence of the Mongol empire. Although the founding Ming emperor claimed that he had restored Tang traditions and purged Yuan influences, he tolerated Mongolian customs when they matched the interests of the "Confucian family." In addition to women's shifting identity (from daughters to daughters-in-law), another change that substantially affected a woman's status in the family was the domestication of concubinage.

Recalculating Women's Status in the Family

Two historical developments of the Ming had major ramifications for the re-configuration of patrilineal structures and women's positions within them: the domestication of concubinage and the blurring of distinctions between wives, concubines, and female servants. The domestication of concubinage reinforced the blurring of

²⁷ The gender difference that emerged from the family system caused considerable anxiety for sons and daughters: a son could never escape from his natal family, and a daughter always longed for her natal family's recognition. Steven Sangren has elaborated on this argument by examining the popular deities, Nuoza and Guanyin, in multiple studies. See Sangren, "Myth, Gods and Family Relations" and Sangren, *Filial Obsessions: Chinese Patrilineality and Its Discontents*.

²⁸ I elaborate this argument in Chapter Three and Four.

boundaries between women formally married to a man, and women to whom men had legally sanctioned sexual access. The marriage system in imperial China was a polygynous monogamy system. A man could marry only one woman as his wife, but the law granted him the right to live and have sexual relations with multiple women at the same time. A man with concubines but no wife was considered legally “single” in imperial China. As the only legal spouse, wives enjoyed absolute superior status over concubines. Between the eleventh to the sixteenth centuries, as Neil Katkov’s research shows, concubines were gradually “domesticated” and became “bona fide members of the Chinese family, firmly rooted in the kinship system.”²⁹ By the Ming, both legally and ritually, concubines who bore children had come to enjoy a quasi-spousal status. In other words, concubines could compete with wives if they had children.

The polygynous monogamy marital system demarcated the hierarchy between a wife and a concubine through various rites. A wife entered her husband’s family through a series of proper rituals: of betrothal, of the display of betrothal gifts, of wedding rites, and of the wife’s presentation to her husbands’ ancestors. This series of rituals gave a woman recognition, in the family, community, and under law, of almost equal (yet still secondary) status vis-à-vis that of her husband in her husband’s family. In contrast, the only ritual in which a concubine might participate was the act of serving tea to the wife. By kneeling down and serving a cup of tea to the wife, a concubine symbolically and literally demonstrated her subordinate position.³⁰

²⁹ Katkov, “The Domestication of Concubinage in Imperial China,” 1.

³⁰ Ebrey, *The Inner Quarters: Marriage and the Lives of Chinese Women in the Sung Period*, 82-98; Bernhardt, *Women and Property in China: 960-1949*, 162.

In imperial China, rituals were the basis of legal relationships and obligations. A wife enjoyed legally superordinate status over her husband's concubines because, through the wedding ritual, she was made the "equal" of her husband, and both were masters of the concubines.³¹ Without proper marital rituals, a woman did not "marry" her husband, but "was 'collected' or purchased by a master [*naqie*]."³² The relationship between a concubine and her master was thus easily dissolved: even a wife could buy and sell a concubine without her husband's permission.

The demarcation between the wife and the concubine became fluid, however, when the definition of a spouse was no longer based solely on rites, but was instead based on reproductive abilities. During the Ming era, a wife's superordinate status vis-à-vis her husband's subordinate concubines was no longer unchallengeable. One indication of this change appears in *The Great Ming code*, which softened punishment for husband who reversed the hierarchal order between wife and concubine from penal servitude to beating.³³ Furthermore, while men with concubines but no wives were still considered legally single, a concubine would be considered a legal spouse if she bore a man's children. As Katkov shows, compared with the Tang legal system (618–907), the Ming system eliminated the servile marker of concubines and treated them as spouses—concubines assumed legal responsibilities to their husbands' families that were similar to those attaching to wives.

³¹ Yu Xinzong, *Zhong guo jia ting shi*, 114.

³² Debby Chih-Yen Huang and Paul R Goldin, "Polygyny and Its Discontents: A Key to Understanding Traditional Chinese Society," 21.

³³ The punishment in the Tang code for a husband who treated his concubine as a wife was one-and-a-half years in exile, while in the Ming code it was a beating of 100 blows with a heavy bamboo stick. Ibid.

Kathryn Bernhardt's also argues that historical change in status boundaries between wives, concubines, and female servants—from absolute impermeability in the Tang and Song (960–1279) to increasing fluidity in the Ming—further ramified into inheritance rights. In the Ming, legally, household property was to be shared equally by all sons, regardless of whether their mothers were wives, concubines, or female servants.³⁴ Although a Ming husband still would be punished for reversing the hierarchy between the positions of his wife and of his concubine, he was allowed to promote a concubine to the position of his wife after the latter died. Bernhardt attributes these developments to increased social mobility in the late imperial era.³⁵ In sum, not only ideology, as embodied in legal and ritual texts, but also social and economic changes supported the domestication of concubinage and the recognition of concubines' contributions to their husbands' families—having children.

By the Ming era, then, the practice of concubinage had become pervasive among families who could afford them. Having concubines in a sense advertised one's social status and economic wherewithal. Based on materials collected in *Complete Collection of Writings and Illustrations, Past and Present* (*Gu jin tu shu ji cheng* 古今圖書集成 [1725-1726]), Xu Hong argues that the percentage of scholar-officials having concubines was 65.7%, while it was 34.3% for commoners. In an examination of the Peng family in Southeastern China, Yu Xinzhong calculates the percentage of men having concubines based on their social status: 0% for commoners, 10% for people who had passed

³⁴ I elaborate this argument in chapter three.

³⁵ Bernhardt, *Women and Property in China: 960–1949*, 168-169. Hsieh Bao Hua's research on Ming concubines articulates the social and economic context that emerged with the prevalence of concubinage. Hsieh, "Concubines in Chinese Society from the Fourteenth to the Seventeenth Centuries"; see also her article, "The Market in Concubines in Jiangnan during Ming-Qing China."

licensing exams, and 27% for people who had passed provincial exams. Liu Ts'ui-jung and Lai Hui-min's investigations of Ming–Qing families also suggests that the number of concubines in a location rises when the number of men having official titles rises.³⁶ Thus, research shows that keeping concubines was a common practice among elite gentry and merchant families in Ming-Qing China. According to researchers' estimates, if peasant and lower-status families are included, only 3-5 % of families had concubines. Despite this small proportion, it was elite patrilineal families with concubines who developed and controlled the discourses that disseminated familial norms. Men of letters in these families wrote and interpreted increasingly complex legal, didactic (such as family instructions), and literary texts to propagate the emphasis on having concubines and having heirs. Among these texts, short stories, novels, and dramas were popular media spreading these ideas to non-elite status groups and classes.

The moral basis of the domestication of concubinage was the reproduction of the family. This moral image of concubines is further articulated in the genre of biographical writing, which stress narratives exhibiting the moral performances of the deceased. In the late Ming, in addition to depicting virtue, literati embellished biographies with personal memories of and feelings toward the deceased.³⁷ The two biographies about concubines I consider below reflect this interest in moral performance and provide details about how women gained the position of the quasi-wife.

³⁶ Lai, "Ming Qing hai ning cha chen liang jia zu ren kou de yan jiu"; Liu Ts'ui-jung, *Ming Qing shi qi jia zu ren kou yu she hui jing ji bian qian* / Lineage population and socio-economic changes in the Ming-Ch'ing periods.

³⁷ Martin Huang, "Introduction Remembering Female Relatives: Mourning and Gender in Late Imperial China."

The first example was written by Shi Jian 史鑑 (1434–1496), a famous scholar, bibliophile, and connoisseur whose opinions on local politics were appreciated by local officials. According to the epitaph Shi wrote about his concubine, he enjoyed an ideal family life. His concubine, Shuxiao Lanzheng 叔蕭蘭徵, was a perfect fit for his family. Shuxiao entered Shi's household for the proper reason. Shi's wife Li *shi* could not become pregnant, so Shi's father ordered him to marry a concubine so that he could have an heir. Afterward, Shuxiao *shi* gave birth to two sons and one daughter. In the epitaph, Shi recorded events that showed that the concubine was treated as a wife. Shi Jian's parents treated the concubine as if she were a wife, and the real wife was so close to the concubine that they were like sisters,³⁸ which indicates their relatively equal status in the family.

Based on Shi Jian's description, after his wife passed away, the concubine played the role of the wife and managed the family's affairs (*she nei shi* 攝內事). The concubine also treated the wife's relatives as her own. She mourned the wife's relatives when they passed away, arranged marriages and weddings for them, and took care of them when they were sick (*sang yan ku zhi hun yan xiang zhi fa yan zhou zhi* 喪焉哭之、婚焉相之、乏焉賙之). When the concubine died, the wife's relatives mourned her as if she were their own relation. Namely, the concubine not only assumed the position of the wife by performing wifely duties, but she essentially "became" Shi Jian's wife and was recognized as such by the legal wife's relatives.

³⁸ Shi Jian, "Wang qie Shuxiao shi mu zhi ming" 亡妾叔蕭氏墓誌銘, in *Xicunji*, 8: 141.

Shi expressed gratitude that his concubine's morality prevented him from being criticized for forgetting his late wife:

I could avoid the blame of forgetting one's late wife because of the help from Shuxiao [the concubine].

某獲免忘故妻之謫，叔蕭之助也。³⁹

Shi Jian was aware that allowing his concubine to perform wifely duties would draw criticism, and he justified his behavior by defending her morality, emphasizing that she treated her two sons as if they were sons of the wife. He also pointed out that when the concubine passed away, her funeral reminded her two sons of their principal mother (the wife). Ironically, Shi's justification revealed precisely that the concubine enjoyed the position of a wife.

In another biography, Song Luo 宋鞏 (1634–1714) wrote about his birth mother, who was a concubine. Born in the Ming era, he became a high-ranking official in the early Qing. Song's birth mother, Zhao *shi* 趙氏, was one of his father's three concubines. Song described how his birth mother was such a moral person that his grandmother liked her greatly and his principal mother (the wife of his father) thus entrusted all the responsibilities of managing the household to her (*sui yi jia zheng quan wei yan* 遂以家政全委焉).⁴⁰ Song presented his birth mother as the perfect concubine, sharing a wife's obligations without competing for her familial position. Song had not known that Zhao was his birth mother until he was told by a female servant. When he asked her if she was his birth mother, Zhao smiled but did not answer.

³⁹ Ibid.

⁴⁰ Song Lou, "Xian sheng mu Zhao tai ru ren hang lue" 先生母趙太孺人行略, in *Xi beo lei gao*, 30: 284-86.

Transformations to the Patriarchal Family in Ming China

In both of the abovementioned biographies, the concubine was treated as a wife or as a quasi-wife, and assumed wifely responsibilities. These two works nevertheless carefully articulated and justified the “inappropriate” treatment that the concubines received. Both writings demonstrate that the wife was the principal mother of the children, regardless of the identities of their birth mothers. Here, a concubine’s death reminds her children of their principal mother (the wife), and the birth mother never openly admits her connection with her son. Although these concubines were portrayed as enjoying the status of a wife, the main reason that concubines were in a family was to continue the family line, and concubines were not supposed to challenge the wife’s position or right to act as the principal mother and household master.

When the definitions of family members were based solely on formal marital ritual, wives’ positions could not be challenged by concubines. The domestication of concubinage, however, allowed concubines to be official family members in the kinship system, as long as they had children. The definition according to which a woman would become a family member shifted from being based primarily on ritual and the natal family’s social status to being based on reproductive ability and a woman’s sexuality. This change not only made it possible for a concubine to enjoy the status of a wife, but also enabled a female servant to enjoy the status of a concubine.

Examples of female servants who became concubines and sometimes even concubines who became wives were common themes in many popular Ming novels. The following scene from a Ming novel, *Bottle Gourd Filled with Vinegar* (*Cu hu lu* 醋葫蘆), illustrates the implications of the above analysis. The novelist assumed that once a female servant had sex with her male master she should be considered the master’s

concubine. The novel features the ways in which a jealous wife, Du *shi*, constrains her husband's sexuality with physical and oral violence and manipulation. In one chapter, the husband spends the night with a female servant. When the wife finds out about the affair, she beats the female servant nearly to death. Because the wife thinks that the female servant is dead, she asks a male servant to throw the body in the river. However, the male servant finds out that the "body" which he is carrying is still alive. He decides to send the female servant to a close friend of his master, reasoning:

The woman had intimate relations with my master. For a humble person such as myself, she thus has possessed the status of master's concubine.
況此女既與家主有私，在小人，即有諸姨名分...。 ⁴¹

When the master's friend, hesitate to take the woman in, tries to sound the servant out, the servant laments:

Since, Sir, you did not want to take the woman in, I supposed that she would inevitably become a ghost haunting the ditches. This humble person, being unable to preserve her life, yet killing my master's concubine; that would be unrighteous. Having been entrusted by my mistress, yet unable to complete my mistress's command, that would be disloyal. Being both unrighteous and disloyal, how can I go on living?
員外既不肯收這女子，料他必作溝渠之鬼。小人不能全其性命，而斃家主之姨，是不義也；既受主母之托，而不能盡主母之命，是不忠也。不忠不義，徒活何為？ ⁴²

With this anguished question, the male servant tries to commit suicide, prompting the friend to agree to take care of the female servant.

While this work dramatizes the character of the male servant, what the servant says hints at an important historical change at the time—the emphasis on sexual connection when defining a woman's status in the family. According to the novelist's logic, "you *si*"

⁴¹ *Cu hu lu*, vol. 2, 8.8a.

⁴² *Ibid.*, 9a–9b.

有私 (having sexual intimacy) changes everything. Before having sexual intercourse with the master, the female servant had the same status as a male servant; afterwards, the female servant became a concubine of the master, obligating the male servant to be loyal to and try to save her. The male servant also points out his dilemma: trying to protect his master's concubine while trying to be loyal to his female master. This dilemma reflects a tension that common to among Ming texts written about the family: the need to preserve the patrilineal descendant (the female servant later gives birth to a child and relieves the male master's longstanding anxiety over being heirless), and the need to respect the powerful status granted to the wife.

Another well-known figure in a novel was Pang Chunmei 龐春梅, a female servant in *The Plum in the Golden Vase* (*Jin ping mei* 金瓶梅), one of the most popular Ming novels, and one which documents details of the Ming society. Pang's life story illustrates a trajectory of social mobility available to women in the sixteenth century and beyond.⁴³ In the novel, Pang begins as a servant of Pan Jinlian 潘金蓮, the fifth concubine of the male master, Ximen Qing 西門慶; by the end of the novel, Pang holds the position of wife in another family. Pang's climb begins when she has sexual relations with Ximen Qing and his son-in-law, Chen Jingji 陳敬濟. After Ximen dies, Ximen's wife finds out about Pang's affair with the son-in-law and asks a go-between to sell Pang. When the wife urges the go-between to sell Chunmei without delay, the go-between responds,

The fact of the matter is that, at present, Commandant Chou Hsiu would like to purchase her in the hope of obtaining a son but is only willing to offer twelve taels of silver for her . . . it is said that his honor Chou Hsiu, on previous occasions, when

⁴³ Zurndorfer, "Prostitutes and Courtesans in the Confucian Moral Universe of Late Ming China (1550–1644)."

attending parties at your place, has seen the young lady [Chunmei] and been impressed by the repertoire of songs she could sing, as well as her demeanor....⁴⁴

Pang thus is sold to the Chou family to be a concubine by virtue of her sexual attractiveness and her reproductive ability. Pang later has a son. Her new husband loves the son and promotes Pang to the status of wife after a previous wife passes away. Because of her husband's social status, Pang suddenly enjoys a higher social position than she had had with her previous master; she is even able to help her previous female master (the wife of Ximen Qing) clear her name when the wife is falsely accused of committing illicit sexual behavior.⁴⁵ While Pang's changing status in the novel might be a metaphor suggesting the rise and fall of the Ximen family, as a plausible plot device, it also indicates the possibility of transition servant to master status through sexual intercourse with and the ability to reproduce for a male head of family.

In the sixteenth and the seventeenth centuries, if bodily connection (sex and reproduction) markers of family membership were stronger in literary imaginations than in everyday practice, by the eighteenth century, under the Qing dynasty(1644-1911), this principle had come to be inscribed in legal precedent.⁴⁶ Before the Qing, there was no punishment or "compensation" for a male master having sex with a female servant, even though the law specified that sex was legally permissible only within marriage. Male masters enjoyed complete sexual access to their female servants. According to Matthew Sommer's research, however, because Qing law considered "every woman" in a household, including female servants, the equivalent of "wife." The Qing code thus

⁴⁴ Xiaoxiaosheng, *The Plum In the Golden Vase, Or; Chin P'ing Mei*, trans. David Tod Roy, 5.94.

⁴⁵ *Ibid.*, 5. 151-173, 289-308.

⁴⁶ Sommer, *Sex, Law, and Society in Late Imperial China*, 50.

justified male masters' sexual access to their female servants by categorizing those sexual relationships as taking place within "marriage." Conversely, the sexual relationship "granted" a female servant a quasi-spousal relationship with her master, the consent of female servants being irrelevant to this legal principle.⁴⁷ In sum, the establishment of a woman's spousal relationship with a man had expanded—from being based primarily on proper marital rituals to including sexual intercourse alone as a proper basis.

Thus, during the Ming dynasty, the domestication of concubinage blurred not only the boundary between wives and concubines but also that between wives and female servants. Concubines came to be recognized in the kinship system because of their specific contribution to their husbands' families—reproducing sons. This recognition changed the ways in which women were defined as their husbands' family members. While wedding rituals remained important, having sexual intercourse with household masters and giving birth to male children became criteria by which women could be considered official family members. The superior status of the wife, which was based on proper rituals, was challenged by these newly emphasized criteria: bodily connection, through sex and reproduction, with the head of the patriarchal family (a husband or male master). "Bodily connection," established by sex, or better yet by having sons related to the patrilineal family, thus became a new alternative for a woman seeking to secure her position in a patriarchal family. In later chapters, I elaborate on how this new emphasis changed the ways in which people in the Ming conceptualized familial relationships and the family hierarchy.

⁴⁷ Ibid.

Conclusion

The transformation of the patriarchal family in the Ming-Qing period intensified the need for women to be recognized by their husbands' families. On the one hand, women's identities shifted from being daughters and wives to being mainly daughters-in-law and wives; they no longer had strong connections with or support from their natal families, and they needed to establish and secure their positions in their husbands' families through both ritual and reproduction. On the other hand, Ming society was no longer a society marked by a rigid social hierarchy. Women's social positions might change radically based on the men with whom they established "marital" relationships. A woman of a lower social status might become a servant or be purchased as a concubine, but she could gain quasi-spousal status in her master's or husband's family by establishing "a bodily connection"—having sex and giving birth—with the patriarchal family.

During this time wives were merged completely into their husbands' families, but their status in those families was subject to constant competition with their husbands' other "marital" partners. The domestication of concubinage changed the family norm in Ming China from polygynous monogamy to something similar to polygamy. Upon having a child, a concubine would be recognized as a quasi-spouse or a "small wife" of her husband within the kinship system. Conflicts between these women emerged in this historical context.

In the following chapters, I use violence committed by women as a vantage point from which to observe how women maintained their hierarchical and superior positions when encountering changes in family norms in Ming China. The next chapter addresses

Transformations to the Patriarchal Family in Ming China

wifely violence, and I argue that the rising status of concubines—whose ability to bear children became central to how they were cast in stories about them—and the emphasis on having blood-related heirs affected how violence perpetrated by wives was viewed during the Ming period.

CHAPTER 3

JEALOUSY AND NON-JEALOUSY:

CONSTRAINING AND CELEBRATING WIFELY VIOLENCE ¹

Conflicts between wives and their husband's concubines were commonly recorded in imperial China. Consequently, accounts of violence committed by wives against their husband's sex partners appear frequently in a diverse array of texts and such episodes are often attributed to the jealous nature of women. The extent to which women's possessive behaviors were constrained is often cited by scholars when evaluating the level of patriarchal control husbands exercised over women. This scholarship has brought attention to the phenomenon of jealous wives in medieval China (Six Dynasties [225-589], Sui dynasty [581-618] and Tang dynasty [618-907]) and late imperial China. For example, Jen-der Lee argues that behaviors of jealous and violent wives were commonly acceptable because of specific historical contexts: the decline of Confucian moral teachings, rising nomadic influence, and an emphasis on the pedigrees of both husbands and wives.² While scholars have acknowledged the active social role that jealous wives played in medieval China, their analysis of the phenomenon of jealous wives in late imperial China focuses primarily on their representation in literature, describing how they were condemned, disciplined and reformed to justify the patriarchal family and polygamous marital system.³ The constraint of jealous, dominant wives and the mocking

¹ A shortened and revised version of this chapter is published in *Ming Studies*. "Jealous and Violent: Constraining and Celebrating Wifely Jealousy in Mid-to-late Ming China," *Ming Studies* 79 (2019), 21-48.

² Jen-der Lee explicitly links the connection between women's jealousy and historical change during the Southern and Northern dynasties. She also points out that, during this period, aristocratic women used jealousy as a tactic for controlling their husbands' sexual access to other women in the household. See "Querelle des Femmes? Les Femmes jalouses et leur contrôle au début de la Chine médiévale."

³ Yenna Wu, *The Chinese Virago a Literary Theme*; Keith McMahon, *Misers, Shrews, and Polygamists: Sexuality and Male-Female Relations in Eighteenth-Century Chinese Fiction*.

of henpecked husbands are prevalent themes in late imperial literature.⁴ Dorothy Ko observes sharply that the concept of the jealous wife was a derogatory substitute for that of the “assertive woman,” and the male’s sympathy for victims of jealous wives indicated “mounting concern with strong and aggressive women in and out of the inner chambers.”⁵

This chapter builds on scholarship that emphasizes the position wives assumed in late imperial households, authorizing them to discipline subordinates such as concubines and servants with violence under certain circumstances. A fifteenth-century Ming legal case, involving a wife, Wang *shi* 王氏, purported to have killed more than ten female servants out of jealousy, exemplifies the legal privilege wives possessed for using disciplinary violence against their inferiors.

Wang *shi* was the wife of a retired official, Yang Xuan 楊宣 (1425–1497). Wang had beaten more than ten female servants to death and hidden their bodies in her garden, but Yang could do nothing to stop her. In 1487, the Eastern Depot (*dong chang* 東廠, a secret policy agency staffed by eunuchs) discovered the murders and reported the case to the judicial authorities. Both Yang and his wife were liable for the killings, but Yang’s official title exempted them from physical punishment and allowed them to pay fees in lieu of such a penalty. However, the Chenghua 成化 Emperor (b.1447; r.1465–1487) intervened, ruling that the wife not be fined but rather flogged with fifty blows with a heavy bamboo stick. On the one hand, the emperor wanted to suppress the ferociously jealous wife. On the other hand, not only did Wang *shi* still receive a light punishment in

⁴ Yenna Wu, “The Inversion of Marital Hierarchy: Shrewish Wives and Henpecked Husbands in Seventeenth-Century Chinese Literature.”

⁵ Ko, *Teachers of the Inner Chambers: Women and Culture in Seventeenth-Century China*, 103.

comparison to those of lesser status who were convicted murder,⁶ but, as the record shows, she continued her jealous behavior after the flogging, attempting to kill a son born to one of Yang's concubines.⁷ A century later, when a man of letters, Shen Defu 沈德符 (1578-1642), commented on this jealous wife, he complained that the government should have established rules to constrain wives of the gentry.⁸ Echoing Dorothy Ko's observation, Shen's complaint points to the social and legal privileges that allowed wives to beat subordinates at the time, although this "privilege" could be denied when violent wives were suspected of jealousy rather than "proper" discipline.

Shen certainly was not the first or only one worried about wives who abused their dominant positions in the domestic space. Jealousy (*du* 妒) and ferocity (*han* 悍) were commonly used to describe women like Wang *shi*. *Han* (ferocity) denoted a woman who had a temper and was not afraid of using violence and *du* (jealousy) denoted a woman who hated her competitors: her husband's concubine, the concubine's children, female servants, or anyone who was more talented or prettier. Literati variously used "jealous wives" (*du fu* 妒婦), "ferocious wives" (*han fu* 悍婦), and "jealous and ferocious wives" (*du han fu* 妒悍婦) to identify wives who physically and verbally abused not only their competitors but also their husbands when the latter favored the wives' competitors.

Considering that scholarship on jealous Ming–Qing wives has paid little attention to the state's attitude toward jealous women, this chapter first examines jealous women

⁶ *Ming shilu*, the Chenghua reign, 289.4884. The punishment was suggested by the Bureau of Justice (*xingbu*). In the Ming law, the sentence for a master who intentionally killed his or her disobedient contract laborers was strangulation, while for killing disobedient slaves or children it was a flogging of 100 blows with a heavy bamboo stick; however, there was no punishment for a master's unintentionally killing a laborer. *DML*, 183-185.

⁷ *Ming shilu*, the Hongzhi reign, 130.2301.

⁸ Defu Shen, "Ming fu yi du shou zhang" 命婦以妒受杖 in *Wan li ye huo pian*, 986.

recorded in Ming standard history and Ming imperial *Veritable Records* (*shi lu* 實錄), a digest of official documents, to demonstrate the ways in which Ming emperors and officials addressed the issue. The second part of the chapter explores depictions of jealous wives in writings such as “pettifogger” handbooks and novels. The third part of the chapter examines wifely “non-jealousy” in biographical and memorial writings; this type of writing used examples of wifely jealousy to bring the virtue of non-jealous wives into relief.

Examining writings about jealous wives and wifely violence from diverse sources, I argue that, starting in the fifteenth century, the Ming state began making concerted efforts to constrain the jealous behavior of wives whose violence against their husbands’ sex partners challenged the value of reproducing patrilineal descendants⁹; yet punishment for these jealous wives, as in the case of Wang *shi*, remained relatively light because their position of authority granted them the right to discipline their husbands’ concubines and female servants. Men of letters had to support a wife’s violence against her husband’s concubines when it was driven by the desire to maintain the hierarchical order between the wife and the concubines. Insofar as it was appropriately articulated through the norms of the family, wifely jealousy was even considered to express a valued emotion, affection for the husband. Conversely, wives who were praised for not being jealous could, by claiming to contribute to the mission of reproduction, legitimately assert control over their husbands’ sexuality.

⁹ Scholars have explored the emphasis on male heirs in studies of property inheritance. See, for example, Bernhardt, *Women and Property in China: 960–1949*; Birge, *Women, Property, and Confucian Reaction in Sung and Yüan China (960–1368)*. Studies of lineage development and masculinity also elaborate on the importance of having blood-related male heirs. See Martin W. Huang, *Negotiating Masculinities in Late Imperial China*. Ann Waltner studies anxiety and distrust toward adopted sons in late imperial China. See Waltner, *Getting an Heir: Adoption and the Construction of Kinship in Late Imperial China*.

Conflicts in the Family structure

As I argue in Chapter One, a wife's superordinate position was protected by law, but the rising status of concubines in the Ming period presented a challenge to wives' authority. Concubines, as legal spouses of their husbands once they had children,¹⁰ posed a direct threat to wives. And this moment, when concubines bore children and thereby bolstered their status in the family, appeared frequently in historical writings as the point of provocation for wifely violence. The rising status of concubines—whose ability to bear children became central to how they were cast in narratives about them—and the emphasis on producing blood-related heirs, affected how Ming writers viewed violence perpetrated by wives.

In standard histories (*zheng shi* 正史)—historical writings that were officially compiled and approved by new dynastic states for the regimes that they displaced—historians' depictions of wives' violence against their husbands' sexual companions changed over time. Examining the records on jealous women in standard histories from the fifth to the tenth centuries (medieval China), I found that wives who were punished for their jealousy were exceptional.¹¹ In these dynastic histories, most jealous wives receive no punishment for controlling their husbands' access to sex or for physically abusing and killing concubines and female servants. Although people made fun of

¹⁰ Katkov compares the Tang and Ming codes and points out that the latter eliminated the servile marker of concubines and considered them spouses of their husbands—concubines had the same legal responsibilities as wives to their husbands' families. Katkov, "The Domestication of Concubinage in Imperial China."

¹¹ *History of the Southern Dynasties* (*Nanshi* 南史, period covered: 420–589, period of compilation: 630–50), *History of the Northern Dynasties* (*Beishi* 北史, period covered, 386–618, period of compilation, 630–50), *Old History of the Tang* (*Jiu Tangshu* 舊唐書, period covered, 618–906, period of compilation, 941–945), and *New History of the Tang* (*Xin Tangshu* 新唐書, period covered, 386–618, period of compilation, 1043–60).

henpecked husbands, failing to control one's jealous wife did not raise questions about one's ability or morality as a high-ranking official.

In standard histories written before the tenth century, jealous wives commonly appear in background information in the biographies of high-ranking officials. This observation echoes to Jen-der Lee's research on jealous wives in medieval China. In mid-imperial China, Osawa Masaaki argues that a shift occurred during the tenth and eleventh centuries in the social status of the principal wife. During the Song period (960–1279), people no longer thought that wives should be jealous of concubines, because a wife's position of authority was fully established and could not be challenged by concubines.¹² In other words, most people at that time viewed wifely jealousy as a product of concubine threat to family position, not as a product of affection for their husbands.

*Songshi*¹³ accounts either show wives accused of jealousy being punished, or describe their behavior as symptomatic of their relationships to immoral officials. The *Songshi* records just nine jealous wives: three in the imperial family, four in high-ranking official families, and two who were married to low-ranking officials (see Table 1; citations are included in the table). Among these wives, the wives of the low-ranking officials are all punished while those of the high-ranking officials are portrayed as complicit in corruption. For example, the biography of Xia Song 夏竦 (985–1051) a villain in *Songshi*, recorded that when he was a drafter of edicts (*zhi zhi gao* 知制誥), his wife, jealous of Xia's favoring of other women in the household, secretly reports his job-related misconduct to the authorities. Another example is that of the most infamous

¹² Osawa Masaaki, "A Jealous Wife, A Tough Wife and a Henpecked Husband," in *Tang Song Nu xing yu she hui*, 829-848.

¹³ *History of the Song*, the period covered: 960–1279, the period of compilation: 1343–1345.

villain in the northern Song, Qin Gui 秦檜 (1091–1155). According to *Songshi*, Qin, who should control his wife and keep concubines in order to produce sons related by blood, permits his jealous wife to adopt a son for him instead. The *Songshi* heavily criticized Qin and his adopted son, underscoring that adopted sons fail to enhance family reputations. *Songshi* historian implicitly linked Qin’s incompetency and immorality as an official to his failure to control his jealous wife.

In later periods, accounts of jealous wives focused on how they deprived families of descendants, rather than framing behavior as manifestations of family dysfunction and their husbands’ lack of control.¹⁴ During the Ming, in addition to the standard history, *Mingshi*,¹⁵ the imperial *Veritable Records*,¹⁶ also documents the ways in which emperors and officials dealt with the issue of jealous wives. I examine these two types of documents to show capture Ming state’s attitude toward jealous women.

In *Mingshi*, accounts that represented state-approved values often focused on how jealous wives deprived families of descendants; stories of jealous wives are inseparable from discussions of the importance of producing heirs (see Table 1; citations are included in the table). One of these is the story of Yang Xuan’s wife, Wang *shi*, described at the beginning of this chapter. Her story is recorded in the “Treatise on the Penal Law” (*xing fa zhi* 刑法志) to demonstrate the Chenghua Emperor’s outstanding capability in legal matters.¹⁷ Similarly, some passages depict jealous wives as a way to highlight, by the

¹⁴ There are only three records of jealous wives in *Yuanshi* (*History of the Yuan*, period covered: 1206–1369, period of compilation: 1369–70, which is the early Ming period). The three records are very different from each other so it is hard to articulate the change regarding jealous wives in *Yuanshi*. See Table 2 for reference.

¹⁵ *History of the Ming*, period covered: 1368–1644, period of compilation: 1678–1735, which is the early Qing period

¹⁶ Wilkinson, *Chinese History: A New Manual*, 610-11.

¹⁷ *Mingshi*, “xingfazhi” 刑法志, , 94.2323.

contrast, exemplary non-jealous behavior. For example, in the *Mingshi*'s "Biographies of Women" (*lie nü zuan* 列女傳), one biography tells of a concubine who was sent away by her husband's jealous wife. Here the concubine retained her marital status even when she was sent away. In the meantime, the husband maintained his relationship with her and continually sent her money. Later, when the concubine heard that the husband was insolvent and sick, she came back to the household and used the money she had received over the years to take care of the husband and prepare betrothal money and dowries for the principal wife's children. When the husband died, the concubine's parents forced her to leave the husband's household, but the concubine remained chaste until she died.¹⁸ It is worth noting that the concubine was still forced to leave after she helped the husband's family. She did not have any children with the husband, so it was hard for her to defend her connection with the family. Even though the concubine did not have any blood connection (children) with the family, she still wanted to help—a stark contrast with the behavior of the jealous wife. The narrative illustrates government-approved virtues such as the loyalty and submissiveness in concubines.

Two other stories of wives in *Mingshi* describe them explicitly as jealous *mothers* instead of *wives*, suggesting how tied the issue of jealous wives had become to that of producing and raising heirs in the late imperial period. This subgenre lauds sons who overcome obstacles erected by jealous non-birth mothers.¹⁹ The biography of a famous

¹⁸ *Mingshi*, "yi qie zhang shi" 義妾張氏, in "Lie nü zhuan" 列女傳, 189.7705. Although the biography did not explicitly record it, details hint that the concubine might have been a courtesan. A brothel was a common channel through which men bought concubines. Hsieh, *Concubinage and Servitude in Late Imperial China*.

¹⁹ There are two records in *Mingshi* writing about jealous wives in imperial families, but these two wives were exceptional cases so I do not include them in my discussion here. One was the daughter of the famous Ming general, Xuda 徐達, and married to Prince Jian 簡. She was jealous of Prince Jian's female servants and applied a coat of paint to their heads to make them scabrous. The Yongle 永樂 Emperor (b.1360; r.

Ming official, Yang Jisheng 楊繼盛 (1516–1155) records that Yang’s concubine-mother (*shu mu* 庶母) was envious of Yang, who was the son of the deceased wife. The concubine-mother forced him to herd cows instead of sending him to school. Yang managed to learn independently while tending the cows, and later pass the civil service examination and become a high-ranking official.²⁰ In this biography, Yang’s obedience of the jealous concubine-mother’s unreasonable demands demonstrates his superior virtue.

Another story is collected in the *Mingshi*’s “Biographies of the Filial and Righteousness” (*xiao yi zhuan* 孝義傳). Biographies in this category were written to demonstrate government-sanctioned filial performances. Because the main character in this story is the filial son born, the jealous wife, who is the principal mother of the filial son, is referred to as a principal mother, not as a wife. In the story, while the father was away on business, the jealous principal mother sent his pregnant concubine away and arranged another marriage for her. When the father came home and discovered that his concubine was married into another family, he took his son from the concubine’s new family and asked a neighbor to take care of him. The principal mother later brought the son home, and even though she had her own son eventually, she raised the two sons identically. Consequently, the son from the concubine did not know who his birth mother was until he was fifteen, then the age of adulthood. He tracked down his birth mother, brought her back, and arranged for her to live in a separate house. More importantly, he

1402–1424) decided not to punish her because of her father. The other record was about the imperial concubine of Ming Xianzong, Wang *shi*. A detailed discussion can be seen in Yeh, “Ming Qing yi lai de wan gui fei xing xiang —li shi shu xie de kao cha.”

²⁰ *Mingshi*, “Yang Jisheng” 楊繼盛, 209.5535.

treated his two mothers equally. Later, the previously jealous principal mother regretted her behavior and invited the concubine to live with her.²¹ All the elements in this specific story are meant to demonstrate the filial piety of the son. While the writing depicts a very passive image of a concubine (who was sent away and brought back by others), it acknowledges that the concubine was a formal family member once she had given birth to a child. Thus, the son was obligated to bring his birth mother home even if it contradicted the principal mother's decision. The dilemma was resolved when the principal mother acknowledged regret for her behavior. The son's equal treatment of his two mothers also indicates the government historian's belief that a filial son should treat his principal mother and birth mother equally to resolve familial conflicts.

In addition to *Mingshi*, the mid-Ming imperial *Veritable Records* documents conflicts between wives and concubines in value-laden narratives depicting wives trying to eliminate the sons of concubines and henpecked husbands trying to preserve their sons. *Veritable Records* collects several legal debates over the proper punishments for jealous wives in officials' households, and these suggest that scholar-officials in Ming China were concerned with regulating jealousy through law.²²

In addition to the 1487 Wang *shi* case described above and also collected in *Mingshi*, the *Veritable Records* documents several cases that caught the attention of the imperial court. In cases of 1431 and 1487, emperors intervened in the judicial process and insisted that jealous wives in officials' families be publicly humiliated through physical punishment, even though the legal norm was for an official's wife to pay fees or not even

²¹ *Mingshi*, "Xie Yong" 謝用 in "Xiao yi zhuan" 孝義傳, 297.7602.

²² Masaaki, "A Jealous Wife, A Tough Wife and a Henpecked Husband"; Jen-der Lee, "Querelle des Femmes? Les Femmes jalouses et leur contrôle au début de la Chine médiévale."

stand trial. In a 1498 case, however, the emperor agreed with the judges' sentence, which severely humiliated and punished the jealous wife. The emperor and judges agreed on an increased punishment in this third case because the wife's violence was perpetrated against a pregnant concubine; thus, the violence directly interfered with the reproduction of the patrilineal line.

In the 1431 case, the wife of a censor (*yu shi* 御史) viciously beat her husband's concubine, who later hanged herself and died. The Chief Surveillance Bureau (*du cha yuan* 都察院) reported the case to the Xuande 宣德 Emperor (b.1399; r.1426–1435), explaining that although the wife should be brought to trial, as someone who had been granted an official title was exempt. The Xuande Emperor insisted that the wife be tried and punished for the concubine's death. To support his decision, the emperor argued,

A wife's being jealous of others is loathesome conduct, never mind killing others because of jealousy. She is utterly detestable.
婦妬是惡行，况以妬殺人。其惡甚矣。²³

In a 1498 case Sun *shi* 孫氏, the wife of a prefect, attempted to kill her husband's pregnant concubine, Zhu *shi* 朱氏. When the first attempt failed, Sun *shi* threatened to bash the concubine's head in with a hammer if the latter did not commit suicide. Afraid, Zhu hanged herself. Sun then weighted the concubine's belly with rocks and stuffed her nose and mouth with wool; after that, Sun asked undertakers to take the body away. While carrying the body, the undertakers noticed that Zhu was still breathing and saved her. Both Zhu and her unborn child survived, and the undertakers reported the incident to the authorities. Officials in the Bureau of Justice (*xing bu* 刑部) reported that Sun

²³ *Ming shilu*, the Yongle reign, 84.1946.

deliberately tried to extinguish two lives—the concubine’s and her unborn child’s—and that she should be severely disciplined. Concurring, The Hongzhi 弘治 Emperor (b.1470; r.1488–1505) handed down an unusually harsh judgment, ruling that Sun was to receive a beating of eighty blows with a heavy bamboo stick, and be forced to divorce her husband.²⁴ Divorce was a severe punishment that involved public humiliation because the moral value of chastity at the time was based on the expectation that a woman, especially an official’s wife, would marry only once.²⁵

The cases of Wang *shi* (1487) and Sun *shi* (1498) both involve jealous wives who tried to kill the sons of concubines and were punished by the authorities. In an incident from 1505, an apparently childless official reunited with a son born to his concubine, years after the son had been abandoned alongside a road by his jealous wife. According to the *Veritable Records*, people at the time thought that the reunion was a reward from heaven for being a virtuous official.²⁶ Common to these records is the anxiety over producing an heir.

The *Veritable Records* also documents Ming emperors’ concerns over the morality and purity of the imperial bloodlines of the princely houses.²⁷ Children of the imperial clan were entitled to imperial properties, so the purity and registration of imperial children became an issue when economically supporting imperial clan became a serious financial burden on the central court, as became the case in the late Ming.²⁸ Because of

²⁴ *Ming shilu*, the Hongzhi reign, 140.2435.

²⁵ Xue Yunsheng discussed the issue of divorce cautiously. Confucian saints divorcing their wives was under discussion because this was a controversial behavior. Xue Yunsheng, *Tang Ming luhebian*, 14.349-355.

²⁶ *Ming shilu*, the Hongzhi reign, 4.128.

²⁷ *Ming shilu*, the Zhengde reign, 58.1293.

²⁸ Robinson, “Princely Courts of the Ming Dynasty”; Lei Bingyan, *Ming dai zong fan fan zui wen ti yan jiu*.

the central court's interest in this issue, we are able to explore domestic conflicts between women in the imperial clan. For example, in 1509 officials in the Bureau of Rites (*li bu* 禮部) recommended several new regulations pertaining to members of imperial clans. This report brought Zhu Quanhong 朱詮鉉, the younger son of Prince Shen (*shen wang* 藩王), to the emperor's attention. Zhu Quanhong's wife had no children of her own. Later, when a female servant became pregnant, the wife resented the pregnancy. Zhu's mother worried that the wife would kill the pregnant servant out of jealousy, so she sent the servant away and asked her to give birth elsewhere. The child was therefore not registered as a member of the imperial clan until later, when the event was reported by Prince Shen.²⁹

The Zhengde 正德 Emperor (b.1491; r.1505–1521) agreed that imperial princes, sons of princes, and officials who were responsible for supervising imperial clansmen could report on and reveal affairs reflecting household disorder such as the problem that Prince Shen had reported.³⁰ In this way, the imperial clan could avoid having “the births [of the imperial clan] being unclear, and their inner chambers becoming blemished” (*sheng yu bu ming, gui men yi dian* 生育不明，閨門貽玷).³¹ In most cases involving the imperial clan, decisions regarding jealous wives or concubines either punished the husbands or stripped the women of their official titles. While the central court might have adopted the new regulation about reporting disorder in imperial clan households in part to supervise the powerful imperial relatives,³² the regulation itself also reveals concern

²⁹ Lin Yaoyu, and Yu Ruji, *Li bu zhi gao*, 76.1158-1159.

³⁰ Ibid.

³¹ Ibid.

³² Robinson, “Princely Courts of the Ming Dynasty.”

about violently jealous wives, morally impotent husbands, and family heirs—a trinity that appears in many Ming writings.

Examining accounts of jealous wives in *Mingshi* and *Ming shilu*, I found a common thread to be anxiety over assuring patrilineal descendants. Although the literati ascribed jealousy to wives who used violence against concubines, in their accounts it was not the attention that concubines received from their shared husbands but rather the ability to reproduce, which were shown to promote concubines to positions of competition with wives and which most often, in these narratives, fueled a wife's "jealousy."

My examination of writings about jealous wives in standard histories, all of which were written from the position of state-sanctioned morality and values, has revealed changes in dominant views on wifely jealousy that gradually set in between the tenth to the seventeenth centuries. Before the tenth century, official historians wrote of jealous wives as normal figures, and collected reports about them in biographies of imperial family members and high-ranking officials without fanfare. In contrast, between the tenth and eleventh centuries, Chinese historians rarely recorded episodes involving jealous wives and condemned those they did record. Similarly, both the *Mingshi* and *Ming shilu* wrote about jealous wives only as negative examples for contrast with moral paragons, or to show that these women were disciplined by the Ming state. The common concern behind these accounts was the rising anxiety surrounding male heirs. Correspondingly, popular texts such as legal handbooks and novels also reveal anxiety over both succession through heirs and wifely violence in their narratives about jealous wives, but articulate these concerns differently.

Constraining and Celebrating Jealousy

Jealousy and Non-Jealousy

In the Ming, accounts of wifely violence were constantly associated with jealousy; such violence was vulnerable to criticism, but I argue that jealous wives and their violent behaviors might be exempt from criticism if they did not challenge the mission of producing blood-related heirs, such as by killing pregnant concubines. In such cases, literati even celebrated jealousy as a valued emotion—attraction between a husband and a wife. Similarly, wifely violence that was provoked by misbehavior of subordinates (concubines and female servants) would be deemed disciplinary violence and even a moral performance.

In the Tang legal code, jealousy and childlessness were two of seven legal faults a husband could cite when divorcing his wife. Later dynasties, including the Ming, copied these seven criteria into their own codes. In imperial China, classification as infertile did not necessarily entail “childlessness,” as a wife could always (agree to) bring in concubines or arrange for an adoption to solve the problem of having an heir. This situation changed in the Ming.

The Ming legal system added rules favoring blood-related sons over adopted sons for purposes of inheritance. A man’s sons from a wife, a concubine, or a female servant in his household inherited the property equally; if he also had sons with women who did not belong to one of the three abovementioned categories, those illegitimate sons (*jian sheng zhi zi* 姦生之子) inherited a half share of the property relative to sons who came from legal sexual relations.³³ A man with no legitimate son could adopt a son, but adopted sons and illegitimate sons (if there were any) inherited equal shares of property.

³³ Huang Zhangjian, *Ming dai lü li hui bian*, 476-477. A daughter’s right to inherit did not apply until after those of illicit and adopted sons was exercised. Long Wanwen, “ming dai fu nu cai chan ji cheng zhi du tan wei,” 161-184.

For a childless wife, adoption became the last resort because an adopted son could not compete with blood-related sons carried by concubines and female servants; adopted sons enjoyed only the same inheritance rights as illegitimate sons who came from outside the household.

By creating an incentive for childless wives to bring in concubines instead of adopting children, Ming laws thus multiplied possible occasions for jealousy. The combination of jealousy with childlessness is displayed clearly in “secret pettifogger handbooks” (*song shi mi ben* 訟師秘本), a genre that appeared after the sixteenth century.³⁴ Pettifogger handbooks were banned by the authorities for encouraging people to litigate but, as Chiu Peng-sheng argues, not only did the effort to ban these handbooks fail, but pettifogger and litigation handbooks were so popular that they were treated as though they provided a distinctive type of legal knowledge, apart from information disseminated by the state and scholarly officials.³⁵ Jérôme Bourgon suggests that the term “secret handbook” (*mi ben* 秘本) should be understood as a means of attracting interest, not as a deliberate strategy of illegally disclosing secret information. He argues that “the term [‘secret’] seems to have pointed at a wide area of ‘technicalities’ transmitted among non-official professions (medicine, fortunetelling, etc.), including the non-official, but well-integrated and even respected legal secretaries.”³⁶ Pettifogger handbooks include summaries of the law as well as guidelines for memorizing fees and

³⁴ Chiu, “Ming qing Song shi de Xing qi ji qi Guan si zhi sheng shu.”

³⁵ Chiu, “Ming qing Song shi de Xing qi ji qi Guan si zhi sheng shu”; Melissa Macauley also points out that the so-called secret handbooks are the opposite of secret. Her investigation shows that at least 37 editions of the *Xiao Cao yi bi* [*Litigation Masters’ Handbook*] were published from the sixteenth to the twentieth centuries. Macauley, *Social Power and Legal Culture Litigation Masters in Late Imperial China*, 42.

³⁶ Bourgon, “Reviewed Work: *Social Power and Legal Culture: Litigation Masters in Late Imperial China* by Melissa Macauley.”

punishments and filing lawsuits. More importantly, they include strategies for attracting the attention of officials so that they would be willing to process a given case.³⁷ I argue that details included in the handbooks also suggest that these strategies are extracted from real legal cases. Along with legal technicalities that facilitated litigation, pettifogger handbooks articulate a layer of official norms that, while not explicitly codified into law, appeared in judicial practice.

Pettifogger handbooks often include cases as examples, and each case includes a standard set of documents: the plaintiff's complaint, the defendant's response, and the judge's verdict. Among these cases, one frequently occurring archetype is that of a wife suing a husband for favoring his concubine: such cases are titled either "suing a husband for favoring his concubine" (*gao fu chong qie* 告夫寵妾) or "suing [a husband] for favoring his concubine and mistreating his wife" (*chong qie ling qi gao* 寵妾凌妻告). The three Ming pettifogger handbooks I examine here are: *Litigators Penetrate through Losses of Nerve, A New Edition* (*xin juan fa jia tou dan han* 新鑄法家透膽寒); *Litigation Masters' Handbook: A New Corrected and Annotated Edition* (*xin ke jiao zheng yin shi ci jia bian lan Xiao Cao yibi* 新刻校正音釋詞家便覽蕭曹遺筆); and *Bright Pearls of Legal Decisions* (*zhe yu ming zhu* 折獄明珠). I use LP, LM, and BP, respectively, to represent these handbooks hereafter.³⁸

Despite the rhetorical differences between these three handbooks, responses from sued husbands and verdicts handed down by judges always ask women to restrain their

³⁷ Chiu, "Ming qing Song shi de Xing qi ji qi Guan si zhi sheng shu."

³⁸ Buxiang zi, *LP*, 7: 9a-9b; Xianxian zi from Henan edited and annotated, *LM*, 2:10a-10b. "Xiao Cao" here refers to names of famous legalists, thus I translate the title as "Literation Masters"; Qingboyisou, *BP*, 4: 15b-17a

jealousy to serve a more highly valued purpose: having heirs. In cases featuring a wife suing a husband for favoring his concubine, with wives as the plaintiffs, the secret handbook authors advise them to establish their legal grounds by confirming that a reversal of the hierarchical order between a wife and a concubine occurred, and then to appeal to the judge's sympathy.³⁹ In the wife's voice, LM accuses the husband of driving his wife away in favor of the concubine. The wife in LM states that the concubine is licentious and constantly asks the husband to drive out the wife. Under the concubine's influence, the husband picks on the wife's mistakes and beats her for them. The wife claims that she has not violated any of the seven legal faults that justify filing for divorce, and is being abandoned because she has lost her beauty. The wife requests that the judge help her preserve her status as the principal wife, punish the husband, and drive out the concubine. In BP, the voice of the wife is less vernacular and less strong, but she still appeals to the judge's sympathy. This wife does not ask for the concubine to be driven away, but only for the judge to support her position as the principal wife. BP focuses on how the presence of the concubine has ruined a previously good relationship between husband and wife, and states that the wife will die feeling wronged if she is abandoned because her beauty is fading.

Describing a different set of circumstances, a case in LP is written in the voice of the wife's brother, who opens by stating dominant hierarchical norms:

This is a matter of obliterating [role] designations and the division of [associated] affairs [role norms]. When the designations of husband and wife are not rectified

³⁹ Legally, a woman could not file a lawsuit by herself. However, for specific cases that involve "suing a husband for favoring his concubine," it seems that both LM and BP were expressed in the voice of the wife in their writing example cases, and the authors of these two manuals probably used the same case, considering the similarity in the details. On the other hand, LP, which recorded "suing [a husband] for favoring his concubine and bullying his wife," stated that the main accuser was the wife's brother, and the details of the case were quite different from those of the LM and BP cases.

[to match associated role norms], misfortune ensues therefrom. When distinctions between greater and lesser [responsibilities] topple, chaos arises therefrom. The treacherous So-and-so wedded my sister, but when it did not bode well for her to produce an heir, the marriage fell apart. He took in So-and-so as his concubine, and solely because the concubine is beautiful, the husband pursued his own interest. He stripped his wife of her clothing and bared her feet, [behaving as] a mortal enemy [not as a husband]; the wife's bedding and pillows are the same as the concubine's, failing to distinguish [the position of wife from that of] servant. It is a case of injury of the custom by [wearing] "a green outer and a yellow inner garment."⁴⁰ I submit [this lawsuit to request] rectification of a principal-law deviation, that is favoring the concubine and bullying the wife. So reported. 為滅名干分事。夫婦之名不正，禍自斯興。大小之分若顛，亂由此起。奸惡某某，娶妹為妻，因不夢熊而致變。納某為妾，只因閉月以叨私，剝妻衣、跣妻足，即是寇仇。疊妾被，同妾枕，不分奴婢。傷綠衣黃裡之例施，正寵妾凌妻之大法。告。⁴¹

This complaint, in the voice of a male relative, is permeated with Confucian language, from the principle of "rectifying names" (matching behaviors to the norms attached to role designations such as "husband" and "wife"). Bedclothing, clothing, and shoes, besides expressing status distinctions, were materials that one's body had direct contact with. These materials were associated with women's sexuality (especially shoes because of the practice of footbinding) and were usually considered to be women's private property. Where the passage describes the husband stripping the wife and baring her feet, it not only shows the husband mistreating her, but implies that he inappropriately and forcefully took away his wife's property. While admitting that the wife could not produce an heir, LP provides a vivid picture of the upsetting of the family order. LP deemphasizes the concubine's potential moral contribution—having children—and depicts her as an object that provokes licentious and depraved behavior in the husband. In sum, LM, BP,

⁴⁰ This is a reference from *Shijing (The Book of Songs)*. One should wear a yellow outer garment and a yellow inner garment because the color yellow is the superior color. Here, the metaphor of improperly wearing the colors in reverse is used to compare with the husband improperly reversing the hierarchy between the superordinate position of the wife and the subordinate position of the concubine.

⁴¹ LP, 7.9a-9b.

LP all skillfully establish moral grounds for their cases—maintaining the proper hierarchical order within the family—and elicit sympathy from the judge.

In each of these model cases, the husband's response to the wife's complaint focuses on the importance of having heirs and on the wife's ferocious jealousy. The three responses all open by describing the wife as jealous, and describing harmful behavior on her part that threatened the production of an heir. In the voice of the husband, these responses establish his legal grounds by stating that bearing no progeny (*bu xiao shou tui wu hou* 不孝首推無後) is the ultimate in unfilial behavior for a son; the cardinal virtue of filial piety therefore requires taking in a concubine. In LM, the husband first accuses his wife of being ferociously jealous. The husband also claims that the wife often gangs up with her brother to steal his familial property and to defend her behavior by saying that there is no son to inherit it. After the husband tries to stop them, the wife and her brother, seeking to create a pretext for filing a lawsuit, make up the story about the husband favoring his concubine. After defending the morality of his position, the husband requests that the concubine be allowed to stay, otherwise his family will end up without a descendant after he dies. BP follows the same strategy as that depicted in LM (the wife is jealous and steals the husband's property), although the husband in BP accuses his father-in-law of instigating the lawsuit.

The husband in LP also emphasizes how ferocious his wife is, by asserting that the wife constantly threatens the concubine and humiliates her husband, and how submissive his concubine is, by claiming that the concubine is nothing like the ferocious wife. Responding to his brother-in-law's accusation that he took away his wife's clothes and shoes, the husband states that his wife intentionally goes naked so that she can concoct

another excuse to blame him. The main strategy that all these husbands use in their defense is to ask the judge to recognize and preserve the values of the patriarchal family. Their responses defend the husband's moral superiority by stressing the need to have offspring and rejecting the accusation that the hierarchal order between the wife and the concubine has been reversed. Each of the three husbands claims that his wife is jealous and therefore makes up a false story to drive out the concubine. The wife is described as a traitor to her husband's family—she fails to reproduce heirs, steals money to support her natal family and challenges her husband's authority. In sum, in these pettifogger handbooks, the wife appeals to her supposedly superior position over the concubine and the husband appeals to the interests of the patriarchal family: sons, money, and having a submissive wife.

Although LP does not include an example of a judge's verdict, LM and BP include examples that both support the importance of having an heir and mediate conflicts in the family. The example verdict in LM agrees that both the wife and the husband have legal grounds and settles the conflict by asking both of them to behave morally: the husband should maintain the hierarchal order between the wife and the concubine, and the wife should suppress her jealousy (*zai Qian* [the surname of the husband] *yi zheng fu gang, wu zhi shi xu; zai Zhang* [the surname of the wife] *he shou fdao, wu huai du xin* 在錢宜正夫綱，毋致失序；在張合守婦道，毋懷妒心). The judge claims that if the couple behaves properly, they can remain happily married. He also recommends erasing the record of the case.

The example verdict in BP supports the wife's complaint but still stresses the importance of having an heir. When describing the husband, the judge uses three

allusions—*zhong feng* 終風, *fu guan* 復關, *bao bu* 抱布—from *The Book of Songs* (*Shijing* 詩經), all of which refer husbands' mistreatment of their wives. *Zhong feng* is the title of one poem, "Wild and Windy," which is about a wife feeling miserable after being humiliated and mocked by her husband. But she cannot stop thinking about him and is still longing for him.⁴² *Fu guan*, and *bao bu* are both from the poem "A Simple Peasant" (*mang* 氓). The poem first describes a woman experiencing courtship from her lover and falling in love. *Fu guan* is the place in which her lover lives. In the poem, the woman climbs a high wall "to catch a glimpse of *fu guan*." *Bao bu* means "bring cloth." In the first part of the poem, the woman thinks that the man is bringing cloth to exchange it for thread, but he actually comes to discuss his wedding arrangement with the woman's family. However, the second half of the poem changes its tone completely. After the woman marries the man she loves, he abuses her. At the end of the poem, the woman is old and she laments the miserable end of her love.⁴³ With vivid images sympathetic to the lot of wives from the canonical *Book of Songs*, the judge's verdict scolds the husband:

Dissolute and unrestrained husbands are to be criticized and ridiculed not just by the poem "Wild and Windy." This kind of *fu guan* man continuously contributes to the sadness of *bao bu*.

狂蕩之夫，不只終風見謫，而復關之輩，且比比繼抱布之歌矣。⁴⁴

The judge criticizes the husband and claims that the husband's behavior is motivated by selfishness (*si* 私). Despite the judge's negative opinion of the husband, the verdict is that the concubine should remain to produce children, but the wife should also resume her superior position as a principal wife over the concubine.

⁴² Waley, *The Book of Songs*, 27.

⁴³ *Ibid.*, 49-51.

⁴⁴ *BP*, 4: 15b-17a

These pettifogger handbooks demonstrate rhetorical strategies that worked in Ming courts. We see how, deploying these strategies, people imagined the ideally functioning family: a husband who maintained the hierarchal order in the family, a wife who suppressed her jealousy so her husband could have more children, and an inferior concubine who was brought into the family for her reproductive capacity instead of for her sexuality. If any party failed to fulfill his or her obligation, he or she risked moral condemnation and even legal intervention. During the Ming period, jealousy was criticized not for constraining husbands' pursuit of sexual pleasure, but on the grounds that jealous wives they interfered with the mission of reproducing patriarchal families.

Modern scholar You Chenjun has pointed out the close relationship between pettifogger handbooks novels about legal cases.⁴⁵ While one was written to facilitate litigation and the other for entertainment, the authors of both types of writing express common views of jealous wives. A story in a Ming fictional legal case, for example, depicted a jealous wife as immoral because she failed to extend the life of a patriarchal family. The main figure in the story was a jealous wife whose husband married a concubine with whom he had two sons. Later, when the wife had a son of her own, she worried that if three sons divided the family fortune equally, “the concubine will have two of the thirds, but I will only have one of the third of the property.” Jealous of the concubine's prospects, the wife killed the concubine and her two sons. At the end of the story, when the judge discovered that she was responsible for the death of all three, he scolded the wife,

⁴⁵ You, “Ming Qing ri chang sheng huo zhong de song xue chuan bo —yi song shi mi ben yu ri yong lei shu wei zhong xin de kao cha.”

The concubine's sons were also your sons. How could you harbor jealousy and take three people's lives? You killed your husband's heirs; there is no crime greater than that!

妾子即同汝子，烏得懷妒而害三人之命？絕夫之嗣，罪莫大焉！⁴⁶

This judgment implied that the wife's crime lay foremost not in murder but in obstructing the reproduction of the husband's family. The novel not only narrated a legal rationale for criminalizing jealousy, but also showed how jealousy could relate to the issue of property inheritance among wives' sons and concubines' sons. To wit, a wife's jealousy could have less to do with her emotional attachment to her husband and more to do with her economic interests and status in the family.

In the sixteenth to seventeenth centuries, punishing jealous wives and transforming them into subordinate, gentle women was a pervasive theme in popular writings, which took concern to produce male descendants seriously.⁴⁷ For example, in the Ming novel *Bottle Gourd Filled with Vinegar* (*Cu hu lu* 醋葫蘆), a jealous wife forbids her husband from having concubines and asks him to leave the family property to her son-in-law and nephew, characters later revealed as unfilial and avaricious. In the end, the wife stops feeling jealous after she is tortured in hell and her sinews of jealousy (*du jin* 妒筋) are painfully ripped out of her by ghost soldiers.⁴⁸ In late-Ming literature, a wife who refuses a request to allow her husband to have a blood-related son due to jealousy is always

⁴⁶ Ningjingzi, "Han dai xun duan di mou qie chan" 韓代巡斷嫡謀妾產 in *Ding juan guo chao ming gong shen duan xiang xing gong an xiang xing gong an*, vol. 7.

⁴⁷ Wifely violence against henpecked husbands was a common object of comedic satire in popular writing. Both jealous shrews and henpecked husbands were easy targets of humor because they so egregiously violated common social norms. See Yenna Wu, "The Inversion of Marital Hierarchy: Shrewish Wives and Henpecked Husbands in Seventeenth-Century Chinese Literature."

⁴⁸ Xin Yue Zhu Ren, *Cu hu lu*.

condemned and reformed,⁴⁹ yet jealous wives who do not challenge the reproductive imperative are carefully represented as sympathetic characters.

Yet, as scholars have pointed out, many late Ming men of letters actually valorized jealousy as a profound emotion (*qing* 情), and even argued that it upheld Confucian principles.⁵⁰ These men expressed sympathy for wives whose jealousy was considered an effect of “appropriate” *qing* (feelings, sentiments, emotions, or passions). While philological and literary debates over *qing* can be traced to early China, and while its meaning changed several times over centuries of usage, in the late Ming period *qing* was elevated, especially by drama and novel writers, to express supreme qualities of human nature.⁵¹ More importantly, as Lee Haiyan points out, this the cult of *qing* “first theorized and celebrated the husband–wife bond.”⁵²

In late Ming fiction, jealousy came to be praised as an expression of the attraction between husband and wife, and as a manifestation of a deep emotion. One distinctive example is found in a poem from a late-Ming historical novel, *The Amorous History of Emperor Yang of the Sui Dynasty* (*Sui yang di yan shi* 隋煬帝艷史). Commenting on the jealousy of the character Empress Xiao, the poem links women’s jealousy to feelings (*qing*), and expresses sympathy for it:

When one’s feelings are deep, one envies deeply,
Without feelings, there is no jealousy, and no understanding of the heart,
When one feels jealous, it can be resolved by a lover’s affection,
When one feels infatuation, how can jealousy be curtailed?
情到深時妒亦深，不情不妒不知心，

⁴⁹ Yenna Wu, “The Inversion of Marital Hierarchy: Shrewish Wives and Henpecked Husbands in Seventeenth-Century Chinese Literature”; *The Chinese Virago a Literary Theme*; McMahon, *Misers, Shrews, and Polygamists: Sexuality and Male-Female Relations in Eighteenth-Century Chinese Fiction*.

⁵⁰ Ibid., Haiyan Lee, *Revolution of the Heart a Genealogy of Love in China, 1900–1950*, part 1 “The Confucian Structure of Feeling,” 25–59.

⁵¹ Martin W. Huang, “Sentiments of Desire: Thoughts on the Cult of Qing in Ming-Qing Literature,” 161.

⁵² Haiyan Lee, *Revolution of the Heart a Genealogy of Love in China, 1900–1950*, 34.

妒來尚有情勘解，情若癡時妒怎禁。⁵³

The poem treats jealousy as a deep emotion, justifying the manifestation of jealousy as an expression of affection, and positing jealousy as the precondition for truly understanding the “heart” of one’s lover. The last sentence of the quoted poem further validates jealousy by arguing that it cannot be restrained when it results from obsessive infatuation (*chi qing* 癡情). While terms such as infatuation may have negative connotations in English, the corresponding emotional states were celebrated by the signature figure of the cult of *qing*, Feng Menglong, in his preface to *A Classified Outline of the History of Love* (*Qing shi lei lue* 情史類略).⁵⁴

Men of letters sympathized with jealousy only when a woman vented it properly—that is, when jealousy was the expression of a deep emotional attachment to the husband, not a reaction to a threat posed by patrilineal descendants. While the above poem from *The Amorous History of Emperor Yang of Sui Dynasty* sympathized with Empress Xiao’s jealousy, the author also carefully justified this emotion by writing about unintentional behaviors on the part of the concubines that upset the hierarchical order of the women in the family. This is critical: the husband (Emperor Yang) and the concubines must support the family’s hierarchical structure, and their failure to do so turns the jealous wife into a more sympathetic figure.

The novel describes several events that upset Empress Xiao. First, when Empress Xiao overhears a conversation between Emperor Yang and two imperial concubines,

⁵³ Qidongyeren, *Sui yang di yan shi*, Chap. 34: 8a-8b.

⁵⁴ Feng Menglong, “qing shi xu”情史序 in *Qing shi lei lue*, <https://ctext.org>. Discussion on Feng Menglong’s *Qing shi lei lue* includes in Hanan, *The Chinese Vernacular Stories*, 95-97. Martin W. Huang, “Sentiments of Desire: Thoughts on the Cult of Qing in Ming-Qing Literature” and his *Desire and Fictional Narrative in Late Imperial China*.

Yuan Baoer 袁寶兒 and Wu Jiangxian 吳絳仙, she believes that the concubines are going to try to humiliate her by getting her drunk. It is Emperor Yang, however, who asks his two concubines to get Empress Xiao drunk so he can indulge himself free of his wife's supervision. Second, Empress Xiao believes that the emperor and the two younger concubines are teasing her for being old when they state that only a young oriole (*ru ying* 乳鶯) has a good voice and they wonder if the voice of a nearby old oriole is still good. The final event occurs when the emperor gives tribute cloth to the two concubines, forgetting that he has already promised it to Empress Xiao. Based on these events, Empress Xiao is certain that the two concubines are deliberately challenging her authority and sabotaging her relationship with the emperor. She cries and swears that she will kill the two concubines for their tricks, teasing, and humiliation.

To show his consistent support for his wife, Emperor Yang eventually demotes his two favorite concubines and orders them to leave. At the end of the scene, the Emperor declares that he dares not say anything more; otherwise Empress Xiao will overthink his behavior once again. Empress Xiao responds by saying, "I will not overthink, but I am concerned that Your Majesty will [again] overdo" (*qie dao bu duo xin, zhi pa bi xia yao duo shi* 妾倒不多心，只怕陛下要多事). Hearing their conversation, all the other imperial concubines say, "overthinking, overdoing, they all just come from overflowing affection." (*duo xin duo shi, jie wei duo qing er* 多心多事，皆為多情耳).⁵⁵ Although the novel is about imperial life, the three episodes that we can infer to be common scenes in families who could afford concubines. The conflict over the tribute cloth is similar to the conflict over clothing and bedclothing described recounted above from the pettifogger

⁵⁵ Qidongyeren, *Sui yang di yan shi*, 34.15b.

handbook. More importantly, the novelist draws a picture in which the jealous Empress Xiao is an emotionally frustrated wife, and suggests that her jealousy was acceptable to readers at the time because it emerges from both her feelings for her husband and her misinterpretation of the two concubines' activities.

The famous fiction-writer and publisher Feng Menglong gave expression to more extreme and complex views of jealousy. Feng celebrated *qing* and the effect of *qing*, jealousy. For example, in one of his stories, a betrayed woman's ghost harasses her former lover along with his wives and concubines, causing the man to see repeated visions of them having affairs with young men. Feng Menglong commented that the woman's "hatred was so extreme and her jealousy was so extreme, because her love was extreme" (*qi hen zhi ji, du zhi ji, zheng qi ai zhi ji ye* 其恨之極、妒之極、正其愛之極也).⁵⁶ Feng stated that he further detested the ghost's former lover for betraying a woman possessed of such unmovable love that it crossed the boundary of life and death. In another of Feng's stories, a man castrates himself so he can enter the imperial court as a eunuch to see his former lover, who had become an imperial concubine. Commenting on this story, Feng pointed out that men's affection for women was for having intimate relationships. The man in the story castrating himself, Feng argued, was for his *qing* (love), not for his sexual desire for his lover. Feng thus ridiculed jealous wives who mistreated their husbands if they favored female servants; and expressed doubt that the feelings between the husband and the wife would last after abuses occurred. Feng argued that these jealous wives' acts were motivated by *yin* 淫 (licentiousness) not *qing* 情

⁵⁶ Feng Menglong, *Qing shi lei lue*, 24.31b.

(love).⁵⁷ In other words, the *qing* that Feng celebrated was an emotion that did not need reciprocation. Both the female ghost and the castrated man's behaviors did not aim for love in return. Feng criticized jealous wives for being licentious because they were looking for their husbands to respond to their affection. This cleverly aligned *qing* asked wives to tailor their emotions for their husbands.⁵⁸

In the late Ming period, jealous women were represented in two ways in popular literature: as spiteful shrews who violently challenged men's masculinity and the social order, and as frustrated wives who with passive aggression fought for their husbands' affections. In the first form, violent, jealous wives were to be disciplined while henpecked husbands were to be mocked. In the second form, the cult of *qing* was complicit in women's jealousy. The first form has been discussed by scholars,⁵⁹ but the second has not received similar attention. I argue that men of letters celebrated and sympathized with women's jealousy when it was associated with the romantic attraction between men and women and did not conflict with men's feelings and sexual pleasure with other women.

Other than adding the element of *qing* to legitimate wifely jealousy, novelists who celebrated affection between men and women shared the view found in pettifogger handbooks, that wifely violence against concubines was permissible only when it was tailored to the central values of the patriarchal family: maintaining the hierarchical order between the wife and the concubine and ensuring the reproduction of the patriarchal

⁵⁷ Feng Menglong, *Qing shi lei lue*, 7.7a.

⁵⁸ Feng was not the only man of letters who tried to reconcile *qing* with social values. Martin Huang argues that men of letters went from celebrating an individual's emotions and sentiments to later emphasizing the compatibility between *qing* and the social order to legitimate *qing*. Martin W. Huang, "Sentiments of Desire: Thoughts on the Cult of Qing in Ming-Qing Literature."

⁵⁹ Yenna Wu, *The Chinese Virago: A Literary Theme*; Ko, *Teachers of the Inner Chambers: Women and Culture in Seventeenth-Century China*, 103-112.

family. Jurists constrained jealous wives when they challenged the reproduction of the family. However, literati wrote sympathetically of the emotions of anger, frustration, and violence when they were provoked by the disordering of the family hierarchy. While the moral and legal system supported a husband's right to have concubines in the service of having sons, he also needed to restrain his feelings toward concubines in order to serve the hierarchical order established in accordance with Confucian ideology.

Non-Jealousy: Pragmatic Compromises

More thoroughly than in any previous period, Ming law encoded principles of Confucian ideology. Of particular interest for this study, *The Great Ming Code* authorized and supported a wife's superordinate position and accompanying power to discipline subordinates.⁶⁰ The Ming code ruled that:

If a husband strikes his wife and does not cause fractures, he should not be punished. If he causes fractures or worse, the penalty shall be reduced two degrees from that for ordinary persons (he shall be punished only if the wife herself makes the accusation to the authorities). . . . If he strikes and injures concubines and causes fractures or worse, the penalty shall be reduced two degrees from that for striking and injuring his wife. . . . If a wife strikes and injures a concubine, she shall be punished the same as for the husband striking his wife (she shall also only be punished if the concubine herself makes the accusation to the authorities). For accidental killings, in each case they shall not be punished.⁶¹

Reinforcing principles of family hierarchy, the law permitted wives to discipline their husbands' concubines, as long as that discipline caused no bodily injury. The Ming legalist, Feng Zi (?-?) commented on the provision, saying,

Given the fact that a wife is the master of a concubine, just as a husband is the guide for a wife, so the crimes [of a husband beating his wife, and of a wife beating a concubine] are the at the same level.

⁶⁰ Zhang Jia, *Xin tian xia zhi hua: Ming chu li su gai ge yan jiu*.

⁶¹ *DML*, 188-189.

蓋妻為妾之主，猶夫為妻之綱，故其罪相等也。⁶²

While the legal system was gender-asymmetrical in constraining wives' violence against their husbands, it was also status-asymmetrical in authorizing wives' violence against concubines. Namely, when wifely violence was conducted in the name of disciplining disobedient subordinates and maintaining the familial hierarchy, the violence was not recorded in legal cases, which documented incidents of violent jealousy only if they fell outside of socially approved norms. Instead, it was recorded in other written material, such as the epitaphs and biographies that focused on moral virtues of their subjects.⁶³

Around the sixteenth century, male literati commonly wrote epitaphs (*mu zhi ming* 墓誌銘) and biographies (*zhuan* 傳) about their female relatives and wives, and sometimes they also wrote about their concubines.⁶⁴ These two types of documents centered on the moral virtues of women. Although distinction between the terms rendered in English as epitaphs and biographies might be confusing, in the context of classical Chinese, *mu zhi ming* (epitaphs) were written in praise of the dead, usually for close relatives and friends, while *zhuan* (biographies) denotes a genre that mainly records people whose moral performances conformed to the standards of orthodoxy set by imperial courts. Fidelity to lived experience was a feature of neither genre.⁶⁵ Instead, epitaphs and biographies typically dramatized women's exemplary behavior, and only the most exemplary behavior justified circulating women's stories in publications, rather

⁶² Feng Zi, *Da Ming lü jishuo fuli*, vol. *xing zhong*, 26b-27a.

⁶³ Joan Judge and Hu Ying, eds., *Beyond Exemplar Tales: Women's Biography in Chinese History*.

⁶⁴ Martin W. Huang, "Introduction Remembering Female Relatives: Mourning and Gender in Late Imperial China"; Martin W. Huang, *Intimate Memory: Gender and Mourning in Late Imperial China*.

⁶⁵ Judge and Hu eds, *Beyond Exemplar Tales: Women's Biography in Chinese History*, 1-13.

reserving them for the family as standard social practice dictated.⁶⁶ In this context, wives' violent behaviors appeared in epitaphs and biographies only incidentally, for example in a concubine's epitaph to demonstrate the latter's forbearance, or as a contrast with a morally exemplary wife. Conversely, epitaphs and biographies carefully framed wives' aggressive behavior, for example in controlling their husbands' concubines, as morally appropriate.

Ming epitaphs and biographies routinely described concubines were as gentle and subordinate, in line with social expectations; the *Mingshi* biography discussed above, of the concubine who served her husband's family even after being who was sent away by her husband's jealous wife, is typical. Similarly, epitaph writers emphasized the ways in which concubines served both their male and female masters, including to produce heirs, moral rationale permitting male literati to keep concubines. In contrast to these images of concubines as submissive, epitaphs portrayed both husbands and wives as figures who imposed their power and authority over their subordinates. A high-ranking Ming official in the central government, Sun Chengen 孫承恩 (1481–1561), wrote an epitaph for his concubine, Xie Bitao 謝碧桃. He described her as gentle and delicate (*wan rou* 婉弱), unlike people born in the North. He provided a vivid example to depict the concubine's docility and the ways in which she carefully served him and his wife:

I am restless by nature, and when I was [even] somewhat dissatisfied, I would hit her [Xie]. She would bow her head down and dared not complain. Whenever she saw that I was angry, she would say, “I am so unintelligent; how can I avoid reproach? I only hope that you, my master, won't damage your spirit in your great anger.” [Sun's wife] Madam Wu was rather strict and intolerant, but Xie served her in an ever more respectful manner. Although when weather was extremely hot,

⁶⁶ Liu Jingzhen, “Ou yang you bi xia de song dai nu xing — dui xiang ,wen lei yu shu xie qi dai”; Martin W. Huang, “Introduction remembering female relatives: Mourning and gender in late imperial China.”

Xie still stood by Wu's side and fanned her. Wu was touched by Xie's attention and after that regarded her well.

予性躁急，少不稱意即培之，俛然不敢怨。每見予怒，則曰：「妾不慧，責何辭？但願公毋過恚損神也。」吳淑人頗嚴，不甚假借，事之愈恭，雖大暑據廁，或與揮扇，淑人感其意，自後頗善視之。⁶⁷

This is a rare example of an epitaph that reveals in detail violence in a family. Precisely because Sun wanted to stress the submissiveness of his concubine, he recorded how dreadfully he and his wife treated her and how she still properly served them. He would not have written about hitting Xie or his wife's harshness, however, if he did not think it was within the scope of acceptable behavior.

Similarly, biographers sometimes documented unrestrained wifely jealousy to emphasize by contrast a wife's exemplary moral performance of avoiding jealousy (*bu du* 不妬). For example, the inscription on Zou *shi*'s 鄒氏 tombstone explicitly praised her for not being jealous. As narrated in this lengthy epitaph, Zou secretly brought back a concubine for her husband so he could have more children. According to the epitaph, Zou also wore the same clothes and ate the same food as the concubine, the same behaviors condemned by the wife-plaintiff's brother in LP for overturning hierarchical foundations of family order; in Zou's case, her permissiveness made her all the more virtuous. To stress Zou's lack of jealousy, the biographer, Wu Kuan 吳寬 (1435–1504), a Southern official and calligrapher, wrote:

In today's world those women who are called capable wives are just women who can sew and cook. When it comes to their behaviors of envy and cruelty, they contrarily mask them as capability, and people overlook and do not inquire [about the envy and cruelty]. There being a person like Her Honor [Zou *shi*], how rare! 蓋今世稱女婦之能者，不過烹調縫紉之間而已。至其忌嫉殘忍之行，則反以其能蓋之，略而不問。有如恭人，其果有是乎？⁶⁸

⁶⁷ Sun Chengen "Wang qie xie shi kuang zhi" 亡妾謝氏壙誌 in *Wen jian ji* 文簡集, 58.506-507.

⁶⁸ Wu Kuan, "Gu gong ren zou shi mu ji" 顧恭人鄒氏墓記 in *Jia cang ji* 家藏集, 66.529.

In another biography written by a Northern official, Li Kaixian 李開先 (1502–1568), Ying *shi* 應氏 advised her husband to marry a concubine and took care of the concubine's children as her own. Li also described jealous wives, by way of contrast, to highlight Lady Ying's morality:

It is common to see in this world elderly people without children whose relatives and friends urge them to take concubines. The wives always angrily scold them, and once they take [a concubine] they always give them a cold shoulder. Some [wives] arrange [for the concubine] to stay in a secluded place and they do not allow them to see or talk to their husbands; in extreme cases, it even comes to murder. When [the aforementioned wives] hear of the conduct of Madame [Ying], they should be mortally ashamed.

常見世之老而不子者，親戚有朋勸其納妾，其妻未有不怒罵者，納而未有不因而反目者者。或置頓僻處，不令與夫交半面接一談焉，甚而致之死地。聞孺人之風，可以愧死以矣。⁶⁹

In other Li Kaixian expressed his appreciation of women who were not jealous. Li was famous for producing and commenting on dramas. He formed a family theatrical troupe to perform his plays, and most of his concubines were skilled performers. Li once praised his wife's morality by saying that she was never jealous of all the concubines he had. His wife even asked his brother to find beautiful concubines so Li would like them and the family could expect a pregnancy.⁷⁰ Nonetheless, Li still said that when his wife was alive, there were people who suspected that she might change and become jealous.⁷¹

Both Li Kaixian and Wu Kuan, who lived in disparate regions, exaggerated the morality

⁶⁹ Li Kaixian, “Zeng ru ren li qi ying shi mu zhi ming” 贈孺人李妻應氏墓誌銘, *Li zhong lu xianju ji*, 8.324-326.

⁷⁰ When writing her biography, Li also documented that his wife did not complain at all during the time he frequently went to brothels and even infected her with a sexual disease. Li Kaixian, “Wang qi Zhang yi ren san zhuan” 亡妻張宜人散傳 in *Li zhong lu xian ju ji*, 9.387-388.

⁷¹ Li, Kaixian, “Gao feng yi ren wang qi Zhang shi Mu zhi ming” 誥封宜人亡妻張氏墓誌銘, in *Li Kaixian quan ji*, 764.

of non-jealous women by depicting them as exceptions to the more typical pattern of aggressive, violent, and envious wives.

Epitaphs and biographies belong to a genre that aimed at accentuating the superior morality of their subjects. When writing about wives, biographers and epitaph writers stressed how each woman matched the social and moral expectations of a wife. The same principle held for biographies of concubines. Yet biographers would not have praised the virtue of non-jealousy if they had not thought that it was worthy of note. In other words, these wives maintained their authority over their husbands' concubines and earned the respect of their husbands by actively bringing concubines home to serve the chief interest of the patriarchal family—producing sons.

The superior morality of non-jealousy (*bu du* 不妬) was an archetype in Ming biographical and memorial writings about women. Not only were moral wives not jealous of concubines (and they sometimes even purchased concubines for their husbands), but they were able to treat sons of concubines as their own. Li Kaixian himself wrote several epitaphs for women (including for his own wife) and praising their virtuous freedom from jealousy. Li seemed to have particular interest in epitaphs for wives, and published a small collection of essays by husbands memorializing their deceased wives titled *A Collection of Laments for Wives by Those of who Share Sentiments* (*Dao nei tong qing ji* 悼內同情集). In the preface of the collection, Li claimed that even though he had read essays of lament before, he had not really been touched and did not understand the pain of losing one's wife until his own wife, Zhang *shi*, passed away. He thus picked his own

essay for his wife, and another five essays that he thought expressed the same sentiments as his, for a publication.⁷²

Li Kaixian commemorated his wife's management of chores, her freedom from jealousy, and her worries about having heirs. The other essays Li collected also included descriptions of similarly moral behavior. For example, in the collection, Luo Hongxian 羅洪先 (1504–1564) wrote about how his wife had only one son, so she treated his concubine well and felt worried and depressed (*yi yi* 悒悒) when the son of the concubine died.⁷³ Wang Shenzhong 王慎中 (1509–1559) recorded that he had two sons, but his wife thought that they should have more. The wife knew that it would be difficult for her to get pregnant again and put her hope on concubines.⁷⁴ Tang Shunzhi 唐順之 (1507–1560) wrote that, before his wife passed away, she distributed her clothes to her daughter and to Tang's concubines. The shared pattern in these husbands' writings is image of an ideal wife who prioritized the importance of having heirs and treated concubines well.⁷⁵

Tang Shunzhi also wrote an epitaph for his sister-in-law, Tang *shi*, fulsomely praising her lack of jealousy. Tang recorded details about Tang *shi* preparing concubines for his brother:

Within the first three years of marrying my brother, she [Tang *shi*] got pregnant twice, but both times she miscarried in the middle of the pregnancy. She thus considered having an heir an urgent priority. One day when my brother and I came home from Yixing, we were surprised to see a strange woman in the room and asked [who she was]. Then we found out that she was the concubine my sister-in-

⁷² Ibid., 2288.

⁷³ Luo Hongxian 羅洪先, “Wang qi Ceng shi mu zhi ming” 亡妻曾氏墓誌銘 in Li, Kaixian, *Li Kaixian quan ji*, 2194-2196.

⁷⁴ Wang Shenzhong 王慎中, “Cun dao pian” 存悼篇 in Li, Kaixian, *Li Kaixian quan ji*, 2200-2202.

⁷⁵ Tang Shunzhi 唐順之, “Feng ru ren Zhuang shi mu zhi ming” 封孺人莊氏墓誌銘 in Li, Kaixian, *Li Kaixian quan ji*, 2197-2199.

law had prepared [for my brother]. My brother stubbornly refused her by arguing that he was just twenty years old, and he sent the concubine away without having sexual intercourse with her. Five or six years after the incident, my brother and his wife still did not have children. She thus again purchased a concubine for my brother. She even personally dressed up the concubine, and did her hair and makeup, so that my brother would like the concubine. In their daily life, my brother and his wife get along very well. After having a concubine, Tang *shi* every so often had to give up having sexual intercourse with my brother so that the concubine could have sex with my brother regularly. She was not the type of person who would impede [the production an heir] because she was thinking of herself . . . Alas, it is not difficult for a wife to prepare concubines for her husband when she is in middle age and without a son; it is really difficult for a wife to prepare concubines for her husband when she is young and just married to her husband. 其始歸余弟三歲而兩娠，皆半胎而墮，即以後嗣為急，偶余弟從余自宜興歸，入室見一女子，訝問之，知所置妾也。余弟靳靳以年始弱冠為辭，不御而遣，之後五六年，竟無子，乃更為置妾，至親為之膏髮整容，惟恐不當余弟意。居常夫婦間，相得歡甚也，及置妾則每割床第之愛，若使其妾得以時御焉，而不以已故妨之者。… 嗚呼，其能置妾於中年無子之日，不足為難，而能置妾於少年始婚之時，則為難。⁷⁶

Tang thus ended the epitaph by saying that eventually his sister-in-law had a son of her own after she obtained a concubine for her husband. He claimed that the child was a reward from heaven for her non-jealousy (*bu du zhi bao* 不妒之報). Although it might seem inappropriate for Tang Shunzhi to publicize so many details about his brother's private life, Tang expounded on the archetype of wifely non-jealousy and the anxiety about having an heir. By portraying the emotional and sexual attachment between the couple, Tang dramatized the morality of the wife: she was voluntarily giving priority to the interests of the patrilineal family (having heirs).

Tang Shunzhi portrayed an ideal image of his sister-in-law. Similar images also commonly appear in novels and dramas. If a story features a jealous wife, she will be reformed, usually at the end of the story, into a non-jealous wife. If a story features a

⁷⁶ Tang Shunzhi, "Di fu Wang shi mu zhi ming" 弟婦王氏墓誌銘 in *Jingchuanji*, 15.309.

courtesan or a concubine, a wife who is not jealous of her husband's concubine is the necessary element for a happy ending to the story. The archetype of the happy ending thus includes the courtesan or the concubine having sons for her husband and her husband's wife, who is commonly described as being childless, and the three of them living together peacefully and joyfully.⁷⁷

In addition to seeing the ideal image of a wife in the epitaph of Tang *shi*, we also see her actively intervening in her husband's sexual life. Tang *shi* purchased concubines of her choice without her husband's prior consent, but she also made sure that her husband would be sexually attracted by the concubines she picked. Sexuality here became instrumental to the reproductive mission. In so doing, even without actually reproducing heirs, Tang *shi* affirmed her position of superiority over the concubine.

Authors of biographical writings recorded wifely jealousy and violence to highlight the contrast between those behaviors and a wife's exemplary moral performance. In a much more direct tone, medical texts recommended that wives strategically restrain themselves in beating and scolding of concubines in order to cultivate their reproductive bodies. A famous Ming physician, Zhang Jiebin 張介賓 (1560–1640), advised adherence to a meticulous system to produce heirs, a system that involved monitoring time, space, and people. Zhang disapproved of having concubines since he thought that they caused family conflicts. Zhang also, however, acknowledged the necessity of having an heir and suggested a set of methods for cultivating a concubine's reproductive body for old and childless couples who were desperate for sons. He pointed out that a principle

⁷⁷ For example, "Enduring Humiliation, Cai Ruihong Seeks Revenge" in Feng Menglong, *Stories to Awaken the World*, Chap. 36, 835–861; "Yutangchun Reunites with Her Husband in Her Distress" in Feng Menglong, *Stories to Caution the World*, 24.377–422.

wife was usually reluctant to allow concubines to her husband, so she tended to be angry with them: scolding them, complaining about their daily habits, and making a scene for trivial reasons. Zhang said that although this was normal behavior, a principle wife should not treat concubines harshly because it could so weaken their blood and vitality, and prevent them from becoming pregnant. Zhang further recommended arranging for concubines to live far from a wife's bedroom to enable the husband and concubine to have sex undisturbed. If a concubine was angry or afraid, her vitality would stagnate and then, just as a husband could not impregnate concubines in certain circumstances, so the concubines could not become pregnant. Zhang said his instruction was just a scheme for helping people solve an intractable situation (*wei jin nang wu nai zhe she* 為錦囊無奈者設). He concluded by pointing out that if a smart and virtuous wife heard and reflected on his words, she would worry about the family line, would not be jealous and would sympathize with her husband's concubines. Zhang ended his instruction with a clichéd moral. As a physician, however, Zhang honestly identified conflicts that arise all too easily between a wife and a concubine and recommended pragmatic ways to avoid such conflicts and realistic reason for asking wives to suppress their violence toward concubines.⁷⁸

In addition to making a scene or to using direct violence against concubines, wives, like women who were praised for their “non-jealousy,” more often behaved passive-aggressively to assert their positions of authority and to control their husbands' sexual partners. One especially vivid example was portrayed by Feng Menglong, who wrote several stories about talented courtesans who were abused by principle wives once they

⁷⁸ Zhang Jiebin, “xu qui” 畜妾 in *Jing yue quan shu*, 39.56b-58a.

entered families as concubines. In a story of an oil peddler marrying a famous courtesan, Sister Mei, the courtesan, at first refuses to take on patrons after she is set up and loses her virginity. A Madam Liu tells Mei to continue to take on patrons so she can choose whom to marry in the future. According to Madam Liu's analysis, there are eight ways for prostitutes to free themselves, to "get out" through marriage. These included a miserable getting-out, a happy getting-out, and a short-lived getting-out, all of which portrayed a similar image of a wife having control over concubines as in the biographies and epitaphs mentioned above. Madam Liu says,

. . . Once she [a prostitute] joins the rich family with its strict rules, she can't even hold her head high. She's somewhere between a concubine and a maid-servant and wishes herself dead as her life drags on day after day. This is a case of a miserable getting-out.

What's a happy getting-out? A girl on the lookout for a husband gets to know a patron of gentle temperament from a rich family, whose wife, kind but childless, hopes that the girl would join the family and bear children. If she does bear children, she will become a mistress of the family. So she gets to enjoy a peaceful life and a higher status after childbirth. This is a happy getting-out.

. . . The girl and a patron fall passionately in love and she marries him on the spur of the moment without any long-term commitment. Then, either because his parents reject her or his wife is jealous of her and makes a few scenes, she is sent back to the madam's house for a refund. . . . This is a short-lived getting-out.⁷⁹

Feng Menglong vividly narrated the ways in which a wife could determine a prostitute's destiny once she entered her family and became a concubine. According to Feng, the only situation in which a prostitute's life might end well would be that in which she satisfied a family's need for having a child, the birth of which would ensure a concubine's stable status in the household. In the other two ways of getting out of prostitution, concubines either lived miserably or were sent away. In the story, Madam Liu's warning works and Sister Mei starts to take on patrons to make money so she can determine her own fate

⁷⁹ Menglong Feng, *Stories to Awaken the World*, 3.47-48.

when she is ready. Feng's detailed narrative provided an image in which a wife could have control over concubines once they were brought into the household from the outside world, as many wives did and subsequently were praised by their husbands or by biographers for being non-jealous.

The examples described above demonstrate the possibility that a wife could choose and control her husband's sexual partners in the name of maintaining familial order and having heirs. The last example represents a women's point of view. In her autobiography, "Record of Past Karma," Ji Xian 季嫻 (1614–1683) spoke about her connections with Buddhism, her dreams about a man whom she killed in a past life, and her deep desire to dedicate herself to religious life without the distraction of domestic trivia, including her sex life with her husband:

After that I felt everything was wrapped up. Accordingly, Weizhang [Ji Xian's husband] and I took separate beds. Weizhang at first set up two concubines. Since neither of them were agreeable, they were sent away. Then he secretly kept a mistress surnamed Fan. I only found out about it in the spring of 1657. I said, "I originally wanted to set up another person for you. Since you have this one now, why don't you bring her home?" But Weizhang stubbornly refused to do so. I thought that since I am often ill and Weizhang is often deluded by feelings, why should I thus be deluded along with him? ⁸⁰

Ji Xian continued discussing her decision to enlist relatives to pressure her husband to build two residences so she could practice Buddhism alone.

Ji Xian's autobiography is another classic example of "non-jealousy." She asked her husband to bring home his mistress. Yet, her husband's refusal to bring his mistress into the household was unsurprising, considering that Ji Xian had a history of sending concubines away. Ji Xian probably could have established her authority over Lady Fan

⁸⁰ Ji Xian, "Record of Past Karma," in *Under Confucian Eyes: Writings on Gender in Chinese History*, ed. Susan Mann and Yu-Yin Cheng, trans. Grace S. Fong, 143-144.

and intervened in her husband's sexual pleasure if Fan had been brought into the household and had officially become a concubine. Grace Fong, who tracked down Ji Xian's unpublished autography and translated it into English, not only pointed out Ji Xian's authority in the household but also provided two additional hints that help us understand the domestic conflict in Ji Xian's household. First, although Ji Xian's poetry was published three times, two of those three books having had her husband as editor, her prose collection (including her autography) was never published—which suggests possible censorship by her husband. Second, addressing the incident regarding her husband's mistress, Ji Xian enlisted relatives to talk about the separate residences, which, even if it would not result in exposing her husband's secrecy to condemnation, would at least enable her to express her displeasure and gain outside support.⁸¹ Grace Fong's analysis suggests that the incident regarding the mistress, Lady Fan, might have been much more dramatic than it appears to be in the written autobiography. At the end of the autography, Ji Xian thanks two "good friends" of hers, her husband and his mistress, for helping her realize her "Buddha seed" and achieving final "transcendence." Ji Xian was likely extremely frustrated when her husband refused her request. Acknowledging that she was losing control might have been the last straw in triggering her to move away from her husband and dedicating herself fully to Buddhism. Her husband's refusal to bring his mistress back would force Ji Xian to realize that her control and authority was limited in the domestic space. Disappointed by the limitations inherent to the subject position of a wife, Ji Xian sought an alternative (and maybe the only) path to literally refusing to be a wife in a world where every woman was considered a wife.⁸²

⁸¹ Ji Xian, "Record of Past Karma," 135-146.

⁸² In late imperial China, many wives of the gentry sought the consolation of religion during middle-age.

Conclusion

This chapter reveals how wifely jealousy and violence were perceived in late imperial China and how they were involved with anxiety over having heirs. During the Ming period, violence enacted by women out of jealousy was constrained when it challenged the value system that privileged having offspring, but was praised when it defended the hierarchical order of the family.

In standard histories that were written before the tenth century, historians included jealous wives in their husbands' biographies as background information and did not criticize husbands when they failed to control their wives. After the tenth century, the attitude toward jealous wives turned negative. *Songshi* treats jealous wives as symptoms of their husbands' immorality. *Mingshi* and *Ming shilu* both represented the values of the state, consistently advocating for the suppression of jealous wives who challenged the reproductive imperative of the patriarchal family. In examining the legal strategies included in pettifogger handbooks, however, we also found that, while husbands could suppress their wives' violence over their sexual partners in the name of having heirs, the men were also asked to constrain their own behavior in the name of maintaining the hierarchy between wives and concubines. In other words, both husbands and wives were constrained by the hierarchical structure of the Confucian family, which was supported by the law and the state.

A wife's superior position was authorized and embedded in the familial structure. She could appeal for moral and legal support when her superiority was challenged. A

They stayed home but performed religious practices while escaping their duties as wives. Mann, *Precious Records: Women in China's Long Eighteenth Century*. Ji Xian also used very strong (vulgar) words to describe her wifely duties.

Jealousy and Non-Jealousy

wife needed to strategically restrain herself to fit comfortably into the moral system, but she could also receive support from the system to eliminate or discipline her competitors. Wifely violence that was sanctioned by law and morally approved by the literati was thus carefully articulated in biographical and memorial texts instead of in legal texts, as it did not violate the law. In this type of writing, wives were praised for their morality of non-jealousy and they actively intervened in their husbands' sexual lives in the name of having heirs. Following the same logic, as long as wives' jealousy did not challenge the central purpose of the patriarchal family—having sons—the jealousy was acceptable and even celebrated as a deep emotion reflecting the bonds between wives and husbands in the late Ming period.

In sum, the perception of jealous wives depended on whether they challenged the increasingly important value of the patriarch family—having heirs. Many wives, who were praised for their morality of non-jealousy, actively controlled their husbands' choice of concubines. In doing so, even without actually reproducing heirs, these wives retained their absolutely superior positions over their husbands' concubines. In the next chapter I will examine motherly violence. I argue that the “bodily” connection between a mother and her children was indispensable in view of the ways in which the literati conceptualized legitimate and illegitimate violence perpetrated by mothers.

Table 1: Jealous Wives in *Songshi*

Name	Family	Violence of Jealous	Records of No children	Punishment	Citation
Empress Li 李皇后, The wife of Emperor 光宗 Guangzong (1147– 1200; r.1189-1194)	imperial	Y	N	N	“Guang zong ci yi li huang hou” 光宗慈懿李 皇后, 243.8653.

Jealousy and Non-Jealousy

Lady Li 李氏, the wife of Prince Shang 商王, Zhao Yuanfen 趙元份 (969–1005)	imperial	Y	N	N	“Shang wang yuan fen”商王元份, 245.8699.
Princess of Yang state 揚國	imperial	N	Y	N	“Yang guo da zhang gong zhu”揚國大長公主, 248.8774.
Lady Yang, 楊氏 The wife of Xia Song 夏竦	High-rank official	Y	N	N	“Xia Song”夏竦, in 283.9571
The wife of Qin Gui 秦檜	High-rank official	N	Y	N	“Qin Gui”秦檜, 232.13758
The wife of Xue Juzheng 薛居正	High-rank official	N	Y	N	“Xue Juzheng”薛居正, 264.9109-9112.
The wife of Sun Mian 孫沔	High-rank official	N	N	N	“Sun Mian”孫沔, 288.9686-9690
The wife of Wang Bin 王賓	Low-rank official	Y	N	Y	“Wang Bin”王賓, 276.9409-9410
The wife of a government clerk	Low-rank official	Y	N	Y	“Zi xiao”子瀟, 247.8747

Table 2: Jealous Wives in <i>Yuanshi</i>					
A Jealous Wife	Family	Violence of Jealous	Records of No children	Punishment	Citation
Imperial Order Punishing jealous wives	Wives in general	N	N	Y	“Taizu”太宗, 2.33
Empress Danashili 答納失里	Imperial family	Y	N	N	“Shun di hou wan zhe hu dou”順帝后完者忽都, 114.2880
The wife of a local government clerk, Zhang Jian 張鑑	Low-rank official	Y	Y	Y	“Yuan Yu”袁裕, 170.3999.

Table 3: Jealous Wives in <i>Ming Shi</i>					
A Jealous Wife	Family	Violence of Jealous	Records of No children	Punishment	Citation
Lady Wang 萬氏, the imperial concubine of Emperor 憲宗 Xianzong (b.1447; r.1464-1487)	imperial family	Y	Y	N	“Xianzong xiao mu ji tai hou”憲宗孝穆紀太后, 113.3521

Jealousy and Non-Jealousy

Lady Xu 徐氏, the wife of Prince Jian of Dai 代簡王,朱桂 Zhu Gui (1374–1446)	imperial family	Y	N	N	“Prince Jian of Dai, Gui” 代簡王桂, 117.3582
The wife of Yang Xuan 楊宣	High-rank official	Y	Y	Y	“Treatise of the Penal Law “(<i>Xing fa zhi</i> 刑法志), 94.2323
The Concubine-mother of Yang Jisheng 楊繼盛 (1516–1555)	Gentry family	Y	N	N	“Yang Jisheng” 楊繼盛, 209.5535
The principle mother of Xie Yong 謝用	Merchant family	Y	N	N	“Xie Yong” 謝用, 297.7602
The wife of Yang Yushan 楊玉山	Merchant family	Y	N	N	“ <i>yi qie Zhang shi</i> 義妾張氏, 301.7705

CHAPTER 3

MOTHERLY STRICTNESS AND LOVING KINDNESS: AUTHORIZING AND CONSTRAINING MOTHERLY VIOLENCE

In the previous chapter, I argue that the line that demarcated legitimate from illegitimate violence performed by wives depended on whether the violence challenged the reproduction of the patrilineal family. In this chapter, I show that whether or not motherly violence was considered to be an appropriate form of discipline or transgressive was depended on the relationship between mother and child. The following legal case precisely demonstrates this point.

The case involved a domestic conflict between a man and his ex-mother-in-law, in which the man's new wife beat her stepson. The child's grandmother, the man's ex-mother-in-law, protested the man, but he defended his new wife. In the heat of their argument, though, the man punched his ex-mother-in-law in the face and knocked her teeth out, after which she sued the man in court! Writing his closing verdict for this domestic conflict, a Ming judge, Li Qing 李清 (1602–1683), recommended doing nothing, on the following grounds:

For a small child who takes down a roof-tile without any reason, a loving mother would beat the child. If it is the child's consanguineal mother who does it, then [we deem her to be] a mother with loving-kindness. If it is the child's stepmother who does it, then [we] inevitably [deem her to be] an abusive mother.

夫弱子有不以理下瓦者，則慈母笞之。其母為之，則慈母也；其繼母為之，則不免為虐母也。¹

In his verdict, Li Qing alluded to *The Works of Master Guan* (*Guanzi* 管子), a political and philosophical text written in early China. That text states that, while mothers always love and often indulge their young children, they would discipline children when they behave erratically.

¹ Li Qing, *She yu xin yu*, 560.

In a sarcastic tone, Li Qing pointed out that it did not matter whether the child in the case was being abused or being legitimately disciplined. While the stepmother might be right to discipline the child, she would always be deemed wrong and considered to be an abusive mother if she beat her stepson. Unable to decide if the stepmother was being abusive, Li Qing ended up just merely issuing a warning to the stepmother, adding that he hoped (*yuan* 願) the stepson won't be abused in the future.

The essential distinction between consanguineal mothers and stepmothers had appeared in medieval China. In his important commentary on the Confucian classic, *Observances and Rituals* (*Yili* 儀禮), Jia Gongyan 賈公彥 (seventh century) argued,

A stepmother is not flesh and bone (*gu rou* 骨肉), thus [her status should be] next below that of the consanguineal mother (*qin mu* 親母).
繼母本非骨肉，故次於親母後。²

The two terms, *gu rou*, and *qin mu*, have specific meanings in Chinese that apply to this case. The literal translation of *gu rou* is “bone and flesh.” According to the scholar’s research, the term was commonly used to denote close consanguineal relatives. “The idea of shared substance (*t’i*, body and *ch’i* [qi], vital force) is implied by the use of this term.”³ *Qin* 親 denotes “close,” “personal,” “parents,” or “close relatives.” The term *qin mu* can be loosely translated to refer to consanguineal mothers, but in the context of classical Chinese, it should be understood more specifically as referring to the mother who gives one bone and flesh (body). One of the basic concepts of filial piety in imperial China was that children own their parents’ bone and flesh.⁴

² Hu Yunwei, “Tang dai de ji mu zi guan xi—yi Wang wan, Wei cheng qing wei zhong xin.”

³ Watson and Ebrey, eds., *Kinship Organization in Late Imperial China, 1000-1940*, 8.

⁴ In the myth of a famous Chinese divinity, Nézhā, Nézhā cuts off his bone and flesh to show that he no longer has relationship with his parents. Discussion on Nezha and filial piety, See Sangren, *Filial Obsessions Chinese Patriliney and Its Discontents*.

This special “bodily” connection with one’s consanguineal mother was crucial when judging motherly violence to be legitimate.

In addition to differentiating between a consanguineal mother and a stepmother, Li Qing also used the term “a mother with loving-kindness” (*ci mu* 慈母) in a way that might confuse modern readers. While the English translation of *ci mu* can be either “loving mothers” or “mothers of loving kindness,” its meaning can also be stretched to refer to virtuous mothers, depending on the context. However, whether a mother met the definition of being virtuous, as I argue later, depended on her relationship with her children. For a consanguineal mother, being a *ci mu* meant beating children whenever they misbehaved; for a stepmother, being a *ci mu* meant not beating children at all; otherwise, as Li Qing pointed out, stepmothers’ discipline would invariably be seen as abusive violence.

In this chapter I focus on disciplinary motherly violence as I examine maternal positions of authority in the structure of the patriarchal family in Ming China. I argue that maternal relationships with patrilineal descendants—defined by a mother’s marital status with her husband and her bodily connection with her children—authorized varied levels of violence against children.

Defining “Legitimate” Mothers

The moral foundation of motherly violence was built on the idea that parental violence was necessary during the process of cultivating moral and filial children. The following expression from a popular Ming novel, *Slapping the Table in Amazement*, demonstrates the rationale:

From under the head of a stick there will emerge a filial son;
From under the head of a chopstick there emerge an insubordinate [son].
棒頭出孝子，箸頭出忤逆。⁵

In other words, parents should use heavy corporeal violence to cultivate a son's filial piety. If parents were not strict enough or pampered their sons, their sons would become unfilial. In the novel, the author used this "common sense" principle to criticize parents who spoiled their sons. The intriguing part of the sentence is its expression of a common contemporary view that cultivation of filial piety required violence. While the connection between violence and submissiveness might be easy to forge, filial piety is never just about the subordinates (children) being submissive to the superordinates (parents), but includes mutual respect from both sides. Precisely because parents were assumed to love and indulge their children instinctively, the literati considered it necessary to emphasize the importance of using discipline to produce proper moral subjects. In this chapter I examine legal and literary texts that sanctioned parental violence, and argue that the shared concern behind these texts was the balance between discipline and love.

In the legal context, the legitimacy of parental violence was also based on the motivation to cultivate and educate children. A Ming statute, "Striking Paternal Grandparents or Parents" (*ou zu fu mu fu mu* 毆祖父母父母), regulated situations in which people struck or were struck by paternal grandparents or parents.⁶ The title of the statute indicates the main target that the Ming state wanted to control through punishment: subordinates (children) striking the superordinates (parents). In imperial China, several dynastic laws severely constrained the behavior of people involved situations in which a subordinate demonstrated any form of disobedience (including

⁵ Ling Mengchu, *Chu ke pai an jing qi*, chapter 13.

⁶ *DML*, 187-88.

scolding, striking and killing) against his or her superordinate. In contrast, the punishment for a superordinate's violence against his or her subordinate was always reduced. The discrepancy widened or narrowed according to the familial or social distance between the two parties. The relationship between parents and children was considered the closest and the most hierarchical familial relationship in imperial Chinese legal systems. Therefore, punishment of a child would increase in intensity by several degrees if the child demonstrated disobedience toward a parent; in contrast, a parent's violence against a child would be considered a legitimate means of maintaining order and the family hierarchy.

Although the legal system, which assumed the domination of men over women, was gender-asymmetrical, the Ming state allowed mothers the same privilege as fathers to use violence to control their children. In the imperial patriarchal familial system, which demanded filial devotion from all children toward both their fathers and mothers, the position of the mother was the one in which a woman could maximize her power and authority over her children.

The Ming legal systems authorized consanguineal parents and four other kinds of mothers—“the principal mother” (*di mu* 嫡母), “the stepmother” (*ji mu* 繼母), “the adoptive mother” (*yang mu* 養母), and “the caring mother” (*ci mu* 慈母)—to use violence to discipline their immoral children. The polygynous marriage system in imperial China enabled a child to have multiple mothers. These four kinds of mothers qualified as mothers because of their marital relationships to the fathers. In this context, I categorize them as “affinal mothers,” in contrast to consanguineal mothers. Figures 1 and 2 depict relationships through which women would be defined as affinal mothers in this polygynous kindship system.

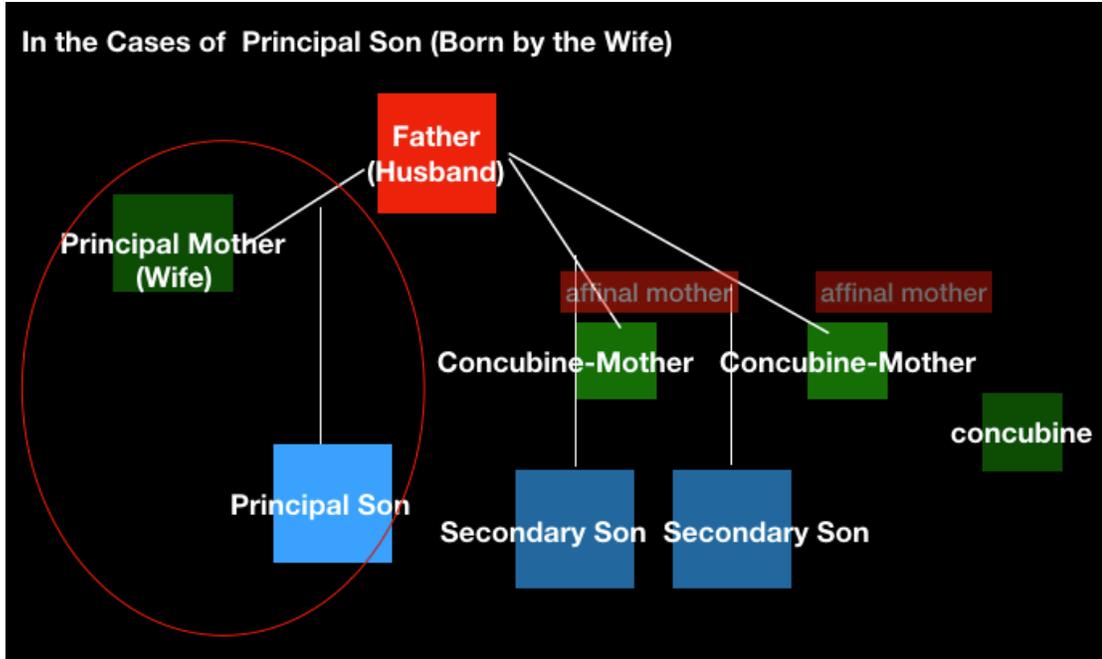


Figure 1: Familial relationships with principal sons.

Because a man could have only one wife, his wife was the principal mother of the family. A principal wife's son was the principal son (*di zi* 嫡子). The principal mother could claim control over not only her own birth sons but the concubines' sons. For a principal son, his father's concubines were his affinal mothers. Of course, if his mother died and his father took a second wife, his stepmother would also be his affinal mother. Concubines who counted as affinal mothers were also known as concubine-mothers. If a principal son's mother died and his father asked a concubine to raise him, this concubine-mother would be his *ci mu* 慈母 (caring mother). Here *ci mu* is a specific legal and ritual term, and is not a general reference to kind mothers, as in the case that opened this chapter.

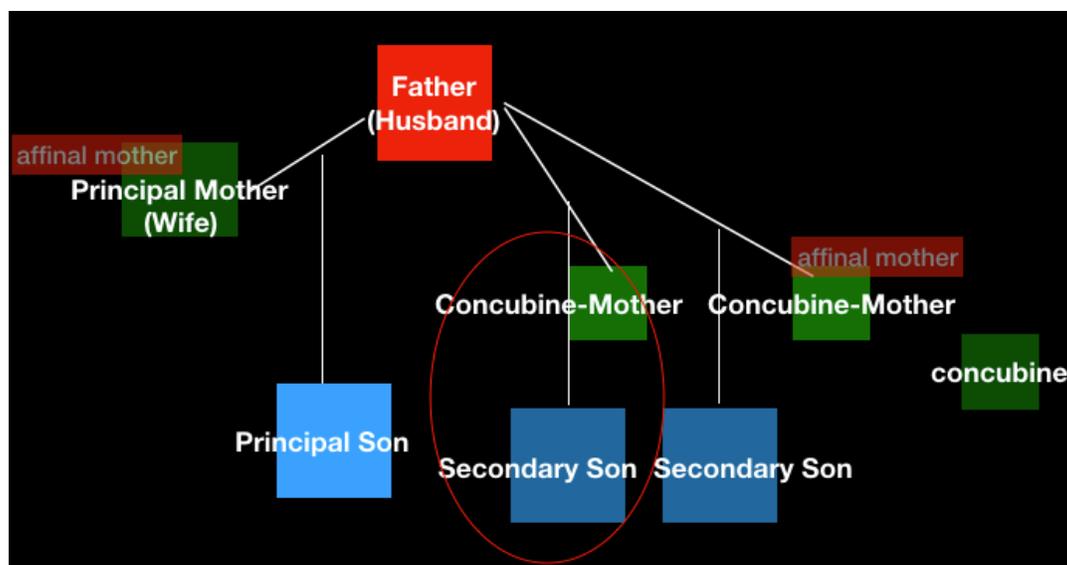


Figure 2: Familial relationships with secondary sons.

The situation changed for concubines' sons, who were called *shu zi* 庶子. *Shu zi* is a phrase that specifically denote to sons pertaining to a collateral side of a family. Given the superordinate position of principal sons and their mothers (wives), I translate sons by concubines as “secondary sons.” For secondary sons, their father’s wife and other concubines were affinal mothers. A secondary son would call his father’s wife as the principal mother, and his father’s other concubines as concubine-mothers. If his consanguineal mother died and his father asked a concubine to take care of him, he should call this concubine-mother his caring mother.

Thus, because the polygynous family system in Ming China allowed a man to have a wife and more than one concubine, the system created multiple mothers. In Ming mourning ritual, these various types of mothers enjoyed the same status vis-à-vis, and therefore the same authority over their children. As I argue in Chapter One, the Ming state established its own ideal Confucian family through legal and ritual prescriptions. Among these prescriptions, the Ming state included a new set of mourning rituals in *The Great Ming Code* to articulate the ideal

familial hierarchy as the theoretical basis for judicial sentencing.

The mourning system in *The Great Ming Code* not only equated the status of the consanguineal mother with that of the consanguineal father, it also elevated the status of affinal mothers, especially concubine-mothers and adoptive mothers (see Figure 3).

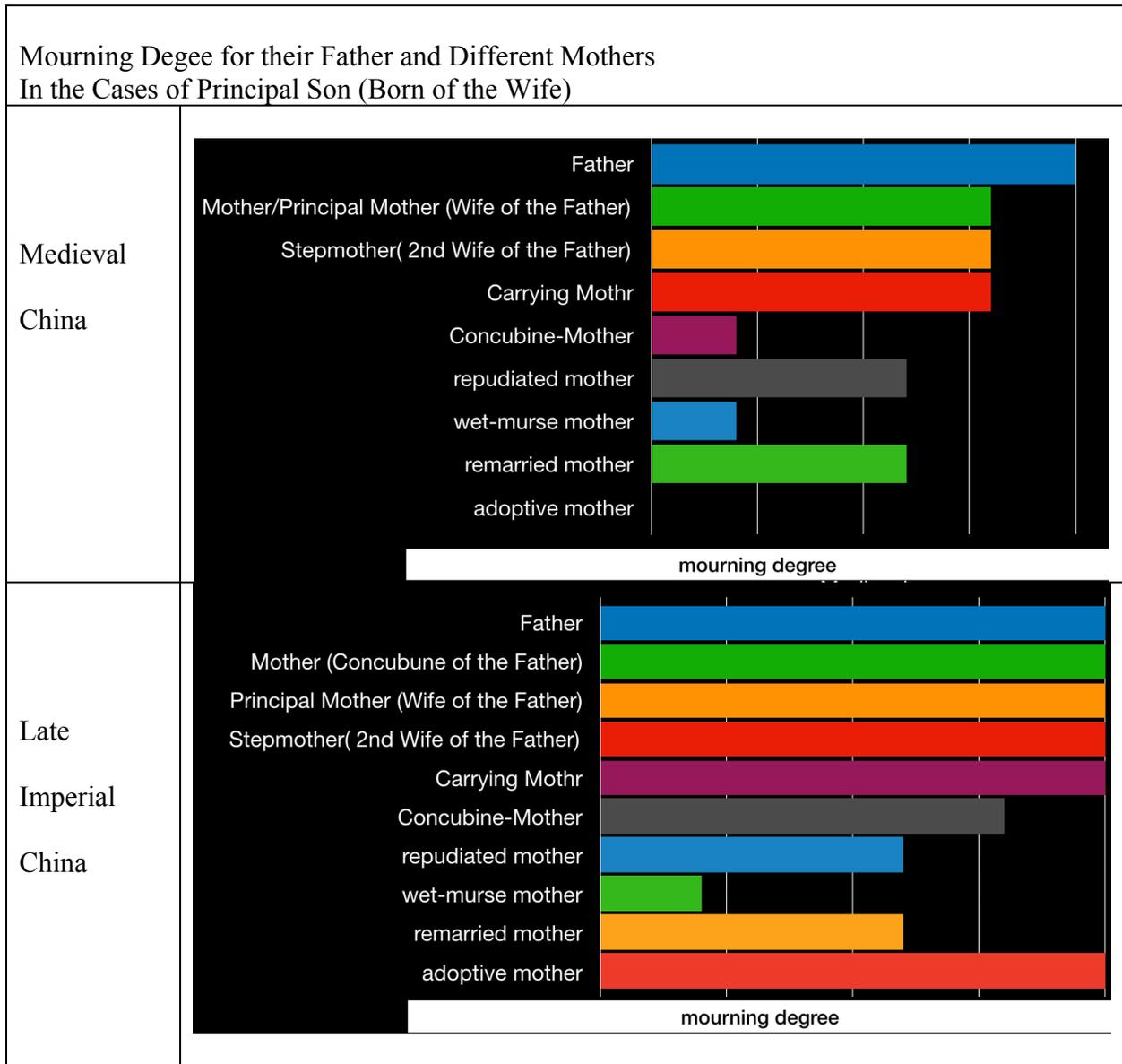


Figure 3: Mourning Degrees for a Father and Various Mothers in a Case Involving a Principal Son (Born of the Wife). This figure is based on the information of Xiao Qi's research. See Xiao Qi, *Fu mu deng en: "xiao ci lu" yu Ming dai mu fu de li nian ji qi shi jian*, 252-256.

Motherly Strictness and Loving Kindness

Table 1: Mourning Degrees for Three Fathers and Eight Mothers				
		<i>Definition</i>	<i>Mourning degree</i>	
Three Fathers	<i>tong ju ji fu</i> 同居 繼父	Stepfather who lives together (a man who marries one's consanguineal mother and lives with the family)	If the stepfather does not have a consanguineal child and the stepchild does not have brothers or agnate uncles	The second degree (<i>zi cui</i> 齊衰) for one year
			If the stepfather has a consanguineal (grand) child and the stepchild has brothers or agnate uncles	The second degree for three months
	<i>bu tong ju ji fu</i> 不同居 繼父	Stepfather who does not live together (a man who marries one's consanguineal mother but does not live with the stepchild)	The stepchild no longer lives with the stepfather	The second degree for three months
			The stepchild never lives with the stepfather	None
	<i>cong ji mu jia</i> 從母嫁	Stepfather who marries one's stepmother	The second degree for one year	
Eight Mothers	<i>di mu</i> 嫡母	Principal mother (a son by the concubine; this is the term a concubine-child uses to refer to the wife of his or her father)	The first degree (<i>Zhan cui</i> 斬衰) for three years	
	<i>ji mu</i> 繼母	Stepmother (a stepmother is the wife whom one's father remarries)	The first degree for three years	
	<i>yang mu</i> 養母	Adoptive mother (for an adopted member of another family since childhood)	The first degree for three years	
	<i>ci mu</i> 慈母	Caringmother (after a consanguineal mother dies, a child's father orders his concubine to raise the child)	The first degree for three years	
	<i>jia mu</i> 嫁母	Remarried mother (after a father's death, one's consanguineal mother remarries into another family and does not live with her late husband's family)	The second degree without staff for one year	
	<i>chu mu</i> 出母	Repudiated mother (a consanguineal mother who is repudiated by the father)	The second degree without staff for one year	
	<i>shu mu</i> 庶母	Concubine-mother, a father's concubine who has borne a child (one can be either a wife's or another concubine's child)	Wife's or another concubine's child	The second degree without staff for one year
			<i>shu mu</i> 's consanguineal child	The first degree for three years
<i>ru mu</i> 乳母	Wet-nurse mother (a father's concubine who breastfeeds one even though one is not her own child)	The fifth degree (<i>si ma</i> 絲麻) for three months		
<ul style="list-style-type: none"> • Two consanguineal mothers are marked with shadows, while the others are all affinal parents. • The original Ming chart placed the three fathers on the top and the eight mothers on the bottom' the above table follows the order of the original Ming chart. 				
The table is modified according to information taken from <i>DML</i> , 15; Huang Zhangjian ed., <i>Ming dai li li hui bian</i> , 32.				

Children should mourn for four of the eight kinds of affinal mothers listed in *The Great Ming Code* in the same degree as they mourn for their consanguineal mother still married to their father: the principal mother, a stepmother, an adoptive mother, and a caring mother (see Table 1). An adoptive mother differs significantly from a mother in one of the other three categories; see note.⁸ A principal mother and a stepmother are wives, while a caring mother is the concubine of a consanguineal father. Even though the caring mother is a concubine, she raises a child following the orders of her husband. The relationships with the consanguineal father that these three types of mothers have enable them to occupy the position of the mother and to enjoy the same mourning ritual as that of a consanguineal mother who is still married to the father.

The kinship system established in *The Great Ming Code* was patrilineal and polygynous. In the patriarchal family system established in the Ming legal system, a mother's marital connection with her children's consanguineal father qualified mothers (including consanguineal and affinal mothers) to occupy the same positions of authority over children in this patriarchal family system. The legal principle dictated that the higher the degree to which a child mourned his or her legal parent, the more power and control a legal parent enjoyed over the child. In contrast, while these affinal mothers would all be mourned by their children by observing the first-degree ritual, the mourning degree for a stepfather, regardless of the stepfather's connection with one's mother, would be much lower than that for affinal mothers. In other words, multiple kinds of mothers, who were connected to children through the children's father, were valued

⁸ According to the legal code, an adoptive mother has no consanguineal connection with the adoptive child. The child is considered a legal heir of the adoptive family and is raised by his or her adoptive parents from childhood; the two conditions qualify the adoptive mother to enjoy the first-degree mourning ritual. The adoptive mother is married to the adoptive father and so should enjoy the status of the mother because the logic of adoption requires the acquisition of an heir for the patrilineal family, not for a mother.

more highly than affinal fathers, who were connected to children through mothers. The asymmetry between these affinal parents legally confirms and reinforces the patrilineality of the family system.⁹

Although mourning rites were the foundation of the law in Ming China, rites and laws were ultimately different: law purported to punish criminal offenders and protect victims, goals that were not always congruent with the ideal family image that encoded in the ritual system. For example, while a son mourned for more than one kind of mother to the same degree in the ritual system, under the Ming legal system, only the consanguineal mother had exactly the same rights as the consanguineal father to use disciplinary violence against their children.

For people in the position of the father or the mother, there was no punishment for “legitimate parental violence,” even if the violence ended up killing a child. It should be noted that the statute named “Striking Paternal Grandparents or Parents” includes only consanguineal parents and affinal mothers within its purview. The situations of affinal fathers (namely stepfathers because a woman could marry only one man) were classified under another statute, “Striking Sons of Wives by Their Former Husbands” (*ou qi qian fu zhi zi* 毆妻前夫之子).¹⁰ The categorization indicates that stepfathers were not considered “parents” who could carry out disciplinary parental violence under *The Great Ming Code*.

⁹ Adding to the four types of affinal mothers who qualified for the first-degree mourning ritual, the other two types were the concubine-mother and the wet-nurse mother, both of whom were concubines of the father. Mothers of the former type had children of their own, but the latter being breastfed only by other mothers. Because a concubine-mother was married to a consanguineal father and had her own son, her position in the family was acknowledged. Even without caring for sons birthed by other mothers, concubine-mothers nevertheless enjoyed mourning degrees from these sons. In contrast, for a wet-nurse mother, without having a son or without taking care of sons born of other mothers like caring mothers, breastfeeding qualified her only for the lowest degree of mourning. It is worth noting that concubines needed to bear or raise children to be acknowledged as mothers by the system; wives, in contrast, could claim ownership of children by concubines and be acknowledged as mothers even without bearing any children.

¹⁰ *DML*, 189.

There were two premises that legitimated parental violence: that violence was used to educate immoral children to become ethical people, and that it operated according to the law (*yi fa jue fa* 依法決罰). The Ming official named Feng Zi 馮孜 argued that it was “appropriate” (*yi* 宜) for parents to discipline children according to moral and legal principles, and he criticized non-educational and excessive parental violence, whereby

[Parents] who do not reproach and instruct [children] according to correct principles, who do not punish [children] in accord with the law, and who unreasonably beat children to death—they are savage.

不以正理責諭，不依法決罰，而橫加毆打以殺之者，則已殘矣。¹¹

Feng Zi laid out the subtlety of appropriate parental violence in the legal system: it should be morally educational and applied accurately in accord with the law. Where parental violence was appropriate, there was to be no punishment regardless of the result of the violence. Illegitimate violence, including excessive punishing immoral children and punishing children without a moral reason, was to be constrained. See Table 2.

The Ming law differentiates between the rights of consanguineal and affinal mothers. Feng Zi elaborated on consequences of distance between an affinal mother and her children, and recommended the following principle for sentencing:

In the cases of principal, the step, caring, and adoptive mothers, their heart of loving sons, in the end still shows a gap from that of the consanguineal mother (*qinmu* 親母). [In cases of affinal] mothers inappropriately striking children to death or intentionally killing children, it is because these children are not their own issue, and their ferocity and jealousy are extreme. Thus, for each, increase [their punishment] by one degree [relative to the birth mother who inappropriately strikes a child to death or intentionally kills them].

若嫡繼慈養母，其愛子之心，終與親母有間。有毆殺、故殺之者，則以其非自己出，其凶妬亦甚矣，故各加一等。¹²

¹¹ Feng Zi, *Da Ming lü ji shuo fu li, zhong*.34b-35a.

¹² Feng Zi, *Da Ming lü ji shuo fu li, zhong*.35a.

Feng not only emphasizes that affinal mothers differed from consanguineal mothers but also concludes that killings by affinal mothers were motivated by the ferocious jealousy of children who are birthed by others. This commentary shows how a Ming legalist deeply distrusted parent–child relationships that were not based on consanguinity, and attributed violent conflict to an emotional affliction emerging from this untrustworthy relationship. Similar skepticism can be seen in a legal precedent supplement to *The Great Ming Code*. It asks judges to interrogate relatives and neighbors first when a stepmother sues her stepchildren for unfilial behavior.¹³

Table 2: Punishment for illegitimate maternal violence that killed children, under the statute named “Striking Paternal Grandparents or Parents”		
Regulation \ Punishment	Punishment for Consanguineal Mothers: (the same as for consanguineal patrilineal grandparents and consanguineal fathers)	Punishment for Affinal Mothers: Principal mothers, stepmothers, caring mothers, adoptive mothers
When sons or grandsons disobey the order of parents or grandparents, parents or grandparents killed them with excessive violence	100 blows with a heavy bamboo stick	60 blows with a heavy bamboo stick and penal servitude for a year.
When sons or grandsons disobey the orders of parents or grandparents, parents or grandparents killed them with excessive violence and ended the family line	100 blows with a heavy bamboo stick	Strangulation
When sons or grandsons did not disobey the order of the parents or grandparents, but parents or grandparents killed them intentionally (<i>gu sha</i> 故殺)	60 blows with a heavy bamboo stick and penal servitude for a year.	70 blows a heavy bamboo stick and penal servitude for one-and-a-half years.
When sons or grandsons did not disobey the order of the parents or grandparents, but parents or grandparents killed them intentionally (<i>gu sha</i> 故殺) and ended the family line	60 blows with a heavy bamboo stick and penal servitude for a year.	Strangulation
Note: In the Ming code, there are two kinds of bamboo sticks for the physical punishment: <i>chi</i> 笞 (a light bamboo stick) and <i>zhang</i> 杖 (a heavy bamboo stick).		

¹³ Huang, Zhangjian, ed. *Ming dai lü li hui bian*, 843.

In sum, even though *the Great Ming Code* establishes that a son should mourn for his consanguineal mother and his various affinal mothers in the same degree, the code does not grant these affinal mothers the same rights as the consanguineal mother in the use of disciplinary violence. We could reasonably infer that skeptical attitudes towards and stricter punishments for affinal mothers were intended to protect their children. Instead, I argue that the legally inscribed mistrust of affinal mothers in Ming China was intended to safeguard patrilineal reproduction.

Despite the differential treatment of affinal mothers in the Ming law, the punishment for these mothers' inappropriate use of violence was still much lighter than for cases of killing people with no such family connection. *The Great Ming Code* severely constrained inappropriate violence by these four affinal mothers in only one situation—punishment by strangulation if the violence resulted in the extinction of the family line (*jue si* 絕嗣). A Ming legalist, Lei Menglin 雷夢麟 (1514-?), explained the rationale for this heavy punishment for *jue si*:

Because [affinal mothers] do not give birth [to their affinal sons], [their] *en* (caring) is light; further, [their] extinguishing the family line is weighty, given [how seriously such behavior challenge] the righteousness.
以其非所生而恩為輕，絕人之嗣而義為重。¹⁴

While the literal translation of the word *en* is “beneficence,” in the abovementioned legal context this word connotes the parent–child “bodily connection” and “caring” that justifies the parent’s violence. Without the “bodily connection, a parent’s “caring” and raising children was not deemed to be important enough to justify his or her violence in killing the child. Such “unimportance” was relative, in comparison with the importance of producing patriline line.

When a famous Qing legalist, Xue Yunsheng 薛允升 (1820–1901), explained the legitimacy of parental violence, he asserted that the punishment for parental violence against

¹⁴ Lei Menglin, *Du lü suo yan*, 389.

consanguineal children was lighter than for violence against adoptive children, and was several degrees lighter than that for violence against unrelated people because “father, grandfather, son, grandson, are connected by the Heaven (*tian he* 天合).”¹⁵ Xue’s statement differentiates relationships based on marriage or human manipulation (i.e., adoption) from those based on consanguinity. While the idea of distinguishing between consanguineal and affinal parents already appears in the previous dynasty’s legal system, Lei’s explanation for severe punishment for affinal mothers who cause *jue si* shows that the statute’s encoding of emphasis on the reproduction of the patrilineal line had occurred in the Ming.¹⁶

The regulation that forbade *jue si*—the extinction the patrilineal line—was mainly a symbolic one whose practical applications were not entirely worked out. In his analysis of punishments for *jue si*, Xue found contradictions:

Punishing the principal mother with strangulation when she has killed a secondary son is already inappropriate. If the stepmother has sons [with her current husband] after killing her stepson, she is not considered to be causing *jue si*, so she is exempt from punishment by strangulation. Where is the sense in that? For the situation in which an adoptive mother kills her adopted son who is not the biological son of the father, how can this situation be considered as causing *jue si*? Caring mothers are rare cases so need not be discussed.

嫡母至死庶子擬以絞抵，已屬失當，繼母如生有己子，即不得以絕嗣論，免其絞罪，此何理也？養母所殺者，過繼之子之子也，非夫親子，豈得以絕嗣論，慈母較少，更不必論也。¹⁷

Xue’s analysis exposes how unrealistic it was to punish these four kinds of affinal mothers for *juesi*. Among these affinal mothers, three were wives. A wife could claim the ownership of sons by concubines and become a mother without giving birth to a child.¹⁸ A childless principal wife automatically became a principal mother when her husband’s concubine had a child. If a

¹⁵ Xue Yunsheng, *Tang Ming lu he bian*, 611.

¹⁶ I elaborate on this argument in my chapter on violence committed by wives.

¹⁷ Xue Yunsheng, *Tang Ming lu he bian*, 610-612.

¹⁸ In contrast, a concubine could become a mother only by giving birth.

childless principal wife killed her husband's only child by a concubine, to avoid punishment for *juesi*, as long as her husband was still alive she could procure new concubines for her husband or claim that the previous concubine might have additional children. She could even claim that she herself could become pregnant. The stepmother was also the principal wife. Similarly, as long as the husband was alive, even if the second wife, the stepmother, killed children by the first wife, she could still claim that she might have children of her own or ask concubines to have children for her husband. The law was applicable only when the husband died. Based on Xue's analysis, as long as it was possible for the husband to reproduce, the principal mother and the stepmother could not be accused of causing an heirless family. Clearly, the regulation was not aimed at protecting sons by concubines or by the first wife, but at protecting the patrilineal line.

Xue Yunsheng shows that in the case of an adoptive mother who killed adopted children who did not connect to her husband's family through consanguinity, the crime was not considered to result in the extinction of her husband's family. Xue further pointed out that son killing by caring mothers were extremely rare, so those cases did not require clarification. However, while the law was impractical, it was a symbolic gesture incorporated into the Ming legal code to stress the importance of having a consanguineal heir. The emphasis on protecting the father's consanguineal sons and on differentiating consanguineal mother from affinal mothers corresponded to the ways in which people imagined the ideal mother-son relationship.

Authorizing and Exhorting Maternal Violence

Parental disciplinary violence against children was acknowledged and regulated through the law. Leaving the juridical context and determinations of legally permissible parental violence, the legitimation of corporeal parental discipline focused on its efficiency as tool for maintaining the order of the family, and ensuring its future. While the legal code made no

distinction between consanguineal parents' disciplinary violence, literati did, often criticizing mothers for reluctance to administer punishment. Ideal parenthood, as I show, required parents to perform both loving-kindness (*ci* 慈) and strictness (*yan* 嚴). Performing the virtue of strictness meant meticulously supervising and disciplining children's behaviors, and using corporeal violence when necessary. Didactic discourses recommended instructional violence, but like the legal code set limits on what was appropriate. Ming literati credited mothers for their role in cultivating children's morality. Insofar as the literati also believed that a mother's essential nature—loving kindness—deterred her from being strict with her children, they constantly criticized mothers for showing only loving kindness and thereby failing to impose discipline.

Discussions of appropriate and effective parental violence had long played a role in the pedagogical writings. A foundational text of Ming family instructions, *Family Instructions of the Yan Clan* (*Yan shi jia xun* 顏氏家訓, 6th century), had already elaborated on the moral and practical ambiguities in parental disciplinary violence. While emphasizing the importance of strictness (*yan* 嚴), *Yanshi jia xun* also insisted on loving kindness (*ci* 慈), which could be easily compromised by parental beatings and distance. The instruction recommends that parents should achieve both:

Fathers and mothers should maintain loving-kindness in their [assertions of] authority and strictness; in doing so, sons and daughters become apprehensive and circumspect, which will give rise to filial piety
父母威嚴而有慈，則子女畏慎而生孝矣。¹⁹

To strike this delicate balance, *Family Instructions of the Yan Clan* suggests guiding children's behavior as early in life as possible, pointing out that once children develop a haughty attitude toward their parents, when parents want to restrain them, even beating them to death cannot

¹⁹ Yan Zhitui, *Yan shi jia xun*, 1.4a-4b.

reestablish their authority but creates resentment. The idea that parenthood should ideally combine both strictness (authority) and loving kindness continued to be the norm.²⁰

During the Ming, while the ideal parenthood required both strictness and loving kindness, literati gradually started to emphasize the necessity of “strict mothers” in families. They argued that mother’s nature—loving kindness—made them “naturally” lack strictness and thus easily produce immoral children.

In the Ming, *Family Standards* (*Jia fan* 家範), written by the Song official Sima Guang 司馬光 (1019–1086), became an influential text. *Family Standards* states the necessity of maternal teaching in a family and the danger of mothers with loving-kindness (*ci mu* 慈母).

For mothers, there is no need to worry if they lack loving-kindness, but there is a need to worry if they only know how to love [their children] but not how to teach them. There is an old saying: “Where there is a loving mother, there is a failing son.” If a mother loves her children but does not teach them, they will sink into immorality, become mired in evil, get involved in criminal justice and die. The failure of children should be attributed to no one else but the mother.

為人母者，不患不慈，患於知愛而不知教也。古人有言曰：慈母敗子。愛而不教，使淪於不肖，陷於大惡，入於刑辟而亂亡。非他人敗之也，母敗之也...²¹

Sima Guang assumed mothers to be lovingly kind by nature. Not only was he concerned to make sure that women took responsibility for training their children, but he attributed adult failures to the lack of properly strict maternal upbringing. This passage refers mainly to moral behavior, but, according to Hsiung Ping-chen’s research, Ming–Qing mothers also demonstrated strong interest in their sons’ education and career development.²² Literati acknowledged maternal roles in educating children, but, paradoxically, they considered that mothers’ assumed nature, loving-kindness (*ci*), was a potential threat to the cultivation of well-behaved children.

²⁰ Discussion on ideal parenthood in Ming-Qing family instructions, See Zhong Yanyou, “Ming Qing jia xun zu gui zhi yan jiu.”

²¹ Sima Guang, *Jia fan*, 3.13.

²² Ping-chen Hsiung, “Constructed Emotions: The Bond between Mothers and Sons in Late Imperial China.”

The possibility that a loving and kind mother compromised familial order is articulated in the commentary expressed in one specific sentence collected in *The Classic of Changes* (*Yijing* 易經):

As for those who rule the family like a strict lord, we deem them to be [true] parents.
家人有嚴君焉，父母之謂也。²³

Echoing Sima Guang's views in *Family Standards*, a Southern Song literatus, Zhao Rumei 趙汝楫 (ca. 13th century), emphasized, when explaining a sentence in *The Classic of Changes*, the necessity for strictness on the part of mothers.

People say that fathers are righteous and mothers are lovingly kind. [If so], why should the [*Classic of Changes* passage] speak of strictness?
[It is because] Mothers who are not strict are parasites [to the family].
或曰：父義母慈，何以亦稱嚴？
曰：母不嚴，家之蠹也。²⁴

Zhao pointed out that parents should play different roles in the family, but should both be strict. Later in the passage, Zhao elaborated that, while fathers are strict, they cannot supervise every little thing. Mothers who are not strict tolerate children's mistakes, bringing chaos to the family order. A Ming scholar, Cao Xuequan 曹學佺 (1574-1646), when annotating the same sentence in the *Classic of Changes*, underscored Zhao's reading, also using the vivid negative metaphor of lenient mothers as parasites, and changing "fathers are righteous" to "fathers are strict."²⁵

While literati were uneasy about loving mothers, they were more comfortable with loving and kind fathers. Ming family instructions often feature the two moral archetypes of the loving and the strict father. Yet, the archetype that literati praised most was the father who could be

²³ The sentence is also the first sentence explaining the "way of the father" (*fu dao* 父道) in Zhu Di, *Sheng xue xin fa*.

²⁴ Zhao Rumei, *Zhou yi ji wen*, 4.134.

²⁵ Cao Xuequan, *Zhou yi ke shuo*, 3.158.

both loving and strict.²⁶ In other word, ideal parenthood required both strictness and loving-kindness, a combination that both father and mother were expected to achieve. Yet, literati fixated not on paternal inadequacies in love, but on the inadequately strict nature of mothers, often attributing to it primary responsibility for the emergence of immorality. In contrast, fathers' presumed essentially strict natures rarely received such criticism or blame.

In the Ming, when elaborating on the comparison of parents to strict lords in *The Classic of Changes*, literati further underlined the need to have a strict mother with reference to her other familial relationships. A Ming official, Wang Jiankui 王漸遠 (1498–1558), for example, explained the sentence about the strict lord as follows:

The Way of rectifying a family [requires] not just a strict father; it is even more essential that the mother be strict. When the mother is strict, she instructs her daughters-in-law and servants in proper norms, and the inner chamber is orderly and serious. The vast multitude of women in this world have a nature of loving-kindness and gentleness; they indulge their sons, cultivating and nourishing their depravity, and still pamper and protect them, bringing ruin to their families.

正家之道，非特父嚴，母更要嚴，母嚴，則訓飾子婦僕婢有法，而閨門整肅。世之婦人性多慈柔，縱其子，長養其惡，猶自姑息愛護之，而敗其家，眾矣。²⁷

Here, Wang extended common admonitions for motherly strictness in childrearing to the broader context of household management and moral education. This admonition exhorts women to go beyond their natural characteristics—gentleness and loving kindness—to avoid representing a potential threat to the family, but it also openly acknowledges the role of the mother in cultivating children's moral behavior.

Hao Jing 郝敬(1558–1639)'s elaboration on the sentence echoed the importance of the mother. Hao pointed out that

²⁶ Zhong Yanyou, "Ming Qing jia xun zu gui zhi yan jiu."

²⁷ Wang Jiankui, *Du yi ji*, 2.40.

Mothers and children are always close; instead of worrying that mothers are not forgiving, one should worry that they are not strict. If men and women are not well-behaved, instead of worrying that there is no strict father, one should worry that there is no strict mother.

婦子親暱，不患不寬，而患不嚴。男女不肖，不患無嚴父，而患無嚴母。²⁸

Hao Jing's argument hints at two points: the inherent closeness between mothers and their children and the presumption of strictness as paternal nature.

Huang Zhengxian 黃正憲 (ca. 16th century) had a similar view, but he argued the necessity of both strict father and strict mother in terms producing an ordered family:

Fathers are strict and mothers are lovely-kind—when speaking of their dispositions in raising children. [However], when discussing the Way of correct [manly and womanly] roles, then it must be that both the father and the mother are equally strict before inner and outer [the whole family] can be solemnly in order.

父嚴母慈，以育子之情言；論正位之道，則必父母均嚴而後內外齊肅。²⁹

Also, from the perspective of emotion, Huang argued that loving kindness and strictness are both necessary. From the perspective of “the Way of correct [manly and womanly] roles,” however, which pertains to establishing moral order in a family, Huang stated that both parents should be equally strict.

These three literati all advocated for the necessity of having strict mothers, claimed that mothers often failed to be strict, and attributed these “failings” to women's natures. Wang Jiankui argued that the lovingly kind nature of women would cultivate immoral children. From the perspective of mother-child emotions, Hao Jing assumed mothers to be overly close with and tolerant of their children. Huang Zhengxian separated the issue of familial affection from familial order, and pointed out that familial order required only strictness. While these three literati did not completely dismiss closeness and affection between a mother and her children, they all gave

²⁸ Hao Jing, *Zhou yi zheng jie*, 11.199.

²⁹ Huang Zhengxian, *Yi xiang guan kui*, 8.79.

priority to strictness over loving kindness. A family could exist without loving kindness, but it must have strictness. In other words, only the father's nature was necessary, not the mother's.

In the Ming period, violence was considered a necessary pedagogical tool for parents to cultivate moral children. While the legal code legitimated parental violence, it also insisted that such violence operate within limits set by the state. Parents should not beat their children without a morally/legally legitimate reason, and beating should operate within the parameters set by law. Legal systems in imperial China were gender asymmetrical, whether in the areas of women's property rights or violent conflict between the husband and the wife (for example, there was no punishment for a husband beating his wife if there was no losing a finger or tooth). However, in terms of parents' legal right to discipline their children, both the consanguineal father and mother enjoyed exactly the same rights. Affinal mothers, because of their marital connections to the head of the patrilineal household, also enjoyed positions similar to that of the consanguineal mother; in contrast, ironically, affinal fathers were not even categorized as legitimate parents in the legal context.

The Great Ming Code acknowledged a mother's authority to discipline children, and Ming literati further exhorted women to actively exercise this legal right. The norms of ideal parenthood included both strictness and loving-kindness. Fathers were assumed to be naturally strict, and mothers to be naturally loving and kind. Fatherly strictness, like a husband's superiority over his wife, was superior to motherly loving-kindness. While both the father and the mother were capable of possessing both strictness and loving-kindness, because literati assumed the nature of the mother to be lovingly kind, they argued that mothers were in danger of

lacking strictness and thereby corrupting the order of the family. Mothers became scapegoats in these legal and moral systems.

Consanguineal Mothers Be Strict, Affinal Mothers Be Loving and Kind

While Ming literati assumed mothers to be disposed to loving-kindness, this assumption only applied to consanguineal relationships. The Ming official Lu Kun 呂坤 (1536–1618), articulated the distinction between consanguineal mothers and stepmothers in his famous educational book for women, *Exemplars for the Inner Chamber* (*Gui fan* 閨範):

We should praise mothers who teach [their children], not mothers who love [their children]; spoiling and indulging [one's own children] is what makes teaching so difficult. We should require stepmothers to love [their stepchildren], not to teach them; begrudging and detesting [stepchildren] is what makes loving so difficult. [Therefore,] stories of loving mothers are not passed on, but stories of loving stepmothers are. Those who are stepmothers can reflect on this.

母不取其慈而取其教，溺愛姑息，教所難也。繼母不責其教而責其慈，忌嫌憎恨，慈所難也。慈母不傳而慈繼母傳。為繼母者，可以省矣。³⁰

In his outline of “the way of the mother” (*mu dao* 母道), only does Lu Kun state an essential difference between mothers and stepmothers, but also reveals his assumptions about the essential nature of mothers—loving kindness (*ci* 慈)—when facing their consanguineal children. Only for stepmothers was loving kindness toward her children a virtue. In contrast, Lu Kun wrote that consanguineal mothers should constrain their loving kindness to enable them to teach their children more effectively.

In an analysis of Lu Kun's Way of the Mother, modern scholar Yi Jo-lan points out that, among the nine kinds of exemplary mothers Lu Kun identified in his book, two are affinal mothers, and Lu praised their loving kindness (*ci* 慈) when interacting with their social sons;

³⁰ Lu Kun, *Gui fan*, 4.1a.

seven are consanguineal mothers, and Lu focused on how these mothers strictly educated their sons using a variety of methods.³¹

In his book Lu Kun demonstrated how, as moral archetypes, consanguineal mothers rigorously educated their children. Among his exemplars is the “mother of propriety” (*li mu* 禮母) who teaches her son and manages the household with decorum. The “mother of impartiality” (*gong mu* 公母) does not favor her children: “She does not have fondness for her son and daughter. She is only responsible for their righteousness.” (*wu er nu zi zhi qing wei dao yi shi ze* 無兒女子之情，惟道義是責).³² Among these paragons of motherhood, Lu categorized mothers who used corporeal violence as “mothers of strictness” (*yan mu* 嚴母):

Strict mothers, they know how to balance authority and love.

They possess the way of the father.

嚴母，威克厥愛者也，有父道焉。³³

In other words Lu Kun agreed with other Ming writers that parenthood ideally should exhibit both strictness (authority) and loving kindness, and identified the former with fathers. For these authors corporeal violence was an expression of fatherly masculinity.

Lu Kun identified five archetypes of the strict mother and praised their disciplinary violence. One strict mother caned her son for gossiping about other officials. Lu Kun commented that the mother knew when she should be harsh when teaching her son. The second mother, whose son was a high-ranking official, beat him with a heavy stick for being pleased with praise for being good at shooting an arrow but not for governing and cultivating people (see Figure 5). A mother who beat her titled adult son might raise questions, so Lu Kun defended the mother thusly:

³¹ Yi, “ [Tian xia zhi zhi zi fu ren shi] —shi xi ming qing shi dai de mu xun zi zheng.”

³² Ibid., 4.1a-1b.

³³ Ibid., 4.2a.

Motherly Strictness and Loving Kindness

Pedantic people reprove the mother for lacking the righteous [principle] that mothers should follow sons. Those people are preposterous.

When sons are righteous, mothers obey them; When mothers are righteous, sons obey them.

迂者，以從子之義責母，謬矣。

子正母從，母正子從。³⁴

The third mother also beat her adult son when he failed to govern his soldiers properly. The three strict, exemplary mothers beat their adult, established sons when the latter made mistakes. Lu Kun's selection reveals not only what justifies disciplinary violence on the part of righteous mothers but also the authority of mothers over their adult sons.



Figure 5: Illustrations of the second strict mother, “Chen Yaozi mu.” The two illustrations are in Lu Kun, *Gui fan*, 1596 preface edition, and 17th century edition.

In validating maternal disciplinary violence, Lu Kun argued that such violence should not be used only in exceptional situations, but instead should be utilized as a routine pedagogical method during childhood. The fourth and fifth strict mothers Lu Kun mentions demonstrate the importance of educating children austere from a very early age. The fourth story focuses on the mother of the two famous Song scholars, Cheng Yi 程頤 (1032–1085) and Cheng Hao 程顥

³⁴ Ibid., 4.16b-17a.

(1034–1108). Lu Kun adapted the epitaph of the Cheng brothers' mother, Hou *shi*. In Lu's adaption, Hou *shi* is described as always easing her husband's anger yet never covering for her sons' mistakes. In other words, if her sons made mistakes, Hou *shi* would tell her husband even if it would make him angry. Although the text is not explicit, it hints at the possibility that the angry father might beat his son. Hou *shi* explains her reporting on her son as follows:

Sons misbehave because mothers cover for their sons' mistakes so fathers do not know about them.

子之不肖，由母蔽其過而父不知耳。³⁵

Hou's explanation repeats the exact wording of the commentaries on the strict-lord sentence from *The Classic of Changes*, something Lu Kun's readers would have noticed, and something that anchored the point with canonical authority. Lu Kun praised Hou for behaving like a strict teacher and not indulging her sons as common women did. He also pointed out that Hou struck a subtle balance between strictness and loving kindness:

The Madam [Hou *shi*] did not carelessly cane or beat [inferiors]. She was loving and kind but with rectitude; she was strict but with kindness. That the two sons both became great Confucian scholars originated from her [education].

夫人不輕笞朴，慈而正，嚴而恩，二子皆為大儒，有自哉。³⁶

Lu Kun confirmed that Hou *shi* consciously used appropriate violence when managing her household's morality.

The last story of the archetypal strict mother emphasizes that the strict mother loves her son deeply but still teaches him to always follow rules. For example, when he is ten years old, the son is asked to stand up all day to serve his mother. He dares not sit without his mother's ordering him to do so. Lu Kun commented on the story thusly:

³⁵ Ibid., 4.18a-18b.

³⁶ Ibid., 4.18b.

For those who are good at teaching their sons, their methods are nothing but strict. For those who know how to use strictness, their methods are nothing but cautiousness. Today, when people teach their sons, they are negligent and loosely supervise everything. They do not have the patience to be intently attentive to their sons. It is not until the morality and the nature of the sons become defective that those parents start to cane and beat them. However, to that point, beating and caning only damages sons' affection toward parents, but cannot save the defectiveness since it is too late. Reading the story of the Madam of the Shen, one should be able to be enlightened.

善教子者，一嚴之外無他術。善用嚴者，一慎之外無他道。今人教子，每事疏忽寬縱，不耐留心。及德性已壞，而答朴日加，徒令傷恩，無救於晚。視申國夫人。可以悟矣。³⁷

Lu Kun never disputed the need to use disciplinary violence. He only disputed the use of violence when it could no longer transform children's behavior. Here, the last strict mother archetype satisfies almost all the expectations that make disciplinary maternal violence legitimate. She deeply loved her child but her love did not hinder her from strictly cultivating her son's moral behavior; she began meticulously disciplining her son when he was small, and for this reason was able to cultivate her son's morality and lifestyle without encountering strong resistance from him. Lu Kun stressed the importance of sternly and righteously cultivating children as early as possible and pointed out that one should discipline children before beating and caning no longer suffice to transform them.

When commenting on exemplary strict mothers, Lu Kun emphasized the importance of a mother's being strict and knowing how to appropriately use disciplinary violence to cultivate children's behavior early in life. According to Lu Kun's book, when educating her son, a strict mother should not be afraid to use violence even when her son was already an adult; she should also know when to use violence to optimize the effects and she should use violence without losing her loving kindness. Being able to be both strict and lovingly kind is the way of the father. This ideal image was praised extensively in the family instructions as well.

³⁷ Ibid., 4.19a-19b.

During the Ming dynasty, the maternal role in educating children increased, both figuratively and literally. This tendency paradoxically intensified the criticism of the presumptive inherent nature of the mother. Ideal parenthood required both strictness and loving kindness. Because loving kindness was presumed to be inherent to the nature of consanguineal mothers, they were asked to constrain it and behave strictly to balance both loving kindness and strictness. In contrast, since affinal mothers were assumed to be distant and callous toward their social children, not only did the legal code constantly circumscribe affinal mothers' disciplinary violence, but discourses about appropriate maternal violence asked affinal mothers to perform only loving kindness, even though such unbalanced behavior was criticized comprehensively with respect to consanguineal mothers.

Disciplinary Violence and Intimacy

In the final section of this chapter I analyze biographical texts, such as brief biographical sketches and epitaphs. In the context of imperial China, biographical authors aimed primarily to showcase their subjects' achievements. If the subject was a man, the piece would include his political, social or literary achievements. But if the subject was a woman, because the proper place for a woman in Chinese society was in the household, a biographer would sometimes find nothing to write about.³⁸ However, during the Ming era, especially after the sixteenth century, literati not only wrote numerous biographies of exemplary women, but biographical writings about their female relatives, whom they knew personally. Modern scholar Martin Huang points out that a male literatus' personal closeness with and knowledge about the women they wrote

³⁸ Liu Jingzhen, "Ou yang xiu bi xia de song dai nu xing—dui xiang ,wen lei yu shu xie qi dai"; Martin Huang, *Intimate Memory Gender and Mourning in Late Imperial China*.

about could “make him more able as well as more inclined to reveal aspects of her life.”³⁹ Huang argues that women documented by their male relatives were portrayed more like individuals, rather than formulated moral archetypes.

The change that Huang describes reflects a source of tension informing biographical and memorial texts in the late imperial period: writing clichés that fit the moral standards of exemplars as opposed to writing about distinctive features that conveyed the uniqueness of both the writer and the people about whom he was writing. In other words, the image of these mothers would on the one hand fulfill the moral expectations of mothers, but that image would also be complicated by each author’s own creativity and his relationship to the family of the deceased. In this section, I consider biographical texts in which mothers are presented as strictly and violently expressing their “love” for their consanguineal sons, and stepmothers and principal mothers are praised for their loving kindness for their non-consanguineal sons. The didactic texts discussed in the previous sections assessed women and criticized their “weakness” when aiming to achieve prosperity in the family. In contrast, biographical writing described such mothers successfully serving familial interests. In didactic texts, literati treated mothers as scapegoats; yet, in biographical writing, literati treated mothers as saviors who stepped in when fathers failed to fulfill their roles. In contrast to other genres, biographical writings revealed ambiguities in views of mothers, and elevated the status of mothers on the basis of the absence of morally righteous men.

A famous Neo-Confucian Ming scholar, Lu Nan 吕柟 (1479–1542), wrote a preface to celebrate the eightieth birthday of a strict mother, Ding *shi* 丁氏. According to this preface, Ding was widowed at thirty, had four sons, and scolded them and caned them even after they had

³⁹ Martin Huang, *Intimate Memory Gender and Mourning in Late Imperial China*, 5.

established themselves as adults. Quoting his informant, Liu Rujiang 劉如江, Lu Nan described four scenes in which Ding imposed strict discipline on her sons. Lu Nan's preface notes that, even though the oldest son was already a retired official, his mother punished him by making him kneel for half a day and then beating him with a heavy stick. The second son had a very strong personality, so the mother controlled him with special strictness (*yu zhi you li* 御之尤厲). She never expressed approval of him until he was thirty-six years old. One New Year's Eve, the mother gave him a cookie, and the son was so happy that he jumped up and down. He thought that he had finally won his mother's approval halfway into his life. The third son was a military commander. When he was asked to join a military expedition, he was afraid and did not want to go. The mother scolded him for cowardice (*nuo* 懦) and told him to go; otherwise, she would never see him again. The fourth son was the most successful and passed the provincial civil service examination. One day he drank in a temple and misbehaved slightly. The mother sternly refused to see him for three days. After the son was punished by caning, she allowed him to see her again.

In the preface, Lu Nan used a rhetorical strategy to defend the morality of Ding's seemingly excessive violence. Again, the informant, Liu Rujiang, claimed that gentleness and submissiveness are the way of the woman (*nu dao* 女道), while strictly controlling family members is the way of the husband (*fu dao* 夫道). Liu was therefore puzzled that the strict mother did everything contrary to the way of the woman but could still enjoy longevity and receive an official title because of her son's achievements, and gentlemen considered her to be selfless. Lu Nan's answered as follows:

When the husband is alive, it is righteous for a woman to be gentle and submissive; when the husband is dead, it is loving and kind (*ci*) for a woman to be authoritative and strict. 柔順行於夫在之日為貞，嚴威用於夫亡之時為慈。⁴⁰

Lu Nan attributed the mother's extreme strictness to the lack of a father. He acknowledged the possibility that a mother can behave like a father when necessary. He even considered such strictness and authority as an expression of real *ci* 慈 (loving kindness) on the part of a mother.

In the Ming era, disciplining adult sons raised questions. Both Lu Kun in his educational book and Lu Nan in his preface found the need to justify such a situation. A mother's beating her adult son did not violate the law (unless it was wrongful and excessive); yet, when the adult son had already occupied the position of head of the household, the position of the mother appears less adequate justification for disciplinary violence against her children. Because the legitimacy of violence was based on the family hierarchy—the privilege of the superordinate over the inferior—if an adult son was the head of the household, or even an official whose social position superseded the family hierarchy, his mother's disciplinary violence might become problematic. Even so, in the formula for exemplary writing, an adult son's submissiveness in the face of excessive maternal violence highlighted the son's filial piety and, by extension, manifested the mother's success in cultivating a moral son. That is, inappropriate violence indirectly demonstrated why the moral performance of the mother was worth recording and being publicized.

Maternal violence against a young son generally required little justification to be considered legitimate. Zhang Shiche 張時徹 (1500–1577), a scholar, politician, and once the head of the Ministry of War in Nanjing, wrote an epitaph for his mother, Sun *shi* 孫氏. He

⁴⁰ Lu Nan, “Cheng mu ba shi feng tai an ren xu”程母八十封太安人序 in *Jing ye xian sheng wen ji*, 5.26.

recalled that his mother was always strict. Every time he made a mistake, his mother would tell his father and the father would beat him harshly. Zhang Shiche recorded that, when he was little, he was constantly in fear, always waiting to be reprimanded (*wei er shi ri lin lin si qian wu yi ye* 為兒時, 日廩廩俟譴無已也). He remembered an occasion on which his mother took him to visit his maternal grandmother. He accidentally drank some wine, and his mother angrily beat him. His grandmother asked why she had to be so strict with her small son. She replied that she did not want her son to make the same mistakes as his father's relatives (*zhu fu* 諸父) had and lose the family fortune because of drinking.⁴¹

Zhang Shiche's memoir about his mother combines both his own memories and what he considered praiseworthy moral behavior. The epitaph portrays his mother's disciplinary violence as in line with specific moral and gender expectations in the Ming period. The mother does not cover for her son's mistakes and she asks her husband to carry out the punishment, which corresponds to the logic that both *The Classic of Changes* and Lu Kun's educational book establish. The drinking incident demonstrates that a mother's strictness is motivated by her concern for her son's future. While Zhang wrote about having experienced a frightening childhood, he clearly thought that the experience demonstrated his mother's morality and likely contributed to his later success.

A mother who asks a father to punish her children is one archetype of legitimate parental violence; another such archetype involves a mother stepping in to beat her son harshly when his father fails to do so. Song Maocheng 宋懋澄 (1573–1623), a rich literatus, was famous for not only his writing skills but also for his resourcefulness and gallantry.⁴² Yet, when writing a

⁴¹ Zhang Shiche "Feng tai shu ren xian bi Sun shi kuang zhi" 封太淑人顯妣孫氏壙志 in *Zhi yuan ji*, 45.509–510.

⁴² Chu Hung-Lam, "Ji Song Maocheng jiu yao ji."

biographical record of his mother, Zhang *shi* 張氏, he described how she harshly suppressed his unconventional character. When he was very young, he once accompanied his father with some of his father's friends at a party at which wine was consumed. One of those friends picked up Song to put him on the shoulders of another friend, who was fat and looked like a yellow cow. When he was asked whose shoulders he was sitting on, Song responded with phrasing suggesting that he was on top of a "yellow something," which implied that the friend was a yellow cow. The fat friend thus pretended to make Song fall from his shoulders and Song's father pretended to be angry. The other guests at the party also pretended to mediate the conflict. And then, Song slowly explained, "I meant that I was riding on a yellow crane."

The deftness with which Song changed his words from something obviously insulting to something obviously flattering surprised the whole party and made everyone laugh. Song's father was also quite happy with his son's wit. After the party was ended, however, Song's mother made him kneel on the floor while she whipped him two or three times. She told him that his behavior offended his superordinates. If he did not understand that what he did was wrong, he could not play a positive role in society. Song recorded this incident and praised his mother for her circumspection,⁴³ using this incident to praise his mother's morality. While both Song himself and his father were smug about Song's smart yet inappropriate response, Song's mother strictly corrected his behavior with verbal instruction and corporeal violence. Song exploited this tension to stress how exceptional it was for a mother to play the educational role a father had failed to play.

Another biographical text depicts a mother who both replaces a father and retains her loving kindness and strictness while interacting with her son. A Ming literatus, Li Guangyuan 李

⁴³ Song Maocheng, "*Xian bi Zhang tai ru ren qi yan Zhuang*" 先妣張太孺人乞言狀 in *Jiuyaoji*, 7.277.

光元 (*jins* 1607), wrote a vivid epitaph for his friend's mother, Dai *shi* 戴氏. Li observed that Dai loved her son very much yet employed extreme methods to teach him, often beating him severely. Li described the following scene to demonstrate Dai's love. When the son was five years old, he began attending school. Every day when he came home from school, he jumped into his mother's arms and asked her to breastfeed him, and she would do so. Dai also, however, was very strict with her son and often beat him. One day Dai's husband went to the countryside to drink and brought his son with him. He laughed loudly when he noticed his young son drinking some of the wine he poured. The son thus came home drunk.

The next morning, Dai beat her son until he bled. Dai's husband considered himself too old to be so strict but appreciated his wife's effort. Yet, every time Dai beat her son, her husband cried and left the room. He told his brothers that he was too old, and that his son's achievements could be attributed to his mother.⁴⁴ Li Guangyuan's description of Dai is vivid and creative. Yet, it also fits into the moral expectation that a mother should be both loving and strict. What is interesting here is that both Dai and Song's mother, Zhang, were praised for fulfilling the educational role a father should play. A mother's being able to trump her husband's educational role demonstrates her exceptional moral performance and justifies sharing such a circumstance with the reading public. In addition to demonstrating exceptional morality, the replacement of the father also suggests that mothers often were the ones who interacted most intimately with children while at the same time disciplining them.

While the above biographical writings demonstrate their authors' individual creativity and perhaps their social experience, these texts also manifest moral expectations that correspond to what Lu Kun outlined in his educational book. Since the biographical genre necessarily

⁴⁴ Li Guangyuan, "Chi feng tai ru ren Zhang mu mu zhi ming" 勅封太孺人張母墓誌銘, in *Shi nan zi*, 13.172–174.

justifies the moral value of the deceased subject, it is not surprising to see parallels between educational discourse and biographical writing. By a similar logic, biographical writings about affinal mothers tended to emphasize their loving kindness.

In epitaphs, the common expression used to convey admiration for principal mothers implies that a principal mother loves her concubine's sons like her own (*ci ai jun yi* 慈愛均一).⁴⁵

Such fair treatment was sometimes represented in a literal sense. In her epitaph, Wang *shi* 汪氏 is described as follows:

[Wang *shi*] has five sons; one from a previous wife, and one from a concubine. Madam [Wang] treated [these sons] without any difference; her sons also thought that Madam's kindness toward her five sons was without differentiating between them. When the five sons grew up, she separated the family properties (including lands, household effects, and various valuables) into seven portions. The son from the previous wife received three portions, and the other four sons received one portion each.

盖子五人，其一前子，其一孽子。夫人恩之無纖毫厚薄，其子亦自以夫人之恩無厚薄。諸子長大分田廬財賄什器爲七，以三分與前子，而命己子、孽子各有其一。⁴⁶

According to this epitaph, Wang was both a principal wife and a stepmother. After her husband died, she raised five sons and treated them equally. She gave her stepson almost half of the property while the five sons shared property equally according to the law.⁴⁷ The stepson was the eldest son from the previous principal wife, which means he was the inheritor of his father's household and had more control over the household once his father passed away. His status as an inheritor explains why he received more property than his younger brothers. The mother, however, controlled the distribution of property. The indication in the epitaph that the stepson would inherit more property than the others follows the custom of the patrilineal family—that the

⁴⁵ Fang Ziaoru, "Chu shi jin jun qi dong shi mu ming" 處士金君妻董氏墓銘, in *Xun zhi zhai ji*, 22.515.

⁴⁶ Su Boheng, "Kong jiao shou fu ren Wang shi mu zhi ming" 孔教授夫人汪氏墓志銘, in *Su Pingzhong ji*, 14.241.

⁴⁷ Huang Zhangjian ed., *Ming dai lu li hui bian*, 476-477.

stepson is the eldest inheritor—and demonstrates her fairness toward her stepson, her concubine-son, and her own sons.

During the Ming dynasty, mothers were praised when they treated their non-consanguineal sons with fairness and loving kindness. This praise contrasts with the image associated with court cases and novels. Many court cases involved sons with different mothers fighting over property. In Ming novels, stepmothers are commonly described as being vicious toward their stepchildren, much as principal mothers were depicted as being vicious toward their concubine-sons. In a genre in which people praised the morality of the deceased, however, stepmothers and principal mothers were often portrayed as affectionate. At the time, the authors of memorial texts also acknowledged the difficulty of treating non-consanguineal children with loving kindness, a difficulty that was the precise reason they considered these affectionate affinal mothers exceptional and worthy of being recorded. For example, a famous official, Gao Panlong 高攀龍 (1562–1626), once praised a stepmother as follows:

The challenge of being a stepmother is to equally treat her own children and children of the previous wife [previous mother]

繼母之難，難於視前母之子無異於己之子也。⁴⁸

Another example was written by Yu Shenxing 于慎行 (1545–1608), a famous scholar and politician in his time. In writing about his late half-brother, he portrayed the dynamic between the principal wife and the concubine, the principal mother and the consanguineal mother, when writing an epitaph for his late younger brother, Yu Shenyou 余慎由. Yu's younger brother, Shenyou, was born of his father's concubine, Li *shi* 黎氏. When the younger brother was born, Yu Shenxing's mother, Liu *shi* 劉氏, already had five grown children (even though Yu used the

⁴⁸ Gao Panlong, “Li zhen mu mu zhi ming” 李貞母墓誌銘 in *Gao zi yi shu*, 11.280.

term *cheng li* 成立, which denotes at least over fifteenth years old, to describe his siblings and himself, he was only five years old at the time). Yu Shenxing's father and mother—especially his mother—both deeply loved his younger brother. His mother, the principal wife and the principal mother, was deeply fond of her concubine-son. Liu *shi* carried her concubine-son every day, fed him personally, and slept with him. When he cried all night, Liu accompanied the crying child and did not sleep at all. The principal mother's affection for her concubine-son is further articulated in the following passage:

The Lady [Li *shi*, the concubine, and the consanguineal mother of Yu's young brother] was always irascible and often beat her son with a stick. Every time Madam Liu saw the beating, she would reprove [Li *shi*] by saying, "don't you dare to beat my son!"
孺人性卞，善折挺答兒，淑人聞輒譙之，若母敢答吾兒也!⁴⁹

Not only is the concubine-mother's beating of her own son implicitly criticized, but the principal mother claims ownership of the concubine-son. The passage suggests several interesting points. While mothers were responsible for educating their sons, concubines could not claim ownership over their sons if the principal wives declared maternal ownership over concubines' sons. Yu Shenxing was able to portray Liu *shi* with an affectionate motherly image without reservation because Liu was not the consanguineal mother of her concubine-son. Although a principal wife could assert ownership over all of her husband's sons, regardless of who their mothers were, she could justify her affection and loving kindness only toward sons who were not connected by consanguinity.

In this section I have focused on consanguineal mothers to consider how the genre of biographical writing legitimated their violence against sons. To indicate the significance of writings about consanguineal mothers' interactions with their sons, I present writings about

⁴⁹ Yu Shenxing, "Wang di Zhichuan Maocai" 亡弟稚川茂才, in *Yu cheng shan guan wen ji*, 24.356.

affinal mothers as a point of reference. Modern scholar Yi Jo-lan argues that the image of the mother in Ming-Qing biographical writing was often subsumed by the focus on works written by chaste widows. Compared with the diverse images featured in the Six Dynasties, the image of the mother in late imperial China is more singular and suggestive of how a woman served her husband's family instead of cultivating her own talent, wisdom, and individuality. Many biographical texts simply celebrate women's chastity: raising sons alone, serving parents-in-law by themselves, and remaining chaste for life.⁵⁰

The image of the mother as portrayed in Ming biographical writings is inevitably limited by the strictures of genre. Yet, the constructed memory of the mother represents both moral value and social experience, especially when an author was writing about his own mother. The special situation enabled these sons to present images of their mothers that go beyond formulaic moral performance. Zhang Shiche's mother Sun *shi*, Song Maocheng's mother Zhang *shi*, and Yu Shenxing's mother Liu *shi* are such examples. Biographical texts that were written by friends or gifted writers also represented the individual creativity of the authors. In other words, the strict and lovingly kind mothers represented in biographical writings are both archetypes of morality and real people. The literati's constructed images of these mothers echoed the moral standards inscribed in educational books.

The tendency to distinguish the image of consanguineal mothers and affinal mothers surfaced in legal code, didactic texts, and biographical texts; in the latter two genres, consanguineal mothers could be depicted as extremely strict; however, when they enacted violence against consanguineal children that was inappropriate, their behaviors were interpreted as motivated by morality and motherly love. On the other hand, the strictness of affinal mothers

⁵⁰ Yi, “ [Tian xia zhi zhi zi fu ren shi] —shi xi ming qing shi dai de mu xun zi zheng.”

was on the borderline of being criticized and in need of justification. As a result, literati generally praised the loving kindness of affinal mothers. Yu Shenxing's mother, Liu *shi*, prevented her husband's concubine from educating and disciplining her own son. From other perspectives, Liu *shi*'s loving kindness was inappropriately indulgent and undermining to the cultivation of morality. Yet, because inappropriate loving kindness was given by an affinal mother to her son by a concubine, it was considered moral without reservation.

Conclusion

In this chapter I have analyzed motherly violence against children to examine a mother's position of authority in the family. The legitimacy of maternal violence was based on a mother's position of superiority over children; however, because a husband could have both a wife and concubine in the polygynous family system, a son might have more than one legitimate mother. Examining multiple maternal positions (including that of the consanguineal mother and that of affinal mothers) sanctioned by the Ming legal and mourning ritual systems, I reveal that the state-sanctioned family structure in the Ming era emphasized the importance of preserving patrilineal descendants and consanguineal connections with sons. The Ming legal system severely restrained mothers who killed their non-consanguineal sons and caused the extinction of a family; yet, regarding discipline, the legal code also allowed mothers to enjoy the same rights as fathers when they were connected to children through consanguinity and were still married to the children's consanguineal father. The corresponding legal principle aimed to ensure that the patriarchal family had a consanguineal heir; its primary purpose was not confined merely to protecting children from abusive violence.

Consanguinity played a major role in justifying parental violence in the Ming legal context. Beyond that, this rationale also influenced discussions about how to use parental

violence appropriately to effectively cultivate morality in children. Literati claimed that, ideally, parenthood required both strictness (*yan* 嚴) and loving kindness (*ci* 慈). Due to the assumed nature of mothers as kindly loving, literati constantly asked mothers to suppress their nature to achieve ideal parenthood, and blamed failure of the family on mothers' lack of strictness.

Literati constantly criticized consanguineal mothers in particular when they were loving and kind but would not use strict methods to teach their children proper behavior. These mothers were expected to discipline children harshly and educate their consanguineal children assiduously. They were expected to remain distant and reserved when facing their consanguineal children, because their instinctive loving kindness toward their children was considered to debauch them. Legitimate mothers—wives and concubines who were connected consanguineally to children—were expected to exhibit the fatherly virtue: strictness. Yet, not all mothers needed to meet this expectation. Affinal mothers, for example, were assumed to be distant and callous when encountering children with whom there was no consanguineal connection. Therefore, they needed only to fulfill the inferior motherly attribute of loving kindness. Affinal mothers could freely express their affection and even indulge children to whom there was no consanguineal relation. This tendency to distinguish mothers through consanguinity influenced not only broader moral expectations of mothers but also the constructed memories of mothers in biographical writings.

In this chapter I have demonstrated the theoretical bases for articulating parental authority on the basis of violence, and for distinguishing legitimate from illegitimate violence on the basis of parental authority. Building on that, in the next chapter I examine the ways in which Ming masters used the metaphor of the parent–child relationship to assert their control and ownership over their servants and explore how gender and sexuality complicated this picture.

CHAPTER 5

MASTERS AS FATHERS AND MOTHERS:

HIERARCHY, GENDER, AND SEXUALITY IN MING HOUSEHOLDS

In this chapter I investigate female masters' legitimate violence. The position of the female master differed from that of wife and mother because it was not a position that was specific to women. A female master's legitimate violence was more of a status-oriented performance than a gender performance. I thus first examine legal discourses that reinforced masters' domination and ownership over servants through violence and through the norms of the parent-child relationship. I focus on the codification of the law, because I consider the body of law to be both an idealistic moral project that was operated by the imperial state, and as a realistic reflection of the interests of the dominant group: families that could afford not only to maintain servants but also to have their members take the civil service examination, and who often had members who passed it, became officials, and thus possessed authority in the interpretation of legal discourses. Men (in this case, male masters) were the ones who established the norm of masters' domination over servants; as a result, when in the position the master, in certain circumstances women's expected gender performances were in conflict with their status performances, especially in cases involving sexual relations between female masters and male servant. I thus examine two forms of violence—corporeal and sexual violence—that were deemed to commonly occur between masters and servants.

As was the case for women-as-wives and for women-as-mothers, changes to the coercive power of women-as-masters were a product of the fluidity of social status hierarchies in the Ming China. I focus on families of officials, gentry, and merchants who could afford servants yet, as commoners, still held the same social status as servants. Those who passed the civil

service examination and became officials held legal privileges and status distinction that demarcated them more sharply from their commoner servants. While scholars have analyzed the status fluidity of the late Ming in relation to changes in legal categories and economic development—including the emergence of a merchant class in highly commercialized Southeastern China (*Jiangnan*) and increasing numbers of powerful and rich bondservants¹—they have rarely discussed the relationship between masters and servants from the perspective of gender and sexuality. In the Ming, gender and sexuality re-articulated the power dynamics between masters and servants in accordance with heterosexual norms.

I argue that translating parent–child norms into master-servant relationships enabled masters to assert more comprehensive control, yet also made this control conditional: as a “parent,” a master was responsible for taking care of his or her servant “children.” Therefore, the very ideology that enhanced domination by masters simultaneously restricted abuse. The irony became especially clear when a male master wanted to enjoy sexual access to his servants. The sexual privilege was forbidden when female servants were deemed the male master’s “children.” Another intervention this chapter makes is to complicate the scholarly assumption that masters were males and males alone.

I begin my discussion with a story that was collected in a popular Ming novel, *Stories to Caution the World* (*Jing shi tong yan* 警世通言), which documents details of Ming society. The story explored the implications of a common assumption during the Ming era, namely that female masters dominated male servants in both sexual and power relations. The story features a widow, Shao *shi*, who has sex with her male servant, Degui 得貴. When Shao *shi* is blackmailed

¹ McDermott, “Bondservants in the T’ai-Hu Basin During the Late Ming—a Case of Mistaken Identities”; Wu Cheng-Han, “Mingdai Nupu de Yanjiu”; Takahashi, *Sō Shin mibunhō no kenkyū*.

by a ruffian who knows about her affair, she kills the servant and then hangs herself (Figure 1 is an illustration from the story that shows the dead servant, the hanged Shao *shi*, and a frightened female servant). The dramatic ending conveyed a moral lesson: female masters should never have sex with male servants because doing so shatters the hierarchical order that applied to their relationship.



Figure 1: Feng Menglong, *Jing shi tong yan* , *sanguitang* edition, FTDCRB, 15b.

The narrative of the sex scene between Shao *shi* and Degui demonstrates the hierarchical order in the late Ming, which is broken by their sex and can be restored only by their deaths. At the beginning of the story, the widow has sworn to remain chaste when her husband dies. Later,

the ruffian moves into the widow's neighborhood and wants to have sex with her after seeing her performing a mourning ritual for her late husband. The ruffian thus teaches the only male servant in the widow's household how to seduce the widow, thinking that the male servant might return the favor and help him to establish relations with the widow. The ruffian first asks if the male servant feels anything when he is around the beautiful female master, and the servant replies,

[t]he way you talk! She's the mistress and beats me or yells at me every so often. She terrifies me. And you have to tease me like that!²

This is the first clue indicating how a female master might use verbal and physical violence, and how a servant might feel dominated by his master.

The ruffian persuades the servant to sleep naked and leave his window open, hoping to arouse the widow when she sees the servant's body. On the first night, when the servant sleeps naked, she does not do anything to him. The author of the novel comments that

[i]f Shao-shi [the widow] had known better, she would have summoned Degui [the male servant] the next day and given him a lecture or even a thrashing for his indecorous behavior of the night before. Degui would not have dared to do the same thing again. However, as it was, she said nothing, for after living a celibate life for so long, the all-too-rare sighting of that object had been enough to add a dozen years to her life.³

Here, the novelist reaffirms how a female master should manage her household and suppress her servants if they threaten the hierarchy—through teaching, scolding, and beating—in the Ming period. Unfortunately, the female master character does not beat the servant to restore order, but instead, on the second night, enters the male servant's room and pulls a cover over his naked body. On the third night, upon seeing the servant's naked body and erection, the widow walked to his bedside and quietly “mounted him and sat astride.”⁴ The story reveals at least two assumptions: scolding and beating were legitimate tools a female master could use to manage

² Feng Menglong, *Stories to Caution the World*, 611

³ *Ibid.*, 612.

⁴ *Ibid.*

servants, and a female master could initiate and take a dominate position in sex with a servant. The latter assumption reflects the hierarchy ordering relationships between masters and servants.

When Ming legalists addressed the issue of sex between a master and a servant, they adopted positions similar to that seen in the novel's narrative: they assumed that the master, whether male or female, was always dominant and always the initiator of sexual contact. In the first section of this chapter, I demonstrate the ways in which the Ming code affirmed the assumed hierarchy regarding masters and servants through its codification of the statuses of "slaves," (*nu bi* 奴婢), "adopted bondservants" (*yi na yi fu* 義男義婦), and "hired workers" (*gu gon gren* 雇工人) and through the authorization of physical and sexual violence of masters toward servants.

The Hierarchy of Masters and Servants

In this section I examine how Ming legislation established the hierarchical order of masters and servants from the perspective of physical violence and sexual access. The Ming code included two terms that referred to people who served in someone else's household: "slaves" (*nu bi* 奴婢) and "hired workers" (*gu gon gren* 雇工人). In common usage outside law codes, the term *nu bi* can be rendered roughly as "slaves," "tenants," "serfs," "bondservants" and "hired workers." The breadth of referents for the term *nu bi* has generated debates among scholars interested in the social history of Ming servants.⁵ Here, I limit my discussion to the context of criminal laws (*xing lü* 刑律) in the Ming code, and focus my analysis on the legal authorization of masters' physical coercion of and sexual access to subordinates. In so doing, I reveal

⁵ Joseph McDermott reviews scholarly work and their understanding of the term *nubi* as well as the various synonymous terms in the Ming socioeconomic context. McDermott, "Bondservants in the T'ai-Hu Basin During the Late Ming: A Case of Mistaken Identities."

mechanisms that maintained the hierarchical superiority of masters in the patriarchal legal system.

The Ming legal code inherited from the Tang and Song codes' legal categories *nu bi* (slaves) and *gu gon gren* (hired workers).⁶ While both terms referred to people who served in someone else's household, *nu bi* denoted a legal status that resulted primarily from political offences and war crimes, and referred to people whose rights (such as participating civil service examination, marrying people in commoner status, and freely moving to different regions) had been deprived by the state. *Nu bi* were consigned to the status of "debased people" (*jian min* 賤民). According to Matthew Sommer, the term "meant *unfree* status, unfree in the sense of owning labor service." For women, especially, the status meant that they were not entitled to confirm womanly virtue: chastity.⁷ *Nu bi* and their lifelong subordination to their masters could be changed only through state intervention. In contrast, *gu gon gren* shared with their masters legal commoner (*shumin* 庶民) status, and their working engagements were not lifelong, but rather tended to come with service agreements that varied from days to months to years. I also use the term "servant" to refer to people who were inferior to the people (masters) they served (including slaves, bondservants, and hired workers) in order to connote the status distinction between them; even though in many contexts these servants were not paid, which is very different from what the word normally denotes in English. In legal commentaries, sometimes legalists extended the meaning of *nu bi* to denote to people severed in someone's household, in which case I use the term servant to translate the term *nu bi*.

Most of the regulations in criminal laws covered situations in which a subordinate

⁶ Takahashi Yoshirō, *Sō Shin mibunhō no kenkyū*.

⁷ Sommer, *Sex, Law and Society in Late Imperial China*, 6.

committed offenses against people in superordinate positions, and vice versa, and several laws regulated violence between masters and servants.⁸ Among these regulations, “Slaves Striking Household Heads” (*nu bi ou jia zhang* 奴婢歐家長) best demonstrates a master’s legal privilege to use violence against servants (see Tables 1 and 2).

Offender		<i>Slaves</i>	<i>Hired workers</i>
Types of violence			
Striking	Without injury	Decapitation	100 blows with a heavy bamboo stick and penal servitude for three years
	With injury		100 blows with a heavy bamboo stick and life exile to 3,000 <i>li</i> (see Table 1 note)
	with injury that caused fractures		Strangulation
	Resulting death	Death by slicing	Decapitation
Manslaughter		Strangulation	100 blows with a heavy bamboo stick <i>g</i> and penal servitude for three years
Accidentally injuring		100 blows with a heavy bamboo stick and life exile to 3,000 <i>li</i>	90 blows with a heavy bamboo stick and penal servitude for 2 and half years
<p>Note: 1. In the Ming code, there are two kinds of bamboo sticks for the physical punishment: <i>chi</i> 笞 (a light bamboo stick) and <i>zhang</i> 杖 (a heavy bamboo stick).</p> <p>2. <i>li</i> 里 denotes length, which means 1/3 miles. The sentence of life exile means that the state exiled the perpetrator to a distant place and did not allow him to return to his native place. The degree of severity of the life exile sentence was based on the distance from the perpetrator’s native place: from 2,000 <i>li</i>, to 2,500 <i>li</i>, and to 3,000 <i>li</i>.</p> <p>The table is based on <i>DML</i>, xxxi, 6, .183-185; Huang Zhan gjian ed., <i>Ming dai lü li hui bian</i>, 842-846.</p>			

⁸ For example, “Plotting to Kill Paternal Grandparents or Parents,” “Plotting to Kill the Parents of a Deceased Husband,” “Killing Sons, Sons’ Sons, or Slaves and Putting the Blame on Others,” “Slaves Striking Household Heads,” “Slaves or Hired workers Committing Fornication” *DML*, 170, 171, 174, 183.

Masters as Fathers and Mothers

Table 2: Punishment for a head of a household (and for relatives of the second degree of mourning or maternal grandparents) for striking a <i>nubi</i> (a slave) or a <i>gugongren</i> (a hired worker)				
Victim types of violence	<i>Slaves</i>		<i>Hired workers</i>	
	Striking	No charge		Without injury
Injury with no fractures				No charge
with injury that caused fractures				The penalty is reduced three degrees from that for striking people with no social or familial relationship
Premeditated killing	If a slave is guilty of a crime	100 blows with a heavy bamboo stick	If a hired worker is guilty of a crime	100 blows with a heavy bamboo stick and penal servitude for three years
	If a slave is not guilty of a crime	60 blows with a heavy bamboo stick and penal servitude for one year	If a hired worker is not guilty of a crime	Strangulation
Manslaughter	No charge		No charge	
Accidentally injuring	No charge		No charge	

Tables 1 and 2 show that the Ming government not only severely constrained violence perpetrated by servants against their masters but also authorized the head of a household, a male master, to use violence to discipline servants. This authorization extended from the head of the household to his close relatives, regardless of these relatives residing in the same household. When regulating a master’s violence against servants, the law defines the subject of such an offense as “the head of the household and their relatives of the second degree of mourning, or maternal grandparents,” which includes not just the male master but also his parents, his wife, his son, his son’s wife, and his unmarried daughter—these people all enjoyed the same legal rights

of protection from servants' violence and for using violence against servants. These masters would not be punished at all if their beating and striking did not cause bodily damage, such as losing a finger or a tooth, to a servant. If a master were to deliberately kill a slave or a hired worker, and the act was motivated by a desire to discipline a servant's immorality, the sentence was several degrees lighter than decapitation, which was the punishment for intentionally killing people with no familial or social relationship to the killer. If a master disciplined an immoral servant by blows to the buttocks and legs, based on the regulation of the law (*yi fa yu tun tui shou zhang qu chu jue fa* 依法於臀腿受杖去處決罰) and the servant died during the punishment, the master was not punished at all.⁹ Also, there was no punishment for manslaughter.

The justification for the legislation builds on both morality and hierarchy. An early Ming official, Zhang Kai 張楷 (1398–1460), explained the legislation as follows:

Servants and household masters, even though they differ in noble and debased [status], is extreme, they bear the kindly feelings of father and son as though connected by blood. 奴婢於家長，貴賤雖殊，父子恩情，則比骨肉。¹⁰

A later Ming official, Ying Jia 應欝 (1494–1554), who once worked in the Ministry of Justice, commented on the same regulation by pointing out that

[t]he head of the household was the master of servants, so there is the righteous dutifulness of father and son between them. 家長為奴婢之主，有父子之義。¹¹

From Zhang Kai's and Ying Jia's explanations, we know that norms of conduct and feelings between fathers and sons, which also dictated severe punishments for sons who committed

⁹ Wang Kentang, *Da Ming lü fu li jian shi*, 20.18b.

¹⁰ Zhang Kai, *Lü tiao shu yi*, 20.372.

¹¹ Ying Jia, *Da Ming lü shi yi*, 20.14b.

violence toward their fathers, justified severe punishments for servants who beat or killed their masters.¹² Yet the figurative relationship ultimately differed from the literal one.

The comparison between the figurative and literal father-son relationship sometimes puzzled Ming legalists. They asked why, if servants serving masters should be treated like children serving their parents, and the punishments for deliberate striking and killing were the same, the punishment for a servant accidentally killing a master was heavier than it would be for a child accidentally killing a parent.¹³ Zhang Kai clarified the apparent legal paradox in law by arguing that, because a servant should always serve masters with respect and discretion, “they should not make common mistakes, let alone injure or kill the master”(*xun chang guo shi shang qie bu ke, kuang sha shang hu* 尋常過失尚且不可，況殺傷乎). In other words, accidentally injuring or killing masters was a mistake a servant was not allowed to make. Lei Mengling 雷夢麟, a sixteenth-century official who once worked in the Ministry of Justice, further articulated the logic behind the apparent paradox in manslaughter laws:

Sons and grandsons usually carefully respect [their parents and grandparents], so [judges] give a light sentence [for accidental killings] to sympathize with their bad fortune. *Nubi* usually easily disdain [their masters’ kindness], so [judges] give severe sentences [for accidental killings] to strengthen the hierarchical boundaries.
蓋子孫常多恭謹，故從其輕以衿其不幸。
奴婢易生輕忽，故從其重以嚴其防。¹⁴

Lei pointed out the substantial difference between the master-servant relationship and the father-son relationship. While children were assumed to be naturally filial and respectful to their parents, servants’ filiality and respectfulness required inculcation through constant discipline and punishment.

¹² Ying Jia also observed that the law differentiated a master’s relationship with *gu gong ren* from that with *nu bi*, so the punishment differed. I further elaborate on this point in the next section.

¹³ Zhang Kai, *Lü tiao shu yi*, 378.

¹⁴ Lei Menglin, *Du lü suo yan*, 383.

The Ming code sanctioned a master's habitual violence against a slave to maintain the hierarchical order. A legal comment written by Feng Zi 馮孜 explains the rationale behind the legislation:

This statute solely fixes the sentence for the crime of a master striking a slave and vice versa; it is for distinguishing people's status, rectifying names, and supporting the Way in the world. Therefore, for slaves, the law strictly restrains them; for the head of the household (masters), the law energetically augment [their authority].

The effort to augment [authority] does not stop at enabling the head of the household to enact his authority, but further extends to his relatives. [In so doing,] the respect for the situational power of masters can be buttressed on a daily basis.

The strictness [of the statute] in restraining does not stop just at inducing slaves to be content with their position, but also extends to hired workers. In this way, the heart of inferiors be made tranquil on a daily basis.

此條專定主僕相毆之罪，亦所以辨分正名而扶持乎世道也。故于奴婢則嚴以抑之，而家長則力以伸之。惟其伸之力，故不惟使家長得行其尊也，而又推之以及于其親屬，而尊長之勢日以振矣。惟其抑之嚴，故不惟使奴婢嘗安其分也，而又推之以及于其雇工，而卑者之心日以寧矣。¹⁵

According to Feng Zi, the law maintained the morality of the time by reinforcing the authority of the superordinate master and his relatives, and by making the subordinate servants (*nu bi* and *gu gong ren*) amenable to discipline and control by their superiors.

In other words, as interpreted by Feng Zi, Ming law authorized masters' violence toward servants in order to inculcate what historian of late imperial China Kishimoto Miyo called "a sense of social status" (*mibun kan ga ku* 身分感覺).¹⁶ Kishimoto proposes the concept to reveal how people in the Ming and Qing felt superior or inferior when interacting with others in diverse circumstances, and how this sense of social status was accompanied by the understanding that the subordinate was rightfully dominated by the superordinate. Although slaves and hired workers in fact represented distinct social statuses—debased people and commoners—in

¹⁵ Feng Zi, *Da Ming lü ji shuo fu li, xingzhong*.24a-24b.

¹⁶ See Kishimoto Miyo, "Min-Shin jidai no mibun kangaku."

dominant ideals and in practice internalized their inferiority to and domination by the people they served. Imperial law aimed to establish a hierarchal society in which people intuitively identified themselves as superior or inferior to others, depending on relative hierarchical positions, and felt legitimately dominant or dominated when interacting with others. In other words, the legislation was intended to do more than sanction a master's violence; it was also intended to inculcate status-appropriate subjectivities.

We see this dynamic playing out in the story discussed at the beginning of this chapter when the male servant, Degui, is asked if he was aroused by his female master, Shao *shi*, and responds that he is terrified of her because of her constant beating and yelling. Later, when the female master and Degui are having sex, the author of the novel describes says, “she, in her hunger, overlooks his uncouthness; he, thus emboldened, fears the mistress no more.”¹⁷ This comment not only implies criticism of the master for having sex with a servant, but also suggests that their sexual relationship nullified the female master's authority because it was at the time considered normal for a man to play the dominant role during sex. In contrast, however, a male master's sex with female servant was widely acceptable because this master-servant sexual relationship agreed with the male-dominant sexual norm. Gender and sexuality complicated the seemingly stable hierarchy that placed masters over servants.

Matthew Sommer uses the term “phallocentrism” to explain the rationale behind the legal regulation of sexuality in late imperial China. He argues that the legislation I have discussed reflected the norm of proper sexual behavior: “phallic penetration . . . initiated sexual partners into the hierarchy of adult gender roles, properly within the context of marriage, where male was assumed to dominate female. By extension, the act of penetration could imply initiation and

¹⁷ Feng Menglong, *Stories to Caution the World*, 613.

domination in other contexts.”¹⁸ Thus, sex between the female master and the male servant was problematic on many levels: it was not framed within the context of a proper marriage; it created a paradox between a female master’s superiority over a male servant and a woman’s subordination under a man during sex; and finally, it upset the hierarchy ordering the relationship between the male master (husband) and the male servant, because a male servant having sex with a female master (a wife) challenged the rights of the male master.

The Ming code considered heterosexual sex outside of marriage immoral and illicit; however, there was no punishment for a male master who fornicated with his female servants or with the wives of male servants, because male masters were already in the dominant position in the household hierarchy, which corresponded to male domination under the sexual norm. In particular, the social hierarchy played a role in increasing or decreasing the severity of punishments for illicit sexual crimes. If the social hierarchy of the fornicator suited the gender hierarchy of morally acceptable sex—with the male in the superior and dominant position over an inferior feminine partner—the sentence for fornication would be reduced. Therefore, a male master could have sex with a female servant without being punished. A male commoner could have sex with a woman of debased status (*jian* 賤) and expect his punishment to be reduced. Yet, if a male subordinate (a male servant or a man of debased status) had sex with a female superordinate (his master’s female relatives or a female commoner), the punishment became very severe because the fornication was regarded as a case in which a male superordinate challenged a male superordinate’s ownership over his wife, concubine, or daughter. In sum, the gender hierarchy (in which a male dominated a female) had to accord with the social hierarchy (in which a superior dominated an inferior).

¹⁸ Matthew Sommer’s research focuses mainly on Qing law, but there was a strong link and considerable continuity between Ming and Qing laws. Sommer, *Sex, Law, and Society in Late Imperial China*.

In the Ming code, the regulation against illicit sex between masters and servants controlled only cases in which a male servant fornicated with a female master. A Ming legalist, Lei Menglin 雷夢麟, explained the regulation by arguing that a male master having sex with a female servant was a case of a superior having sex with an inferior, and that it was already shameful and a serious insult to a master.¹⁹ Lei argued further that, in a situation in which a female servant fornicated with a master, she should not be punished because she could not have resisted him as a morally chaste woman would resist fornicating with someone who was not her husband:

Female bondservants are people who serve the head of the household. They are under the influence of the master's authority and do not have any choice [but to obey the master's request]. Therefore, there is no punishment in the law.

在婢又服役家長之人，勢有所制，情非得已，故律不著罪。²⁰

Regulations against fornication ruled that, in cases of being forced to have sex, women did not need to be charged with the crime of fornication and men who forced women to have sex would be punished with strangulation.²¹ Proof of coercion played an essential role in determining the sentence for fornication, yet when fornication between a master and a servant was at issue, Lei Mengling argued, female servants could not disobey or demonstrate resistance against their superiors. Insofar as it was assumed that a female servant always voluntarily obeyed her master's demands, sex between a servant and a master was always assumed to be sex with consent. In Sommer's terms, a male master was assumed to be the dominator and the initiator when having

¹⁹ Lei Menglin, *Du lü suo yan*, 452. This explanation echoes the story discussed at the beginning of the chapter. When the author of the story commented on the sex scene between the female master, Shao *shi*, and the male servant, Degui, he said that "she, in her hunger, overlooks his uncouthness."

²⁰ Ibid.

²¹ The Ming code considered situation involving coercive sex only when women were forced to have sex by men. Moreover, because the definition of illicit sex was sex outside of marriage, there was also no regulation against a husband forcing his wife to have sex.

sex with his female servant. Master-servant status domination not only authorized a male master's sexual access to his female servants but also erased any doubt about the consent of a female servant—at least in the legal context.²² For a female master and a male servant, however, while a man was expected to be the dominant one in accordance with sexual norms, the female master's consent, unlike the female servant's, was not nullified during her sex with a male servant.

Under the logic of master-servant domination, status domination overruled the gender domination that imagined women being dominated by men during sex. Both male and female servants were assumed to always consent to fornicating with their masters because they were not capable of disobeying their masters' orders. When Feng Zi 馮孜 commented on the “Slaves and Hired Workers Fornicating with the Wives of the Head of the Household” (*nu bi ji gu gong ren jian jia zhang qi* 奴婢及雇工人姦家長妻) ruling, he stated that

the law does not include situations in which male servants forced wives and daughters of the head of the household to have sex because these are cases of the inferior fornicating with the superior; it is expected that there is no coercion.
其家長妻女不言強者，因以卑淫尊，料無用強之理...。

Between the wives or the daughters of the head of the household and the male slaves or hired workers, the wives and daughters are in the position of authority to manage and control servants in discipline; male servants would not dare to just violate the wives and daughters unless these women themselves have the thought of fornication first...
蓋因家長妻女之與奴及雇工人，其分義既尊，且制馭有素，若非妻女自起私通之情，則彼安敢輕犯...。²³

Here, Feng Zi pointed out that, not only was it considered impossible for female masters (wives or daughters of the head of the household) to be forced to have sex with servants, they had to initiate the sex. As long as fornication took place between an inferior and a superior, sexual

²² A discussion of a male master's sexual advantage over male servants can be found in Matthew Sommer's book. Sommer, *Sex, Law, and Society in Late Imperial China*.

²³ Feng Zi, *Da Ming lü ji shuo fu li, xingxia*. 7a-9b.

coercion did not exist because the absolute hierarchy expected people to recognize their social and ideological identities. Being dominated by their masters, the agency of either male or female servants was negated in the law. The legal regulation of fornication conveyed the logic of the status hierarchy ordering the relationship between masters and servants.

This intersection between the social and sexual hierarchies articulated the importance of the status hierarchy. The law supported the hierarchical order in relationships between masters and servants; a master's physical violence was sanctioned in the law to structure the superior's authority and the inferior's submissiveness. The hierarchy was further articulated through the regulation of fornication. Even though the norm of sexual order was such that males dominated females, the social hierarchy between master and servant trumped this gender asymmetry. Sex between a master and a servant was always regarded to have taken place with the consent of the servant and to have been initiated by the master, because the servant was not capable of disobeying the master. Thus, a female master was always the dominator and initiator when having sex with male servants, even though it was against the sexual norm and was harshly punished. In this context, only masters enjoyed the privilege of having their sexual consent acknowledged by law.

One legal status complicated this seemingly stable legal order—that of “adopted bondservants” (*yi nan yi fu* 義男義婦). I use “adopted man” (*yi nan* 義男) and “adopted woman” (*yi fu* 義婦) if the documents specify the gender of the adopted bondservants. Adopted bondservants whose relationships with their masters were established through adoption contracts. Adopted bondservants were not hired workers since their contract periods were for their

lifetimes.²⁴ This new legal status was created by the first Ming emperor, Zhu Yuanzhang (b.1328; r.1368–1398). When he banned households without official titles from having bondservants, he made provision for commoners to keep servants through this new category. Like bans to levirate, same-surname, and cousin marriages, the adopted bondservant category is another example of a Ming legal innovation that responded to changes that had occurred during the Yuan.²⁵ Under the Yuan, a massive number of slaves and permanent bondservants had come from prisoners of war accumulated during Mongol conquests, and many families exploited these people, all essentially slaves.²⁶ Zhu Yuanzhang both limited the number of *nu bi* that high-ranking families could have, and forbade commoners from having *nu bi*. This policy discouraged high-ranking families from keeping their permanently indentured servants. Once a family had more *nu bi* than was allowed, the excess *nu bi* were considered commoners and had to serve instead as corvée labor for the state. Therefore, either the master had to pay fees in lieu of his *nu bi*'s corvée or the *nu bi* themselves had to serve the regime.²⁷

Zhu Yuanzhang ruled that commoners could not possess *nu bi* because the former were supposed to be assiduous and work on their own (*zi fu qin lao* 自服勤勞).²⁸ However, having inherited the practice of purchasing permanent bondservants in the name of adoption under the Yuan, Zhu Yuanzhang left a loophole allowing commoner families to keep indentured servants as adopted bondservants. Zhu Yuanzhang's stated intention was to improve domestic servants'

²⁴ Truly adopted children, as opposed to servants brought in the name of adoption, were more often called adopted sons and daughters—*yi zi yi nü* 義子義女—but sometimes the two terms, *yi zi yi nü* and *yi nan yi fu*, were interchangeable.

²⁵ More details of Zhu Yuanzhang's policy, see Chapter Two.

²⁶ Wu Cheng-Han, "Mingdai Nupu de Yanjiu," ch.1.

²⁷ Zhu Yuanzhang's policy ruled that families of distinct high statuses (families of the imperial court, general officials, and high-ranking officials) could have different numbers of *nubi*: the household of a prince could have fewer than 20 slaves, a first-rank official fewer than 12 slaves, a second-rank official fewer than 10, and a third-rank official fewer than 8. Ibid.

²⁸ "Xingfaxzhi "刑法志 in *Mingshi*, 94.2291.

lives in their masters' households, and he encouraged masters to treat their servants as their own children.²⁹ The adoption procedure was also a key to creating a hierarchical relationship that reinforced dominance by masters. A sixteenth-century official, Guan Zhidao 管志道, explained the importance of adoption:

For ruling elite and commoner households, [their servants] are solely designated *yinan* (adopted men), not designated *nubi*. The rationale behind the difference is that [civil and military officials] who have provided meritorious service and the imperial clan can govern commoners, but commoners cannot govern commoners. Those designated *yinan* are only one status lower than the patriline's legitimate sons; they have never been prohibited from studying [for the civil service examination] and serving as officials.
士庶之家但名義男，不名奴婢。蓋勳貴可臣庶人，庶人不相臣也。名義男則僅下親男一等，未嘗禁其讀書、出仕。³⁰

This passage explicitly states that adopted men were classified as commoners so they could take the civil service examination, whereas the status of *nu bi* resulted from criminal behavior and they were disenfranchised and therefore barred from entering the political world. Despite this, it is also clear that the social position of adopted men, *yi nan*, was actually similar to that of *nu bi*. Adoption created a parent-child relationship—a hierarchy that placed the server under the served—so a master (a parent) could be served by his or her servants (adopted children).

²⁹ While the legal status of adopted sons was lower than that of biological sons, Zhu Yuanzhang nevertheless allowed adopted sons to read and take the civil service examination. These domestic servants differed essentially from registered slaves, whose status was a result of violating the law. Wealthy families, such as that of Zhu Yuanzhang himself, might have adopted children as their own children instead of as servants; however, commoner's families, especially when they already had their own children, adopted children to be servants. Wu Cheng-Han, "Ming dai nu pu de yan jiu," ch. 1.

³⁰ Guan Zhidao, *Cong xian wei su yi*, 2.61.

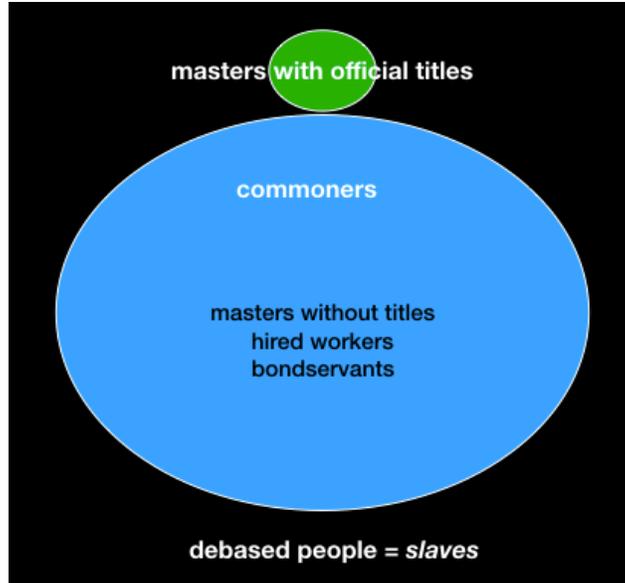


Figure 2: Ming status hierarchy of masters, commoners, and servants

Zhu Yuanzhang’s policy created unprecedented confusion in the status hierarchy of masters and servants. As shown in Figure 2, only limited numbers of people—people with official titles (imperial clanspeople, military and civil high-ranking officials)—occupied positions in the status hierarchy that were legally differentiated from that of commoners (*liang* 良). Most people were commoners. Therefore, commoner-masters and commoner-servants needed to find ways to stabilize their positions in the hierarchy.³¹ In this context, keeping adopted bondservants provided significant advantages. The adopted bondservant status was created through adoption, so the hierarchy was stabilized through the laws and norms of the parent-child relationship. Furthermore, the parent-child relationship kept bondservants in permanently indentured status. This was a great benefit to wealthy households in the sixteenth

³¹ McDermott, “Bondservants in the T’ai-Hu Basin During the Late Ming—a Case of Mistaken Identities”; Wu Cheng-Han, “Ming dai nu pu de yan jiu”; Brokaw, *The Ledgers of Merit and Demerit: Social Change and Moral Order in Late Imperial China*, 3-27.

century, when economic development enabled unbonded servants to find alternative jobs through the market system.³²

The hierarchical order that determined the relationship between commoner-masters and commoner-servants was potentially unstable without this legal distinction. The sense of status could, however, be cultivated and reinforced on an internal, emotional basis (parent-child morality) and through an external, physical reinforcement (sanctioned violence). In the following section I elaborate on how masters justified their violent dominance to make it appear rational and moral. In the final section I investigate the internal basis of the hierarchical order—the figurative parent-child relationship.

Violence as an Instrument for Maintaining Order

The previous section demonstrates the ways in which Ming penal codes re-articulated master domination of servants, and the ways in which legal writers theorized that domination. Masters also employed a widely recognized repertoire of strategies for maintaining their dominance over servants in daily life, including physical punishment. In this section I investigate two key problems that arose when violence was deployed as an instrument for maintaining order. The first problem concerns how masters drew a fine line between appropriate, disciplinary violence and abusive, excessive violence, especially grounding order in family norms. The second problem concerns the management of the tension between authorizing and controlling female masters' violence against servants. The former problem became entangled with the latter when female masters were made scapegoats for the sake of legitimating male masters' violence as "rational."

³² Wu Cheng-Han, "Ming dai nu pu de yan jiu."

When considering violence as an instrument of control, Ming literati recognized the comparability of state-official and household-master violence, which shared the common ground of using parent-child morality to justify domination, and theorized accordingly. Similarly to Ming legalists, Ming family instructions often prescribed treating servants as one's children and recommended the "proper" use of violence to maximize the master's control. Literati provided detailed guidelines mapping the boundaries of proper violence when issuing instructions for managing servants in the household. When Zhang Xuan 張萱 (ca.1557–1641), a Ming official and bibliophile, compiled *What I Saw and Heard*, (*Xi yuan wen jian lu* 西園聞見錄), he collected sayings and stories about managing servants. Among these notes, two specified how to use violence appropriately to govern servants. One was written by an official, Wu Yuancui 伍袁萃 (ca. sixteenth century);³³ the other was culled from another Ming-compiled book, *Compilation of Instructions on Promoting a Long Life* (*Hou sheng xun zuan* 厚生訓纂).³⁴

These two sources that Zhang Xuan collected provided information regarding a master's violence. The family instructions collected in *Compilation of Instructions on Promoting a Long Life* were actually extracted from the instructions written by a Song magistrate, Yuan Cai 袁采 (ca. 1140–1195). The part that Zhang Xuan extracted was as follows:

Sons and younger brothers cannot beat servants themselves, and women cannot beat female servants and concubines themselves; they should report servants who make mistakes to the head of the household, and he will deal with the servants for them. When a woman beats servants herself without getting permission, the head of the household will beat the woman's husband. These are the family rules of a wise man.

If a female or a male servant makes a mistake, the master should not strike the servant himself. Because the beating will be provoked by anger in the moment, the number of strokes will be uncouncted. As a result, the beating will be exhausting for the master but

³³ The same saying was collected in Wu Yuan Cui's own anthology, *Lin ju man lu* 林居漫錄, which is a notebook of collected stories and sayings of which Wu approved, instead of an intentional, organized writing or compilation.

³⁴ A 16th-century Ming official, Zhou Chen 周臣, collected materials about medicine, longevity and daily life management and compiled *Hou Sheng Xun Zuan*. Zhou Chen, *Hou sheng xun zuan*.

also ineffective since the servant is not appropriately fearful. The master should take time calling the servant to account and ask someone else to beat the servant: the number of strokes should vary according to the mistake that the servant makes. If the master does not express his anger excessively, he will naturally have authority over the servant. Therefore, the servant will know how to be appropriately fearful [according to the mistakes he makes].

子弟不得自打僮僕，婦女不得自打婢妾，有過則告之家長，為之發遣，婦女擅打奴婢則撻子弟，此賢者之家法也。

又曰：婢僕有小過，不可親自鞭打，蓋一時怒氣所激，鞭打之數必不計，徒且費力，婢奴僕未必知畏。惟徐徐責問，令他人執而打之，視其過之輕重而足其數，不可過怒，自然有威嚴，婢僕亦自畏悼矣。³⁵

The passage from *Compilation of Instructions on Promoting a Long Life* specifies a hierarchical relationship in the family: at the top was the head of the household, followed by secondary male masters, and then their wives (female masters). Only the head of the household, like a judge, could determine punishments for servants; other masters did not have the same power. And husbands were responsible for their wives (female masters). The second part of the passage was similar in that it reveals why masters had to rationally calculate the level of violence they would use against servants—it was the most efficient way to establish authority and control. The procedure described in this passage—evaluating the sentence for a crime and deciding the punishment accordingly, asking others to beat servants instead of beating them by oneself—was similar to the procedure specified in the legal court. and *Compilation of Instructions on Promoting a Long Life* implicitly compared punishing servants with punishing criminals in court. A magistrate interrogated suspects in court, evaluated the punishment for convicted criminals, and asked functionaries to execute punishments. The authority of a magistrate was built not only on support from the state but also on a series of jurisdictional methods that were used in court. These methods suggested maintaining social order by properly convicting criminals and

³⁵ Zhang Xuan, *Xi yuan wen jian lu*, 6.37b-38a.

educating them with discipline and teaching. Similarly, a master's authority was built on precise and rational discipline instead of personal, uncontrollable violence. Men of letters borrowed the instrument of the imperial state, the law, to develop their theories of household management.

If the passage from *Compilation of Instructions on Promoting a Long Life* merely hinted at the similarity between managing a household and managing a government, the passage from Wu Yuan Cui's book directly stated that the governing principle could be applied in both contexts. Zhang Xuan copied the following passage from Wu's book:

There is an old saying: "families should not abolish teaching and beating." Therefore, when a male or female servant violates a rule, we send him or her to the authorities if it is serious, we forgive them if it is small; otherwise, we only beat them with a light bamboo stick, but the beating will not be over 20 strokes. One should not rashly kick or beat servants, and should avoid the head, eyes, the heart, the abdomen, the small of the back, and the ribs, which are areas that will cause harm and should be off limits. A woman should only compress servants' hands, not their buttocks. Do not beat [servants] when drunk, do not beat them when sick, do not beat them old, and when you have already [beaten them for the same] mistake. Moreover, do not beat servants when I [the master] am drunk, not beat servants when I am sick, and not beat servants when I am angry. Following these [principles], we not only cherish others, but cherish ourselves. [These principles] can be used when managing a household and when acting as an official.

古語云：教答不可廢于家，故奴婢僕有犯，除情重送官，過小姑恕外，只用小竹板決其臀，多不過二十而止。勿亂踢勿亂打，而頭目心腹腰肋要害之處，尤當禁忌。婦人則止撻其手，勿決其臀。乃若人醉勿打，人病勿打，人老穉勿打，人[打]過勿打，而我醉勿打[人]，又我病勿打[人]，又我大怒勿打[人]，凡此不但 [所以]愛人亦所以自愛，不但可行於家，[而]亦可行於官[者]也。³⁶

We have seen numerous examples of social relations and state relations modeled on familial norms; in these two texts, the family was a space governed by and modeled on the state. A master had to send servants who committed serious crimes to the local authorities instead of punishing them himself, although disciplining one's servants for routine offenses was approved

³⁶ Wu Yuan Cui, *Lin ju man lu* 林居漫錄, 5.6a-7b.

by law. Figuratively, being the head of the household was analogized to being an official. Wu Yuan Cui stated explicitly that the principles were the same,

The family and state were both metaphors and objective spaces in which scholar-officials could construct moral, social, and political order. Although literati recognized the similarities between governing a household and governing a local polity, there was a distinction: the political sphere excluded women. Since the tenth century, the idea of male-female separation—confining women inside the household—had become increasingly pervasive.³⁷ Family instructions included female masters, however, when they recognized the resemblance between running a household and running a local polity. Women in the domestic space were thus included in the discourses through which moral, social, and political order was constructed. A man was held culpable if he failed to control the women in his household. An official was supposed to put his family in order before he could put any political affairs in order. A man's competence to be an official (*shi* 士), was evaluated by reference to the performance of his wife, who was confined within his household, according to moral principles. In the family instructions written by Wang Yanchou 王演疇 (ca. sixteenth century), a magistrate and later a prefect, he warned that husbands should play an active role in restraining their wives' excessive violence against servants:

As for the wife's karma, the husband creates it. In the human world, there is imperial law; in the netherworld, there are ghosts and gods. Retribution [for a transgression] extends not only to wives, but also to husbands.

婦人之業，丈夫作之也，明有國法，幽有鬼神，其報應豈不譴及婦人，而並及丈夫哉。³⁸

³⁷ Hymes. "Sung Society and Social Change."

³⁸ Wang Yanchou, "Jia xun yu xia pian."

While women did not occupy a stable place in the political world, they found stability in the figurative political world—the family. While women’s place in the family was recognized, they often became scapegoats for failings in the familial order and household management.

Women’s participation in managing households and servants thus became a significant site for literati supervision and control. Commenting on the Wang Yanchou’s family instructions written by, the prominent Qing official Chen Hongmou 陳弘謀 (1696–1771), in a work that promoted education for women, argued that the ways in which a woman treated servants revealed her innate nature:

Inside the door [of the household], when a woman faced her parents-in-law, husbands, and children, she might still feel afraid or sympathetic. Servants, whom a woman encounters day and night, are the ones to whom a woman can demonstrate her intolerance, brutality, unkindness, and ingratitude. Therefore, when one enters someone’s household, observe the servants and one can know if the woman [in the household] is good or bad.

門內如翁姑夫子女，或猶有不敢不忍之意，其可以逞其不寬不仁不慈不惠者，惟此日夕相對之奴婢耳，故入其家觀其奴婢而有以知婦之良與不良也。³⁹

Chen’s comments suggested what he thought about family structure and a woman’s position in her husbands’ household. A woman could play any of the following roles: daughter-in-law, wife, mother, or master. Regarding these roles, a woman was considered an inferior when facing her parents-in-law and her husband, so she dared not disobey them or demonstrate her “true nature.” A woman was superior to her children and servants; however, it was assumed she would be a nurturing mother to her children. The role of master not only allowed a woman to play a superior and dominant role, but also highlighted her role as a household manager as opposed to being either a submissive wife or a kind mother. Chen Hongmou stressed that nothing could restrain a

³⁹ Chen Hongmou, *Jiao nü yi gui*, 6.1a-1b.

woman from demonstrating her depravity when encountering servants; Chen thus called for both men and women to suppress female violence against servants in the household.

Focusing on a woman's role as a female master, Wang's family instructions, on which Chen commented and which he collected in his *Rules Bequeathed to Teach Daughter* (*Jiao nü yi gui* 教女遺規), provided a vivid image of a female master's violence, preserving both details of daily life and Wang's attitude toward such violence. Wang pointed out that, compared with men, women not only beat servants much more severely, but also tended in particular to beat young female servants:

[Women] abuse their servants without any reason. Maybe it is because a servant steals a piece of meat or a few vegetables when preparing meals, or because a servant steals tea leaves and desserts when preparing tea. These are small things and can be forgiven. It is quite enough if a master just scolds the stealing servant or measures the mistake and beats the servant accordingly. [Women] somehow consider that these mistakes as extremely malicious and unforgivable. They spare no effort to beat these servants with a whip or a light bamboo stick; the beating is beyond how one is supposed to treat people. Some women still keep beating servants when their parents-in-law hear the beating noise; some women still will not stop the beating when their female relatives advise them to stop. If their husbands forbid them to beat servants, they will become even angrier and defend themselves by saying "they are thieves!"

乃於所蓄僕婢，無端凌虐。或炊爨而少竊腥蔬，或看茶而便竊茶果，此小過，怒之可耳。或叱罵之，量朴之足矣。乃以為罪大惡極而不可赦也，盡力鞭答，不在人理相待之內。有舅姑聞聲而不避，有妯娌力勸而不能。若丈夫禁之，則反甚其怒，猶曰彼為盜耳...。⁴⁰

Wang delivered a great deal of information in this paragraph. First, servants prepared food—including regular meals and desserts—while wives, or female masters, supervised the process and disciplined misbehaving servants. Second, Wang framed the disciplining domestic servants on a legal model: the punishment should fit the crime. Finally, Wang also provided an ideal, hierarchical structure and image of a family. While a woman should, according to common norms, subject herself to her parents-in-law and husband, but in practice she might ignore them

⁴⁰ Wang Yanchou, "Jia xun yu xia pian,"

and even defend her position in a rather aggressive tone. Female relatives, such as wives of other household sons, were of a similar familial status; therefore, female relatives could “advise” (*quan* 勸) their relatives, but a husband could “forbid” (*jin* 禁) the beating of servants by his wife.

Later in the instruction, Wang further pointed out that women often disciplined servants more severely than civil authorities punished criminals:

Even when punishing felons, authorities won't beat them more than 100 strokes with a heavy bamboo stick. All the instruments of torture are applied only to people's arms, hands and feet, not on the chest, back, waist, and sides of the upper torso. Women are different. They use iron pokers and fire tongs when in the bedroom. They used the back of a knife and small, knotted brushwood when in the kitchen. Women don't count how many strokes when beating servants, and they even beat servants two to three times in one day. Women also don't think about avoiding vital body parts like the waist, back, sides of the upper torso and ribs.

就是大盜，亦未有杖之上百者。諸刑具止施於兩臂手足，而胸背腰脅不及焉。而婦人不然也。房中便用火筋鐵鉗，廚中便用刀背，有節柴棍，其小者耳。撻之不計其數，甚至一日二三次箠撻之，腰背脅肋諸要害之處，不論焉。⁴¹

Wang's family instructions—which were collected in a book for educating women—compared violence in the domestic space with violence in the court-controlled space. Wang's instructions emphasized that violence perpetrated by women was harsher, irrational, and seemingly inflicted without limits, whereas legal authority not only made punishments fit crimes, but carefully protected the life and safety of the punished.⁴² Wang's understanding explains why the previous family instructions cautioned against masters' beating servants themselves. Because such disciplinary violence was inflicted in immediate reaction to a transgression, rather than being carefully calculated, women used tools that were nearby and handy—tools fireplace equipment in the bedroom, and knives and brushwood (for ovens) in the kitchen—and they did not care

⁴¹ Ibid.

⁴² Wang mentioned that people who were punished in court would be taken care of after the punishment, but no one took care of servants after they were beaten by masters.

whether the violence was excessive. In other words, in their positions as dominant superordinates, women failed to be responsible, rational masters and indulged in unconstrained anger and violence. Wang stressed the importance of imposing restraint on women's violence against inferior servants the moment women married into their husbands' families and concluded that the husbands also suffered from the retribution that women's evil actions brought. Wang concluded that men were culpable for excessive violence inflicted by their wives.

Wang's family instructions offered an animated narrative of violence perpetrated by female masters against servants, while also expressing Wang's bias against women. Female violence was justified by their dominant and superior position; therefore, instead of criticizing women for using violence to manage servants, Wang expected those who were superior to female masters to discipline that latter's irrational violence when it lost its original purpose—disciplining and teaching. How violence was sanctioned and controlled reveals interaction between masters, both ideally (what they should do) and socially (what they actually did).

In the final part of this section, I focus my analysis on memorial texts, biographical texts and epitaphs, genres that aimed to show how people did what they should have done, but in doing so often revealed what people actually did. During the Ming era, especially after the sixteenth century, men of letters increasingly recorded actual events without reducing them to stereotyped tropes when commemorating their late female relatives.⁴³ The change points to a tension in the biographical and memorial texts in the late imperial period between using clichéd exemplars and describing distinctive features that conveyed the uniqueness of both writers and their subjects. Men of letters combined these two tendencies when recording domestic violence in texts of remembrance, just as Wang Yanchou narrated in his family instructions. I show how

⁴³ Martin W. Huang, "Introduction Remembering Female Relatives: Mourning and Gender in Late Imperial China," 15.

literati, on the one hand, presented the violence of ideal discipline and, on the other, disclosed what might happen in the household.

Here, while I want to call the reader's attention to the hidden tension between the idealistic and the realistic, I also want to point out that the position of those identified as properly employing violence revealed power dynamics in the family. For example, when an official, Guo Pu 郭璞 (1511–1593), wrote an epitaph about Zheng *shi* 鄭氏, he praised her morality:

If a male or female servant made a mistake, [Zhang *shi*] would scold him or her; if [Zhang *shi*'s] inferior family members, such as her sons or sons' wives, beat servants excessively, [Zhang *shi*] would be angry and forbade them to do so.
僕婢有過第呵之，兒婦輩或笞之過，輒怒不許。⁴⁴

Zheng *shi* was described as a moral figure who only scolded servants and forbade her inferior family members to use excessive violence against servants. The term *er fu bei* 兒婦輩 implied Zheng *shi*'s superordinate position over her subordinate family members. While emphasizing Zheng *shi*'s tenderness and kindness, *ci* 慈, Guo Pu revealed how commonly servants were beaten by their superiors. Guo Pu did not consider that revealing the excessive and pervasive violence in the family to highlight Zhang *shi*'s "proper" behavior suggested symptomatic issues in the family because the violence was authorized through the hierarchical familial system.

Another biographer, an official and a literatus, Luo Yuchen 羅虞臣 (ca.1501–ca.1545), deployed a similar writing strategy. When praising the morality of his grandmother, Tan *shi* 譚氏, he wrote:

The character of Anren [an honorable prefix of Tan *shi*] was always strict and harsh. She liked flogging and beating servants, and she threw things when she was angry. Sir Aiquan [Tan *shi*'s husband] had two younger sisters, who were born from a different mother. Tan

⁴⁴Guo Pu, "Chi feng tai ru ren Zheng *shi* fu zang mu zhi ming" 勅封太孺人鄭氏祔葬墓誌銘, in *Guo Wenjian gong wen ji*, 2.51.

shi treated them quite kindly and pleasantly and never opposed or irritated them with words or expressions.

安人性固嚴棘，好鞭笞奴僕，怒則擲毀器物。而愛泉公有兩女弟，亦異母出也，譚安人待之極和愉，未嘗以言色抵刺。⁴⁵

Luo described his grandmother's temper and violence against servants to stress how rare it was for a grandmother to treat her husband's two half-sisters well; Luo's writing strategy shows violence against servants and inferiors to have been commonly accepted.

Two additional examples emphasize that female masters commonly beat servants, but that such beatings did not affect judgements of the women's morality. One was a biography, collected in an anthology of the famous Li Mengyang 李夢陽 (1472–1529), who was credited as one of the seven most distinctive literati of the first half of the Ming dynasty. Li's biography indicates that his mother raised pigs and chickens and brewed wine and vinegar so she could make money to support her husband. The biographer later wrote:

She was strict and severe, and she liked to beat servants. Even so, people in my family were filial to her and there was no complaint [against her] in our family.

夫人性嚴重，好鞭笞僕奴，雖家人嗃嗃，而蒸蒸無間言。⁴⁶

Li honestly said that his mother had a temper and liked to beat servants. He used the term *jia ren he he* 家人嗃嗃, however, which was taken from one of the Confucian canons, *The Classic of Changes* (*Yijing* 易經). Commentary on the term in the *Yijing* suggests that even if the head of a household governed strictly, the family was able to retain its auspicious destiny, whereas if women and children did not behave respectfully, the family would eventually suffer from humiliation. This explains the devotion Li's mother received despite her harshness. Li's writing was famous for his use of difficult allusions to Confucian classics and to literature written in early China, a writing style that was popular in the first half of the Ming. Using terms from

⁴⁵ Luo Yuchen, "Tan tai mu chuan" 譚太母傳 in *Luo si xun ji*, 6.53-54.

⁴⁶ Li Mengyang, "Wai Zhuan" 外傳, in *Kongtong ji*, 38.287-288.

classics that were layered with connotations, Li implied that her mother's sternness and fondness for beating servants did not affect either her morality or her ability to manage a household.

Another example of using circumlocution to describe violence appears in a piece written by Shen Yiguan 沈一貫 (1531–1615), once the prime minister during the Wanli reign (1573–1620).

Recording his wife's life details, Shen wrote:

My wife treated people appropriately to their positions. She served her parents-in-law with gentleness, submissiveness, and extreme filial piety. She interacted with her male superior relatives, such as the brothers of my father, and my brother, with politeness, and her words with them were concise but meaningful. She treated inferiors in the household with uprightness but benignity. The only thing was that she governed servants strictly, especially female servants. However, she knew that I didn't like people to be beaten. Whenever she was going to beat a servant, if I happened to be around, she would not beat the servant. Once the moment was passed, she was not going to try to beat the servant again.

夫人待人最有等，事舅姑婉婉至孝，伯叔以上有禮，語簡而意，周身以下直而溫，惟馭下嚴，婢尤然，知余不好笞，當笞，余適往，亦輒貰，弛已，亦不復追。⁴⁷

Shen constructed an ideal image of his wife, who knew how to behave appropriately according to the family hierarchy. However, his wife governed the servants severely. To compensate for this acceptable “flaw,” Shen mentioned that his wife was submissive to his will without his proclaiming it. She stopped beatings automatically if he was around. He emphasized his influence over his wife on the matter of using violence. Shen's wife likely governed her servants with excessive violence; otherwise, Shen would not have mentioned that her methods were quite strict before implying that he was the final authority on the matter. Violence against servants was often directly recorded in biographical texts and epitaphs—a genre that aimed to publicize the exemplary behavior of the deceased. A female master's violence against servants was sanctioned in ideology and in life when it was conditioned upon maintaining the ideal family.

⁴⁷ Shen Yiguan, “Feng fu ren zeng yi pin fu ren zhang shi hang zhuang” 封夫人贈一品夫人張氏行狀 in *Hui ming shi wen ji*, 19.288-291.

In this section, I argue that violence used for proper discipline—punishment that fit the crime—was an approved method of household management. Because the family was the focal point around which literati could construct the moral, social, and political order, whether or not a woman used violence appropriately to discipline servants was a basis for evaluating her husband's morality and political ability. The legitimacy of a female master's violence against her servants was enveloped in the discourse of the idealistic order, although the violence was often on the margin of being excessive and inappropriate. Through examining materials included in family instructions, biographical texts and epitaphs, this section reveals the complicated power dynamics that played out between masters under the same roof.

Servants as Family Members

In this section I focus on a master's other method for maintaining hierarchical superiority—parent-child morality—and consider how the legal encoding of that relationship and its freighted moral responsibility ironically limited masters' access to servants' bodies. I investigate legal discussions of and debates over adopted bondservants. In so doing, I show how bondservants came to be incorporated into households as adopted family members, and how the change in legal status described above impacted the dynamics of master-servant domination.

The change in the legal precedent benefited officials. Yet, officials were also bound to act morally because their privileged status was built on both passing the civil service examination and on claiming moral high ground. Therefore, while officials enjoyed a more comprehensive form of control over servants, their mistreatment of servants could draw criticism.

Modern scholar Wu Zhenhan has demonstrated the influence of mid-Ming socio-economic developments in creating an ideal of “mutual reliance and support” (*xiang zi xiang yang* 相資相養) in master-servant relationships. On the one hand, commoner servants could not

survive without their own lands and without having jobs after leaving their masters' households. Commoner-servants might have been able to find jobs in commercialized areas in the late Ming, but the job market was restrictive before that. On the other hand, masters, whether rural or city residents, heavily depended on servants' labor in agriculture and textile production and in housework. During long absences of male masters from households, such as when they were traveling to the capital to take the civil service examination or serving in a distant office, or perhaps deceased, by keeping servants female masters (wives) could maintain a well-functioning, economically productive household. When a master adopted servants as his *yi nan yi fu*, the gesture ensured servants a permanent, secure place.⁴⁸

Later, as Wu Zhenhan points out, the Yangming school 陽明學, by emphasizing individual self-cultivation over the learning of Confucian classics and promoting the idea that anyone could become a sage, not only the literati, called attention to the humanity of servants, including the idea that a servant is also "someone's child" (*ren zi* 人子).⁴⁹ Building on Wu's research, in this section I focus on an analysis of Ming criminal laws (*xing lü*) and the ways in which masters' physical violence or sexual access was suppressed when servants were regarded as children, or family members.

Insofar as *yi nan yi fu* could be equivalent to bondservants, adopted children, or short-term contract laborers, the resulting legal ambiguity created confusion. When a violent conflict occurred between a master and his or her *yi nan yi fu*, it was necessary for judges to classify their relationship precisely to determine the punishment, which varied according to the social or

⁴⁸ Wu Zhenhan has pointed out two historical developments regarding the relationship between Ming masters and servants: "mutual reliance and support" (*xiang zi xiang yang* 相資相養) and parent-child morality. Unlike early scholarship that emphasizes the repressiveness of the relationship between masters and commoner servants, Wu proposes that both masters and servants depended on each other economically to survive. Wu Cheng-Han, "Ming dai nu pu de yan jiu."

⁴⁹ *Ibid.*, 30.

familial relationship between the victim and the offender. The muddled status of *yi nan yi fu* was articulated, for example, in the rule on “Illegally Designating Sons [as Heirs of the Head of the Household]” (*li di zi wie fa* 立嫡子違法). This rule not only specified the correct sequence of heirs—sons by wives, sons by concubines, and then adopted sons from the same lineage—but also included the following sentence:

If commoners’ families raise slaves [*nu bi*], the penalty shall be 100 strikes with a heavy stick. [The slaves] shall be immediately released and returned to the status of honorable people [*liang*]”
若庶民之家，存養奴婢者，杖一百，即放從良。⁵⁰

Inheriting a family title, and raising and having *nu bi* in the household, were covered by the same regulation, which suggests the close relationship among children, adopted children, and indentured bondservants.

In 1589, a supplementary precedent (*xu li* 續例) explained how to legally categorize servants as children, *nu bi* (slaves), or *gu gong ren* (hired workers) to their masters in a commoner’s and an official’s household. In distinct versions of Ming laws and Ming legal commentaries, the precedent was listed in three regulations—“Illegally Designating Sons [as Heirs of the Head of the Household]” (*li dizi weifa* 立嫡子違法), “Slaves Striking Household Heads” (*nu bi ou jia zhang* 奴婢毆家長), “Striking Paternal Grandparents or Parents” (*ou zu fu mu fu mu* 毆祖父母父母)—which also indicate the debatable relationship between adopted bondservants and their master-parents.⁵¹ Here is the supplemental precedent:

If people who work for either an official’s or a commoner’s family have a contract for the discussed working period, they are considered hired workers [to their employer], but if their discussed working period is short, such as days or months, and they receive only a

⁵⁰ *DML*, 71-72.

⁵¹ For example, Xu chang zuo, *Da ming lu li tian shi pang zhu* lists the precedent after these three regulations, and Wang Kentang, *Da Ming lü fuli jianshi* lists the precedent after “Illegally Designating Sons [as Heirs of the Head of the Household].” Huang, Zhangjian ed., *Ming dai lü li hui bian* lists the precedent after “Slaves Striking Household Heads” and “Striking Paternal Grandparents or Parents.”

small amount of payment, they are considered strangers [to their employer]. If adopted men who are purchased with money receive sustenance (“kindness and nurture,” *enyang*) for a long period of time and receive an arranged marriage from their master, they are considered children [to their masters, namely, their foster parents]; if they receive *enyang* for only a short period of time and do not have a marriage arranged by their master, they are considered as [the status of] hired workers in a commoner’s and a literatus’ family, and are considered as [the status of] slaves in an official’s family.

今後官民之家，凡傭工作之人，立有文卷，議有年限者，以雇工人論，止是短雇日月，受值不多者，依凡論。其財買義男，如恩養年久，配有室家者，照例同子孫論，如恩養未久，不曾配合者，士庶之家依雇工人論，縉紳之家比照奴婢律論。⁵²

The precedent here shows that slaves (*nu bi*) and hired workers (*gu gong ren*) were both social statuses and legal terms that were used to evaluate sentences related to adopted men (*yi nan*).⁵³

The legal and social position of adopted men fell into a gray area between children, *nu bi*, and *gu gong ren*. When fulfilling certain conditions—receiving *enyang* 恩養, marriage, and property—an adopted man was considered a child of his master; if the conditions were not fulfilled, an adopted man was recognized as a legal *nu bi* when his master was an official, and as a *gu gong ren* when the master was a commoner. In other words, before an adopted man could be recognized as a child of the family, his master, if he was an official, could kill him without being sentenced to the death penalty. The political position of a master changed the legal hierarchy that was applied to him and his bondservants.

In addition to noting the political status of the master (as a commoner or as an official), *en yang* was key to distinguishing whether adopted bondservants were children or servants. The literal translation of *en yang* includes the meaning of both kindness or a favor bestowed by a superior (in reference to both masters and parents), and being nurtured, raised, and fostered. Supplementing the “Striking Paternal Grandparents or Parents” rule, the 1500 Hongzhi ordinance further elaborated on the definition of “real” children:

⁵² Huang, Zhangjian ed. *Mingdai lüli huibian*, 2.836, 843.

⁵³ Takahashi Yoshirō, *Sō Shin mibunhō no kenkyū*, ch.7.

In cases where adoptive parents strike their adopted children to death or deliberately kill them:

If the adopted children were less than 15 years old when adopted and received *enyang*, or if the adopted children were over 16 years old when adopted and their adoptive parents had distributed properties and arranged marriages for them, the adopted parents should be sentenced for the crime of striking and killing adopted children with different surnames.⁵⁴

If the adopted children were less than 15 years old when adopted, but received *enyang* for only a short period of time, or if the adopted children were over 16 years old when adopted, but their adoptive parents had not distributed properties or arranged marriages for them, the adopted parents should be sentenced for the crime of striking and killing contracted labor.

義父母毆殺故殺義子者，若過房在十五以下，曾蒙恩養，或十六以上，曾分有財產，配有室家者，依毆殺乞養異姓子孫律坐罪，若過房雖在十五以下，恩養未久；或十六以上，不曾分有財產、配有家室者，依毆殺雇工人律坐罪。⁵⁵

Here, *enyang* denoted two distinct elements: one suggested being raised when one was a child (before attaining 15 years of age, the legal adult age), while the other suggested receiving property and having a marriage arranged for them. In other words, in this legal context, a “real” parent’s responsibility included not only raising his or her children but also taking care of their financial security until they established their own families.⁵⁶ If a master could fulfill these responsibilities, he or she was considered a real parent to his or her adopted men and women; masters thus could further establish their authority and control and even kill servants without being punished in most situations when the domination was built on the morality of the parent–child relationship.

Ironically, the morality of the parent-child relationship suppressed a master’s violence against servants. Many Ming family instructions, especially those from Jiangnan (where the Yangming school was well-accepted), dictated the treatment of servants as children. In

⁵⁴ The statute that applied to striking adopted children was included in “Striking Paternal Grandparents or Parents.”

⁵⁵ Huang, Zhangjian ed. *Ming dai li li hui bian*, 2.843.

⁵⁶ Legal and economic historians use inheritance rights to evaluate women’s (daughters’ and widows’) positions in the household. See, for example, Bernhardt, *Women and Property in China: 960–1949*; Birge, *Women, Property, and Confucian Reaction in Sung and Yuan China (960–1368)*.

particular, regarding how a master should treat his/her servants, one sentence written by Tao Yuanming 陶淵明 (c.352 or 365–427) was often cited:⁵⁷

They [servants] are also someone else's children; we should treat them with care.
彼亦人子也，當善遇之。⁵⁸

This line came to be commonly quoted not only in family instructions but in epitaphs written to praise the morality of both male and female masters. In epitaphs, this quotation was combined formulaically with a description of not scolding or beating servants. I want to call the reader's attention to the fact that suppressing a master's violence was not included in the original text written by Tao Yuanming. For example, the famous literatus, historian Wang Shizhen 王世貞 (1526–1590), who was also once a central government official, wrote the following to praise the morality of his uncle, Shi Bin 史斌 (Ming):

When the servants made a mistake, no matter if it was big or small, he [Shi Bin] never lightly scolded or beat them, and would say, "They are also someone's children."
臧獲大小有過，未嘗輕呵撻，曰：「彼亦人子也」。⁵⁹

Later, when Ming official and erudite scholar Chen Renxi 陳仁錫 (1581–1636) wrote an epitaph for a scholar, he repeated Wang Shizhen's line verbatim.⁶⁰ Similarly, Chen Yidian 陳懿典 (1554–1638), a historian in the central government, described his friend's mother, Zhao *shi* 趙氏, by quoting Tao's sentence and praised her for not beating and scolding her servants:

Throughout her whole life, she [Zhao *shi*] was kind and assiduous. She never harshly scolded male or female servants. When hearing the noise of servants being beaten with a whip or a bamboo stick, she said, "They are also people's children," and she stopped the beating.

⁵⁷ Wu Cheng-Han, "Ming dai de zhu pu guan xi."

⁵⁸ For example, the sentence is collected in Pang Shangpeng, *Pang shi jia xun*. 6.

⁵⁹ Wang Shizhen, "Ming gu di gong lang zhe jiang jin hua fu lan xi xian cheng shi jun mu zhi ming" 明故迪功郎浙江金華府蘭溪縣丞史君墓誌銘, in *Yan zhou si bu gao*, 89.974-976.

⁶⁰ Chen Renxi, "Wen xue jing zhao Wang gong mu zhi ming" 文學景照王公墓誌銘, in *Wu meng yuan yi ji*, 6.134-136.

生平慈儉，臧獲婢子未嘗苛責，聞答撻聲必曰：「彼亦人子也」，亟止之。⁶¹

In epitaphs, Ming literati repeatedly quoted Tao's line, but added new elements to re-articulate how one should treat servants without violence. Ironically, these re-articulations show how pervasively masters scolded and beat their servants at the time.

A common expression of a master's morality in epitaphs indicated how a master governed his or her servants with reasonable discipline, not by beating or scolding them at all, like Zhao *shi* in the preceding paragraph. Focusing on epitaphs for women, contemporary scholar Wang Xueping identifies three patterns to describe how Ming female masters managed their servants: with kindness (*en* 恩), with strictness (*yan* 嚴), or with both kindness and strictness. The first expression was often accompanied by the expression, "treating servants as their own children." In contrast, in an epitaph, when a female master was described as strictly managing her servants, her methods were described as using reason and discipline. Wang points out that expressions pertaining to managing servants reflect the role of motherhood in Confucian ideology.⁶² In sum, the morality of the parent-child relationship required that male and female masters both treat servants well and discipline them only within limits.

While the norms of the parent-child relationship justified physical violence by masters against their adopted men and women, this moral framework paradoxically suppressed their access to bondservants' bodies—both physical and sexual access. And in practice, sexual access was the typical pattern in master-servant power dynamics. Sexual violence based on masters' status-related privileges became especially problematic when it became entangled with the norms of the parent-child relationship. Male masters' sexual access to female servants and to

⁶¹ Chen Yidian, "Li Mingfu mu Zhao tai ru ren mu zhi ming" 李明府母趙太孺人墓誌銘 in *Chen xue shi xian sheng chu ji*, 13.235-237.

⁶² Wang Xueping, "Ming dai zhu fu yu bi ce lue yu ru jia lun li shi jian —yi Ming dai nu xing bei chuan wen wei zhong xin."

male servant's wives was denied when these women were their "real" children. The pervasive sexual violence that was sanctioned through patriarchal and hierarchal domination was suppressed when bondservants were included in their masters' families.

The Ming code made no provision against male masters having sex with female servants or with male servants' wives or male servants, yet sex with one's daughter or daughter-in-law was a serious crime. The new legal status of adopted bondservants, created confusion as to how to distinguish having sex with one's children from having sex with one's servants. Having sex with one's children was such a taboo that even the figurative parent-child relationship caused anxiety. Whether an adopted child was a "real" child or not was essential to the criminalization of a master's sexual access to his servants.

During the Ming dynasty, the issue of a master's sexual access to his adopted children, namely, his servants, provoked discussion among officials in the Ministry of Justice (*xing bu* 刑部) as well as in the Court of Judicial Review (*da li si* 大理寺). Early in 1354, an official, Wang Huidi 王會迪 of the Ministry of Justice had noticed a problem with a master having sex with his adopted daughter:

People in local society raise adopted daughters. Even though adopted daughters are not [children by] birth, they are all raised from early childhood, living and eating together [with their foster parents, and thus] the distinction between superiors and inferiors is already [established by these interactions]. If a foster father has sex with his adopted daughter, it is injurious to common morality, and fitting that he be sentenced one degree heavier than for the crime of having sex with distant relatives of the same lineage who are not within the degrees of mourning. The punishment shall be 60 strokes with a heavy bamboo stick and one year of penal servitude. The adopted daughter will be sent back to her original family.

凡民間乞養義女，雖非己生，然皆自幼撫養，同居而食，已有尊卑之分，若帷薄不脩，有傷風化，宜比同宗無服之親，律加一等，杖六十，徒一年，其女歸宗。⁶³

⁶³ *Ming shilu*, the Hongwu reign, 169.2577.

Wang argued that interactions between family members built up the familial hierarchy (being raised by, living with, and eating together) and thereby the cohesion of the family itself.

While Wang supported the idea that adopted daughters were family, he treated them by analogy to distant relatives rather than to non-adopted daughters. Decades later, Wang's verdict on the morality and legality of sex between masters and adopted daughters came to be established as legal precedent in a later case. In November of 1438, a commoner was arrested for taking his adopted daughter (*yi nu* 義女) as his concubine. When the case was sent up to the central government for review, the case reviewer, Wang Liang 王亮 (Ming), asked for an investigation of the original contract with the concubine to confirm whether she had previously been an adopted daughter or a servant. Wang Liang argued that the man should be punished if he was in fact married to his adopted daughter, but should not be punished if the woman was listed as a servant in the original contract, in which case their marriage could be approved.⁶⁴ The case was recorded in both Ming imperial *Veritable Records* (*shilu* 實錄) and *Continuing Encyclopedic History of the Institutions of Government* (*Xu tong dian* 續通典, officially comp. 1767. Period covered: 756–1644.), government compilations of official documents. *Xu Tongdian* directly connected Wang's 1354 verdict with the 1438 case.⁶⁵ Precisely because it was common for a master to have sexual relationships with female servants and because adopted daughters were both servants and children, officials recognized the need to distinguish between sex with one's servant and sex with one's "children."

In a 1446 case a commoner was charged with attempted rape of his adopted man's wife. Some legal authorities intended to apply in this case the sentence for the crime of raping one's

⁶⁴ *Ming shilu*, the Zhengtong reign, 48.926.

⁶⁵ Ji Huang and Liu Yong, *Xu Tongdian*, 111.1338.

close relative, decapitation. A case reviewer, Yu Shiyue 余士悅, argued against the sentence on the basis of the following rationale:

Neither law nor ritual ask adopted men to participate in mourning rituals [for their foster parents]; besides, according to legal precedent, adopted men and women are considered to be contracted laborers if they are over fifteen when adopted and they do not receive *enyang*. Now, in this case, the adopted man was over fifteen when he was adopted. He was already a grown man then. If he was being sued for being unfilial [to his foster parents], he would be considered a contracted laborer. Moreover, it is an attempted rape, not a rape.

義男於律與禮俱無服，於例義男女十五歲過房，不蒙恩養，准雇工人科斷。
今本男十五歲過房，年已長大，若告不孝，尚依雇工人論，况姦未成乎？⁶⁶

In addition to invoking *en yang*, Yu's argument reveals to us another perspective when defining a family member: the mourning ritual, which was based on one's paternal, maternal, and marital relationships. *Yi nan*, an adopted man whose legal connection with his master was based first on adoption and then on *en yang* (being raised and living together), was not acknowledged as a family member in the Confucian ritual classics. The Zhengtong 正統 Emperor (b.1427; r. 1436–1449, r. 1457–1464) concluded the case by saying, first, that the offender did not have a close relationship with the adopted man insofar as he did not receive *en yang* from his master/foster father, and, second, that it was a charge of attempted rape, i.e., the coercive sex was not consummated. Thus, the Zhengtong Emperor changed the original sentence, decapitation, to 100 strokes with a heavy bamboo stick and banishment to the army. In this case, the criteria for evaluating the sentence involved the closeness of the familial relationship, sexual consent, and the consummation of the illicit sex.⁶⁷

⁶⁶ *Ming shilu*, the Zhengtong reign, 145.2853.

⁶⁷ *Ibid.*

A third case occurred in 1448. Jing Lian 金濂, an official in the Ministry of Justice, submitted a proposal to discuss a situation in which the head of a household, namely the father, had illicit sex with his *yi na fu*—the wife of his adopted man. The proposal was as follows:

For cases of illicitly having sex with an adopted man's wife, since the reigns of Hongwu and Yongle, it has been debated whether the sentence for the crime shall be according to the crime of having sex with a son's and grandson's wife—decapitation—or with a wife's ex-husband's daughter—servitude. While these two situations are similar, the sentences are different. Your majesty, please kindly give us your verdict.

姦義男婦者，洪武永樂以來，有論依姦子孫之婦應斬，有論依姦妻前夫之女應徒者，情犯相同，議擬不一，伏乞聖斷，永為遵守。⁶⁸

The legal dispute here hinged on how to classify the relationship between the master and his adopted man.

The sentence for fornication was based on the familial relationship and sexual consent.⁶⁹

If a master-adoptee's legal relationship was deemed a close, familial one (a father-son relationship), the sentence for fornicating with adopted men's wives would be severe; if it was deemed distant, the punishment would be just slightly heavier than for fornicating with people without any familial relationship. The ambiguous situation in which adopted men—both sons and servants—found themselves not only created legal disputes for legalists and judges but also created problems for masters who enjoyed sexual access to female servants and servants' wives. The three legal departments in the Ming central government (*san fa si* 三法司) discussed the proposal and submitted their opinion to the emperor, as follows:

Real sons and adopted sons, their emotions and relationships [with the head of the household, i.e., the father] are different. If the sentences for the crimes of having sex with a son's wife and with an adopted man's wife are the same, we [legal officials] are afraid that there is no difference between a son and an adopted man. In the future, for people who commit the crime that is being discussed here [illicitly having sex with an adopted

⁶⁸ *Ming shilu*, the Zhengtong reign, 167,3228.

⁶⁹ Feng Zi, *Da Ming lü ji shuo fu li, xingxia*. 1a.

man's wife], they shall be sentenced for the crime of having sex with a wife's ex-husband's daughter.

親男與義男，情有親疏，若將姦義男婦與姦親男婦同罪，恐親疏之情不分，今後有犯前罪者，宜比姦妻前夫之女徒罪科斷。⁷⁰

The main point of the *san fa si*'s discussion was that social and emotional distinctions should be drawn between one's real son and one's adopted son. This distinction was key in the legal system in imperial China. The system reflected the Confucian family ideology that was based on morally appropriate interactions between family members and between people of distinct social statuses. Judges varied their verdicts based on distinctions between relationships that victims and offenders formed. The ambiguous status of adopted men was thus defined as the equivalent of not being like one's own children but being like distant relatives. The importance of bodily connections (paternal, maternal, and marital) that were entangled with the reproduction of the family was reinstated here, yet *en yang* (living and eating together, sharing property) remained an element that complicated relationships in more complex households.

The Zhengtong Emperor concluded the legal debate with his final verdict:

For a person who illicitly has sex with his adopted son's wife, his sentence is servitude, and the adopted son and his wife should return to their original families; for a person who illicitly forces [an adopted son's wife] to have sex, he shall be decapitated.

通姦者准擬徒，其男與婦仍斷還本宗，強姦者處斬。⁷¹

The Zhengtong Emperor's verdict confirmed proper distinction between adopted bondservants, the patriline's legitimate non-servant children, but these adopted bondservants were still part of the family, at least as much so as distant relatives.⁷² Despite this, the government restated servants' positions as members of their masters' families. Male masters thus could not enjoy

⁷⁰ *Ming shilu*, the Zhengtong reign, 167.3227.

⁷¹ *Ibid.*

⁷² The issue of whether adopted children should be considered the same as children of one's own caused anxiety during the Ming. See Waltner, *Getting an Heir: Adoption and the Construction of Kinship in Later Imperial China*.

legal sexual access to any servants as long as these servants entered their masters' families through adoption.

Table 3: In the Ming code, in a situation in which a man has illicit sex with . . .

	people without any relationship		Daughters Wives of sons or grandsons		Wives of adopted sons Adopted daughters		Daughters from wife and her ex-husband	
Punishment for the man	Consented	Coercive	Consented	Coercive	Consented	Coercive	consented	Coercive
	80 strokes*	Strangle	Decapitation	Decapitation	100 strokes and three years of servitude	Decapitation	100 strokes and three years of servitude	Decapitation
Punishment for the woman	80 strokes*	No punishment	Decapitation	No punishment	100 strokes and three years of servitude	No punishment	100 strokes and three years of servitude	No punishment

* 90 strokes if the woman is married

During the Ming dynasty, a male master's sexual access to female servants was constrained because control over bondservants was based on a literal parent-child relationship. Illicit sex between an adopted man and a female master also raised questions. As pointed out in the first section, fornication between a male servant and a female master challenged the ownership and authority of the male master, including both his status as the master and his status as the husband. Therefore, such sexual behavior was severely punished—both the male servant and the female master were to be decapitated, whether the male servant was *nu bi* or *gu gong ren*. Although the punishments were the same, jurists still had to determine an adopted man's status in order to apply the law. *A Collection for the Legalist (Fa jia pou ji 法家裒集)*, a Ming

collection that included information to help resolve ambiguities when practicing the law, includes the following information:

If an adopted man (*yi nan*) who has been receiving *en yang* for a long time and had an arranged marriage [by his master], fornicates with the wife of the head of the household, should the adopted man be sentenced based on his status as an adopted child?

Answer: If the situation was such that the adopted man struck his master, then his charge should be based on the status of the adopted child; if the situation was fornicating with the wife of the household head, the charge should be based on the status of *gu gong ren* (hired worker). Why? Because there is no statute for prosecuting a son for fornicating with his mother.

恩養已久，聘有家室，義男姦家長妻，作乞養子斷否？

答曰：毆則照乞養，姦則問以雇工，何也？謂律無子姦母條。⁷³

The adopted man should be considered a son in relation to his master in the context of striking the latter, yet not in the context of illicit sex with the female master.

The passage shows the ambiguity of an adopted man's status, and the ways in which jurists could flexibly interpret statutes to support patriarchal power in the household. This pragmatism was quite similar to situations involving male masters and adopted women. Because considering female servants as daughters or daughters-in-law increased a male master's punishment for fornicating with them, adopted women and adopted men were treated in the same way as distant relatives, yet when physical violence was involved, to either increase the punishment for servants who strike masters or to reduce the punishment for masters who attack servants, adopted men and women were treated in the same way as sons and daughters in this legal context.

This section demonstrates the limitations of a master's ownership over servants when the legitimacy of control was based on parent-child morality. This moral framework established hierarchal relationships between commoners, so a commoner-master could be served by a

⁷³ Chen Yong, *Fa jia pou ji*, 4.603.

commoner-servant. More importantly, as a parent, a master could claim his or her right to discipline servants with violence, which was considered a legitimate tool for maintaining the artificial hierarchy. While the dominant used the metaphor of the family to assert their control over the dominated within dynasties (such as the emperor's relationship to his officials, an official's relationship to his governed subjects, and a master's relationship to his servants), the Ming dynasty turned such figurative relationships into a literal one when bondservants acquired a legal status as adopted men and adopted women.

A master's physical control over servants was limited once the bondservants were legally included in a family. The preconditions that allowed family superordinates to assert their parental rights to physically discipline their bondservants was framed as a disciplinary duty that accompanied fostering, along with providing property and arranging marriages. Simultaneously, parent-child norms also influenced how people expected a master to treat his or her servants. Once a servant became a legal family member, the master's sexual access became taboo and was forbidden by the state. Once the morality of the parent-child relationship was established, a master could no longer enjoy unfettered sexual access to his servants. Ironically, the morality that justified a master's violence suppressed the master's physical and sexual control over servants.

Conclusion

Late imperial China witnessed what Kathryn Bernhardt and Matthew Sommer have called the "the peasantization of law,"⁷⁴ pointing to the emergence of a legal principle that the main subjects of the empire were peasants, or commoners (*liang* 良). The social status of

⁷⁴ Sommer, *Sex, Law, and Society in Late Imperial China*, 14-15. Bernhardt, "A Ming-Qing Transition in Chinese Women's History? The Perspective from Law."

commoners was not decided exclusively by birth. Commoners could change their legal status by passing the civil service examination and attaining the privileges that accompanied degreed status or official (*shi* 士) even. Commoners could lose their legal status if convicted of crimes, and become debased people (*jian* 賤). The legal statuses of *shi*, *liang*, or *jian* could be changed only by the state. However, the feeling of subordinate inferiority and the acceptance of the rightness of one's domination by superordinates, could be created through other channels. The internalization of hierarchical relations between commoners could be nurtured through the behavior of those being served (masters) and those who served them (servants), through legally sanctioned violence, and through the application of the norms of parent–child relationships to adopted men and women.

The idealized hierarchical order that governed relationships between masters and servants was constantly challenged in everyday life, making it unstable. Masters buttressed their authority by justifying their coercive domination, framing it as humane and rational to maximize the efficacy of their control through violence. They packaged scolding and beating were as rational instruments that masters used to maintain the hierarchical order of the household. In addition to physical violence, both the legal system and the ideology of the family system was reinforced each other in inculcating the naturalness of superordinate domination of subordinates, and subordinate submission to that domination.

Law and ideology also limited the scope of superordinate power in the household. When a master was deemed a parent of a servant, he or she could demand comprehensive control, but this control was conditional: a master was also responsible for taking care of his or her “children.” Therefore, the moral ideology that buttressed domination simultaneously demarcated appropriate from abusive violence and suppressed the latter. The irony became especially distinct

when a male master wanted to enjoy his sexual access toward servants. The sexual privilege was forbidden when female servants were the male master's "children."

When studying violence against women, scholars have noticed conflicts that existed in the family and have analyzed how violence was used to solve such conflicts and maintain the *status quo*.⁷⁵ By examining violence perpetrated by women, I have demonstrated that women of higher social status, female masters, were actually protected by the patriarchal Chinese system, a system that has often been thought to benefit men alone. Women in superordinate positions were sanctioned by ideology and law to use violence to uphold the hierarchal asymmetry that the system embraced.

While masters enjoyed the same legal status as their bondservants, their social status entitled them much greater agency than their adopted men and women. Examining the ambiguous status of adopted servants, I reveal the ways in which the interpretation of the legal system was flexibly altered and applied to serve the interests of the dominant social status. Masters considered adopted men and women to be legal "children" when there was violent conflict between them, and being legal parents reduced sentences for using extreme violence against child-like servants. When fornication was involved, however, adopted men and women were considered essentially different from children with blood connections because the closer the familial relationship between the two fornicators the heavier the punishment for the illicit sex would be. The legal system embraced this ambiguity and served the collective interests of commoner masters.

⁷⁵ Jonathan Neaman Lipman and Stevan Harrel, eds., *Violence in China: Essays in Culture and Counterculture*.

CHAPTER 6

CONCLUSION

I want to end my discussion on legitimate violence by women with this photo, which I took in a museum in Nanjing, China, the first capital city of the Ming dynasty. This is a picture of an actual wooden stick that a family used to maintain order. There are four characters on the stick: *hui feng chuan jia* 惠風傳家, and a loose translation of these characters is “passing on the warm and gentle breeze in the family.” The warm and gentle breeze was an analogy for the moral life of the family. The museum displayed the stick between two sets of family instructions.



Figure 1: A wooden stick (the Qing period, 1644-1911) that a family used for corporal punishment.

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Figure 2: Four Chinese characters, *hui feng chuan jia* 惠風傳家 (passing on the warm and gentle breeze in the family), carved on a wooden stick (the Qing period, 1644-1911) that a family used for corporal punishment.

In the Ming, violence was considered to be an important tool to optimize familial order, and more importantly, it was seen as a moral performance. Stevan Harrell, when studying violence in China, points out that violence requires two conditions: “There must be a conflict, and there must be a motivation to settle that conflict by force.”¹ This definition is useful for thinking about changes in the Ming familial structure in which domestic violence occurred. Examining violence by women in the Ming dynasty, I found that most discourses surrounding such violence were

¹ Jonathan Neaman Lipman and Stevan Harrell, eds., *Violence in China: Essays in Culture and Counterculture*, 1.

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centered around the anxiety of having heirs. Developments in neo-Confucianism and in the patrilineal lineage reinforced the idea of having a blood-related heir. The inheritance laws in the *Great Ming Code* dictated that a childless man needed to pick his heir from among his patrilineal relatives. Later, a sixteenth-century precedent forbade people in the same patrilineal lineage from fighting about who their heirs should be and allowed heirless families to pick an heir they liked.² This piece of evidence in the *Great Ming Code* hints at the frequency with which people in the same lineage fought over a childless man's family property. Without a legitimate heir (a blood-related son), a man would lose his property for his distant relatives or non-relatives in the same lineage. The rising anxieties surrounding having an heir, along with changes in women's legal status in the family—women's complete incorporation into their husbands' families and the domestication of concubinage—provoked conflicts between wives and husbands, and between wives and their husband's concubines, as I demonstrate in Chapters Two and Three.

In addition to restoring order disrupted by conflict, violence itself is the materialization of a particular order. In Ming China, the legal system was the realization of Confucian ethics, which stressed the familial and social hierarchical orders. Although the legal system allowed people in superordinate positions the privilege of using violence against their subordinates, such sanctioned violence was framed as “disciplinary violence.” Parental violence, as I articulate in Chapter Four, aimed to inculcate children as moral subjects, and was to be carried out according to the law. In other words, legitimate violence that was authorized through the law had to

² Huang, Zhangjian ed., *Ming dai li li hui bian*, 463-464.

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be motivated by the resumption of an ordered status recognized by the Ming government. From this perspective, violence was not a symptom of dysfunctional families, but a tool for maintaining the *status quo*.

Stevan Harrell defines violence that is used to maintain the *status quo*: “[violence] involves dominance by one group over another, and the use of violence either from above, to suppress or prevent attempts by the subordinates to change the situation, or from below, ...”³ Summarizing Christina Gilmartin’s research on violence against women in contemporary China, Harrell points out that when women are beaten by their husbands’ family members, the latter are defending their status of dominance. Many scholars working on violence against women demonstrate the ways in which the ideological, social, and legal systems prescribe male-dominance through structural violence against women. While the legal system in Ming China also assumed men’s dominance over women, its legal principles prioritized status over gender hierarchy. The legal system supported women in positions of authority to use violence against subordinates in order to status hierarchies, even when such violence sometimes trumped the principal of male dominance.

Chapter Three, on wifely violence, shows that even though wives’ violence against the interests of the patriarchal family—the domination of the husband and the mission of reproducing patrilineal descendants— was harshly constrained and punished, wifely violence motivated by the need to maintain the hierarchical order between the wife and her husband’s concubines was permitted and even defended by ideological and legal systems. As I show in Chapter Three, on motherly violence, the

³ Lipman and Harrell, 2.

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Ming literati considered that such violence was a tool for maintaining the current and future order of the family; the literati also believed that in terms of inculcating children with moral behavior, maternal violence was deemed only effective while children were susceptible to parental influence. Because the hierarchical order between parents and children was the core, unquestioned value of the family, the main purpose of motherly violence was not to establish the authority of the mother, but to maintain the *status quo* of the family. Chapter Five is about the ways in which masters established their authority over servants because both masters and servant were in the same social status—commoners. The Ming code sanctioned a master’s habitual violence against a servant to maintain the hierarchical order. The unquestionable hierarchical order between parents and children was applied by masters to justify their violence in order to establish a stable dominance over servants. When a master was considered to be a parent of servants, he or she could demand comprehensive control, yet this control was conditional: a master was responsible for taking care of his or her “children”; masters’ physical violence against servants was thus limited and sexual access to servants was further criminalized.

Examining discourses of violence by women in Ming China, we can see how representational and symbolic violence demarcated the hierarchical positions of masculinities and femininities. Summarizing scholars’ research, Jinee Lokaneeta briefly defines representational and symbolic violence as “discursive constructions that dehumanize and objectify some humans, while celebrating the “natural

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superiority” of others.”⁴ Discourses of women’s violence realized the superiority of masculinities.

In Ming China, women’s “a-violence” was prescribed by the ideological and cultural systems. Women’s self-inflicted violence in the cause of defending their chastity was viewed as a demonstration of feminine virtue. Women’s violence against others was considered to be “unfeminine” when it challenged the male-dominance principle of the family, such as a jealous virago beating her husband or an emotionally unrestrained shrew challenging her parents-in-law and fighting with her relatives. In contrast, women’s violence would be considered positively “manly” when it supported the value of the family without challenging the patriarch of the family. Women avenging their wronged families or the loss of their chastity would be seen as manly. On the other side of this spectrum were men who failed to perform moral performances, such as committing suicide to show their loyalty to the emperor; these men were/could be mocked as lacking masculinity and should learn from moral women.⁵ These gender-crossing violent behaviors were seen as exceptional or abnormal.

Women’s legitimate violence (against subordinates) within the boundary of the household was considered to be their “normal” gender performances as a wife, a mother and a female master. As I show in the previous chapters, the legal system allowed women to use violence against their subordinates, and whether or not such violence was ethical was not subject to the judicial process. Many biographers

⁴ Jinee Lokaneeta, "Violence," 1010.

⁵ Yenna Wu, "The Inversion of Marital Hierarchy: Shrewish Wives and Henpecked Husbands in Seventeenth-Century Chinese Literature."

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publicized women's gendered violence without hesitation. Ming literati women's feminine nature as enabling them to become abusive, to transgress their authorized gendered violence. Literati were concerned that wives might abuse concubines and servants; on the other hand, they were vexed about mothers who failed to use violence to indoctrinate their consanguineal sons. Although the literati were troubled by the nature of women, they never denied women's potential to suppress their own feminine nature and to optimize their violence to contribute to the patriarchal family. These men of letters praised non-jealous wives and supported their use of violence to maintain the hierarchical order in the family. They exhorted mothers to use violence meticulously and to perform fatherly behaviors (to be strict). They encouraged female masters to learn from male masters and to punish servants in the household on the model of the ways in which officials punished criminals in court. Here, because the importance of the status hierarchy trumped the principal of the gender system, women in positions of authority were expected to perform "manly" violence as part of their daily routine.

By focusing on superordinate women's violence against subordinates, I investigate three things: how violence by women can be a vantage point from which to observe changes in the family structure, how women played a role in maintaining the order of the family, and how violence by women was framed as a moral performance that optimized the family and justified the dominant social status of the family.

Employing feminist analysis of state violence, I contest the assumption that women are excluded from the monopoly on exercising violence in the formation of the patriarchal state and society. As a historical project, my work shows how patriarchy in Ming China, far from being a stabilizing source of continuity, was under constant

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revision and reformation. I demonstrate that it is impossible to fully understand the dialectical, mutually constructed relationships between the familial and social orders and between the society and the state in late imperial China without paying attention to women's contributions to the family and to the corporate lineage.

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<i>HJQW</i>	<i>Han Ji Quan Wen Zi Liao Ku</i>
<i>HTDL</i>	<i>Hathi Trust Digital Library</i>
<i>FDCRB</i>	<i>Full-text Database of Chinese Rare Books.</i>
<i>NAJD</i>	<i>National Archives of Japan Digital Archive</i>
<i>SKQS</i>	<i>Si ku quan shu</i>
<i>ZGJBGJK</i>	<i>Zhong guo ji ben gu ji ku</i>
<i>ZGSWK</i>	<i>Zhong guo su wen ku</i>

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