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# Early references to collective punishment in an excavated Chinese text: analysis and discussion of an imprecation from the Wenxian covenant texts

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## Abstract

Susan Roosevelt Weld has observed that the Houma and Wenxian covenant texts, excavated texts dating to the fifth century BC, can be considered “examples of collective responsibility”. New materials from the Wenxian covenant texts provide further evidence relevant to this issue. In this article I present my analysis of a previously unseen imprecation, “Cause [you] to have no descendants” 俾毋有冑後. I suggest the excavated covenants provide the earliest references found in a legal context to collective punishment, a practice that, while archaic in origin, is generally better known from Qin and later penal codes. I also discuss the scope of the term *shi* 氏, as it is used in the imprecation, in the context of Mark Lewis’s work defining basic social units in the Zhou period.

**Keywords:** Houma 侯馬 and Wenxian 溫縣 covenant texts 盟書, 俾毋有冑後, Imprecation, Collective punishment, *shi* 氏, Lineage, Palaeography

## Introduction

Collective responsibility and collective punishment are commonly associated with the penal codes of the Qin and Han dynasties.<sup>2</sup> While such practices

- 1 I have been working with the excavators of the Wenxian covenants, Hao Benxing 郝本性 and Zhao Shigang 趙世綱 of the Henan Provincial Institute of Cultural Relics and Archaeology, on the processing and preparation for publication of these texts. I would like to acknowledge my gratitude to them, and to Sun Xinmin 孫新民, the head of the institute, for their support in the use of these materials in my research, and permission to use the images included in this paper. I thank Susan Roosevelt Weld for inviting me to join the project that she initiated with the excavators to photograph and digitize the Wenxian texts (see Weld 2004). I am grateful to Susan Roosevelt Weld, Sarah Allan, Keith McMahon and Chen Jian 陳劍 for comments on drafts of this article. Research for this work was aided by: a Fellowship for East Asian Archaeology and Early History from the American Council of Learned Societies, with funding from the Henry Luce Foundation; a Franklin Research Grant from the American Philosophical Society; a University of Kansas New Faculty General Research Fund; and a fellowship from the National Endowment of the Humanities (NEH). The NEH requires that the following statement be included: “Any views, findings, conclusions, or recommendations expressed in this publication do not necessarily reflect those of the National Endowment for the Humanities”. The University of Kansas generously provided supplemental salary funding during the period of my fellowships.
- 2 See, for example, Liu and Yang 1984: 106–10; Hulsewe 1986; Yates 1987: 219–27; Vankeerberghen 2000; Tomiya 2006: 137–88.

were most probably of ancient origin, the Qin state institutionalized them. When looking at the evidence for such punishments prior to the Qin, scholars tend to focus on transmitted texts.<sup>3</sup> However, as Susan Roosevelt Weld has observed, we find early references to such practices in the Houma and Wenxian covenant texts, excavated materials dating to the fifth century BC:

The covenant texts themselves can be seen as examples of collective responsibility, insofar as they extend the self-curse to the covenantor's entire *shi* [氏] and the proscription to the named enemies' descendants, and sometimes specify that the covenantor enforce the covenant on his fellow kinsmen (*zongren xiongdi* [宗人兄弟]).<sup>4</sup>

In this paper I introduce new materials from the Wenxian covenant texts relevant to this issue, and discuss them alongside the phrases to which Weld refers.

In the first section of the paper I present my analysis of a previously unseen imprecation phrase from the Wenxian materials: "Cause [you] to have no descendants" *bǐ wú yǒu zhòuhòu* 俾毋有冑後. In the discussion that follows this analysis, I suggest that the covenants provide us with the earliest excavated references to collective punishment and collective responsibility, practices that, while archaic in origin, are generally associated with Qin and later dynasties. I further argue that the term *shi* 氏, as used in the imprecation clause, referred to a man and his direct male descendants and I consider this point in the context of Mark Lewis's work defining basic social units in the Zhou period. Citing the Houma covenant texts, Lewis discusses how basic organizational units in early China were defined by the intended scope of collective punishments.<sup>5</sup> He argues that:

... the legalist state legally defined the significant social relations of its subjects through the range of collective punishments which implicated a man's family, neighbors, or colleagues.<sup>6</sup>

In the Houma covenant texts, there are lists of enemies organized by what Lewis terms "households", which he sees as evidence of the transition from a society in which the basic organizational unit was the lineage to one organized by household:

...in their bans on individual households and the listing of their members [the Houma covenants] reveal a transitional phase in the political history of the family in China, the gradual disappearance of the kin group as a state-like unit and its replacement by the individual household as a unit of economic production and the provision of service.<sup>7</sup>

3 For example Kang 1999.

4 Weld 1990: 423–4.

5 Lewis 1990: 43–50.

6 Lewis 1990: 80.

7 Lewis 1990: 50.

I will build on this argument to show that the imprecation clauses from the Houma and Wenxian texts provide further evidence of such development. I will discuss the subgroups identified in the enemy lists and imprecation clauses in light of Lewis's later work on the nuclear family as a basic social unit in the Zhou period.<sup>8</sup>

The core of my argument derives from research on the Wenxian covenant texts (Wenxian *méngshū* 濫縣盟書), excavated in 1980–81 from Wenxian (Wen County) in northern Henan, and the Houma covenant texts (Houma *méngshū* 侯馬盟書), excavated in 1965 in the city of Houma, in southern Shanxi province.<sup>9</sup> Both sets of materials are dated to the fifth century BC and consist of covenants organized by the Zhao 趙 and Han 韓 ministerial families of the Jin 晉 state. The covenants were written using brush and ink on stone tablets, which were buried in pits dug into a raised earthen terrace. Covenant tablets were found in forty-three pits at Houma and sixteen pits from Wenxian. Each covenant type includes demands of loyalty to the head of the lineage, along with specific requirements and prohibitions, the majority aiming at the consolidation of the group centred on the lineage and the identification and rejection of named and unnamed enemies. An individualized tablet was prepared for each covenantor, giving the covenantor's name and the text of the particular covenant type. The number of covenantors participating in each covenant ranged from dozens to thousands. The different covenant types all conform to a basic four-clause structure – name clause, stipulations, submission, imprecation – and share many formulaic phrases.<sup>10</sup> An example is given here, laid out following this four-clause structure and using an interpretative transcription with added punctuation.<sup>11</sup> The name of the covenantor in this tablet is Qiao 喬.

### Tablet WT1K1–3802<sup>12</sup>

- I. Fifteenth year, twelfth month, *yǐwèi* was the first day of the month, [today is] *xīnyǒu* [the 27th day of the month]. From this day onward, [if] Qiao  
 II.A dares not \_\_\_ly [?]<sup>13</sup> and loyally serve his ruler,  
 II.B and dares to join with the enemy as a follower,

- 8 Lewis 2006. (See chapter 2: “The household”.) For an important review of this work, in which Lewis's use of “household” and other kinship terminology is discussed, see Pines 2005–06.
- 9 For the Houma finds, see *HMMS*. The Wenxian texts have not been fully published but the following works include examples and discussion of their content: Henan 1983; Weld 1990; Zhao and Luo 1996; Weld 1997; Zhao 2003; Hao 2004; Williams 2004; 2005a; Hao and Wei [Williams] 2006; Williams 2009; 2010a; 2010b.
- 10 This four-clause structure was described by Susan Roosevelt Weld (1990: 353–4).
- 11 Unless otherwise indicated, transcriptions will be given in an interpretative form, i.e. using the standard characters for the words I believe are denoted by the graphs in the palaeographic materials. For this and other palaeographic terminology used here, see Williams 2005b.
- 12 Henan 1983: 85 and plate 7. Each individual tablet is identified by its test-square number (prefixed by the letters “WT”), its pit number (prefixed by the letter “K”), and its individual number.
- 13 A question mark in square brackets indicates that the identification of the previous word or phrase is tentative or incomplete. In this case, I conjecture that the unidentified graph is adverbial, hence the “\_\_\_ly”.

- III. resplendent Lord Yue, Great Mountain,<sup>14</sup> attentively and tirelessly<sup>15</sup> watching you [i.e. Qiao],<sup>16</sup>
- IV. [will] wipe out that [i.e. Qiao's] *shi*.<sup>17</sup>
- I. 十五年十二月乙未朔辛酉。自今以往，喬
- II.A 敢不□<sup>18</sup>焉中心事其主
- II.B 而敢與賊為徒者，
- III. 丕顯岳公大冢，諱極視汝，
- IV. 靡夷彼氏。

This article focuses on the last clause, the imprecation, to be triggered if the covenantor violates any of the oath's stipulations. The most common phrase used in the imprecation is that found in this example: "Wipe out that *shi* 氏" *mí yí bǐ shì* 靡夷彼氏.<sup>19</sup> In the current article I introduce a previously unseen imprecation phrase found in two of the Wenxian covenants, but not in the Houma materials. My interpretative transcription for this phrase is *bǐ wú yǒu zhòuhòu* 俾毋有胄後 "Cause [you] to have no descendants", or, more literally, "Cause [you] not to have descendants". This spells out the desired result of the threatened collective punishment: the breaking of the covenantor's patriline. This phrase is written on the excavated tablets in the Jin 晉 script of the fifth century BC, using what are now non-standard characters. It has thus been necessary to carry out a palaeographic and phonological analysis of these graphs in order to identify the words denoted and thus determine the meaning of the phrase.<sup>20</sup>

### Analysis of the phrase *bǐ wú yǒu zhòuhòu* 俾毋有胄後

This phrase is found in two different covenants from Wenxian, one on tablets from pit WT1K2, the other from pit WT4K5. A formal transcription of the phrase gives 卑母又由透.<sup>21</sup> Examples of these two covenant types are given here, with the phrase left in this transcribed form:

#### Tablet WT1K2–159

- I. If [covenantor's name]
- II.A dare falsify publicly-posted notices in Shaoqu,

- 14 Based on new materials from the Wenxian covenants, I argue that the spirit invoked here is a mountain spirit called Lord Yue. See Williams 2010a.
- 15 I adopt an identification of the word here as *ji* (極), which was suggested by Chen Jian (personal communication, 22 February 2009).
- 16 A single text can mix the pronouns that refer to the covenantor: in this case *qí* 其 "his" is used as well as *rú* 汝 "you". Such arbitrary use of singular personal pronouns by the scribes who prepared the tablets may reflect an oral dimension to the covenant ceremony. It suggests that different parts of the covenant were spoken by different people, or sections read by an official to be repeated by the covenantor and the pronoun adjusted accordingly.
- 17 I leave the word *shi* 氏 untranslated. The term is examined in detail in the discussion section.
- 18 The symbol "□" indicates an unidentified graph.
- 19 For this analysis of the phrase see Zhu 1995: 31–2.
- 20 For the methodology employed in this analysis see Williams 2005b.
- 21 A formal transcription is one in which the components of the ancient graph are represented using the corresponding components of the *kǎishū* script. (See Williams 2005b.)

- II.B if [covenantor's name] dare know of the falsifying of notices and does not report this,  
 III. mighty superior, Lord Yue, attentively and tirelessly watching him,  
 IV. [will] destroy that [i.e. his] *shì*, ..... (卑母又由遼).  
 I. 所□  
 II.A 敢偽懸書于少曲者,  
 II.B 所□敢知偽書不之言者,  
 III. 皇君岳公, 其諦極視之,  
 IV. 亡<sup>22</sup>夷彼氏, 卑母又由遼。

### Tablet WT4K5-13

- I. If [covenantor's name]  
 II.A dares not to split open [?] his heart [i.e. display true loyalty] in serving his lord Han \_\_\_ and his ministers, combining [our] strength as one in order to serve the lord,  
 II.B and yet dares again to have contact with [enemy name] and [enemy name], coming and going, acting as a pair of listening ears [i.e. a spy] for them,  
 III. Lord Yue, Great Mountain, watching you [i.e. the covenantor],  
 IV. ..... (卑母又由遼).  
 I. □□<sup>23</sup>自今以往  
 II.A 敢不剖[?]敷[?]其中心, 以事其主韓□<sup>24</sup> 及其嗇夫左右, 索力為一, 以固事主,  
 II.B 而尚敢復通與長陽<sup>25</sup> 出入為之聽耳者,  
 III. 岳公大塚, 視汝,<sup>26</sup>  
 IV. 卑母又由遼。

My analysis of each graph in the phrase is presented below, followed by a brief discussion of the meaning of the phrase. In each case the identification adopted for the graph is first stated, after which the analysis itself is presented.

### Analysis of the individual graphs

#### Graph 1

The graph is formally transcribed as [卑] *bēi* and taken to denote the word *bǐ* {俾} “to cause to”.<sup>27</sup>

- 22 In tablets from this pit the character used here is [亡] *wáng* and not the more commonly found *má* [麻]. The *wáng* 亡 is tentatively taken as directly denoting the word *wáng* {亡} “to destroy”.  
 23 The tablet is not fully legible here and it is not clear whether there are one or two graphs. We would expect to find the covenantor's name in this position.  
 24 This unidentified graph is the name of the Han covenant lord.  
 25 These two enemy names are left as formal transcriptions.  
 26 This tablet omits the words 其永極 that appear before 視汝 in most legible examples from this pit.  
 27 Where it is necessary to distinguish between characters and words, a character is placed in square brackets, [ ], followed by its *pinyin* reading, and a word is placed in curly brackets, { }, preceded by its *pinyin* reading. This follows the convention used in Qiu 1994.

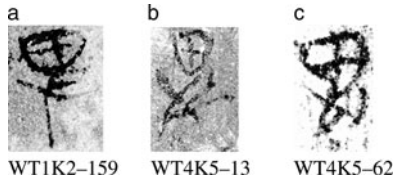


Figure 1. Graph 1, 卑



Figure 2. Further examples of graph 1, 卑

This graph is also found in the Wenxian covenant from pit WT4K11 in the following phrase (the graph replaced here with the symbol “Δ”): “...Δ不利于□之躬身宗家”, “...\_\_\_\_\_ harm the [covenant lord’s name]’s person and family”. There are few clearly legible examples of the graph as it appears in the imprecation phrase. Three examples are given in Figure 1. This graph is found in other palaeographic materials including the Houma covenant texts and bronze inscriptions, as shown in Figure 2. The forms are a reasonable match for the small-seal script for [卑] *bēi*, 卑.<sup>30</sup> Context confirms that these graphs should be identified as [卑] *bēi*, denoting a number of different words that, at a later stage, are differentiated by the addition of various semantic components. In bronze inscriptions and the Houma texts the character commonly denotes *bǐ* {俾} “to cause to”. This is also the case in the Wenxian WT4K11 covenant: ... 俾不利于□之躬身宗家 “... [dare to] cause harm to [covenant lord’s name]’s person and family”. The graph should also be read in this way in the imprecation phrase.

### Graph 2

The graph is formally transcribed as [母] *mǔ*, denoting the word *wú* {毋}, a negative adverb indicating prohibition.

Two variant forms are used for this word in the Wenxian texts as shown in Figure 3. The first variant matches other palaeographic examples of the character [母] *mǔ*, while the second matches examples of [女] *nǚ*.<sup>31</sup> The character [母] *mǔ* is commonly used in Warring States texts to denote the negative *wú* {毋}, and

28 This and the following two Houma examples are taken from *HMMS*: 312.

29 This and the following example are taken from *JWB*: 195.

30 *SWJZ*: 3b 大部: 10a.

31 See, for example, *JWB* 783–5 and 796–9.

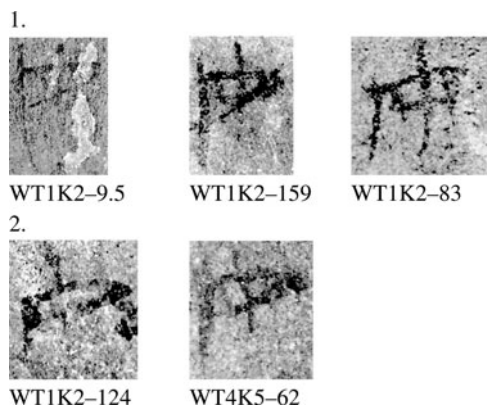


Figure 3. The two variant forms of 母

this is the correct identification in this case.<sup>32</sup> The examples that we transcribe as [女] *nǚ* should be identified as a variant of [母] *mǔ* and read in the same way. The character [母] *mǔ* was developed from the character [女] *nǚ*, which depicts a female form by the addition of two dots representing breasts, thus indicating motherhood. However, from an early stage, this graphic distinction was not always made and there are examples in oracle-bone inscriptions and later texts where [女] *nǚ* is used to denote *mǔ* {母} “mother”.<sup>33</sup> The word *mǔ* {母}, in turn, could loan for the word *wú* {毋} and, just as [女] *nǚ* could be used to denote *mǔ* {母} “mother”, it could also be used to denote *wú* {毋}. This usage of [女] *nǚ* is seen in oracle bones and also in later texts. He Linyi 何琳儀, for example, interprets the graphs [亓女], on a Jin seal, as a double-character surname, Qíwú {綦毋}.<sup>34</sup>

### Graph 3

The graph is formally transcribed as [又] *yòu*, denoting the word *yǒu* {有} “to have”.

Two main variant forms are found in the Wenxian texts for this graph, as shown in Figure 4. The second form is distinguished from the first by the addition of a slanting stroke under the main component. The first set of forms can be identified with the *Shuowen jiezi*'s small seal form 𠄎 [又] *yòu*. Among several words commonly denoted by [又] *yòu* in palaeographic materials, *yǒu* {有} “to have” clearly fits the context found in this phrase. This also matches the usage in the Houma texts which in the great majority of cases use [又] *yòu* to denote *yǒu* {有} “to have”, although [有] *yǒu* does occur.<sup>35</sup>

32 For examples of its use with this meaning see He 1998: 128.

33 For bronze inscription examples and a comment on the graph's use in oracle bones, see Zhang et al. 1996: 2814–9. For its use in oracle bones, see also Yu 1996: 444–6.

34 He 1998: 558.

35 *HMMS* 305. *HM* 16:15 and *HM* 16:36, for example, use [有] *yǒu*. The interchange of [又] *yòu* and [有] *yǒu* to denote *yǒu* {有} “to have” is seen in other excavated materials and in transmitted texts. It was only later, probably after the Western Han, that the “lexical load” of the two characters became more clearly distinguished (Qiu 2000: 346–7).

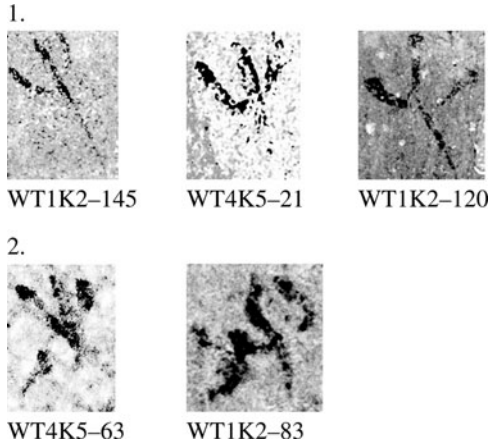


Figure 4. The two variant forms of 又

The additional short stroke seen in the second form is common in examples of the graph from the Jin region and should be taken, as He Linyi points out, as a calligraphic variation: it is a decorative stroke which had no semantic or phonetic function.<sup>36</sup> Although formally equivalent, this variant is not the character [寸] *cùn* (denoting the unit of measure *cùn* 寸) which developed later, the earliest examples being found in texts interred during the Qin period.<sup>37</sup>

#### Graph 4

The graph is formally transcribed as [由] *yóu*, and identified as denoting the word *zhòu* {冑} “descendant/s”.

The graph is written with a number of variant forms in the Wenxian texts (see Figure 5). The type 1 examples include a number of common calligraphic variants: type 1b and 1c add either a dot or short stroke to the vertical stroke, type 1a does not, but the top horizontal stroke of the lower part of the form is thickened. Types 2 and 3 are component-level variants: type 2 adds [止] *zhǐ* below the main component; type 3 adds [彳] *chì* to the left of this form.<sup>38</sup>

The common component in these graphs can be identified as [由] *yóu*. This character is not found in the *Shuowen jiezi* and the example found in the *Guwen sisheng yun* is not a close match: 𠄎.<sup>39</sup> However, forms of [由] *yóu* found in graphs from other palaeographic materials clearly match these Wenxian examples (see Figure 6).

36 He 1998: 7–9.

37 See example in Hanyu 1985: 207. In Chu bamboo slips, for example, the graph [𠄎] is found denoting the word *cùn* 寸 (Cheng 2007; Liu 2001).

38 There are faint marks under the right-hand component of the type 3 form, and these may be strokes of another component. If so, [止] *zhǐ* would be a likely candidate given that it is seen in the type 2 variant and also often occurs with [彳] *chì*.

39 *GWSSY*: 2:23a.



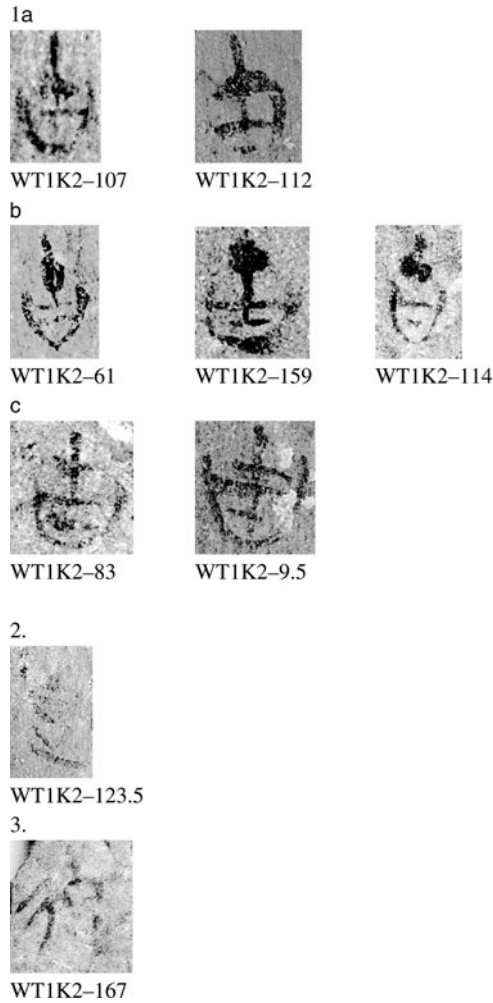


Figure 5. Variant forms of the graph 由



Figure 6. Examples of 由 as a component in other graphs

The character [由] *yóu* commonly denotes the verb *yóu* {由} “to follow along”, “to go along with”, or the co-verb, “from”. As such, this character and the next, a variant of [後] *hòu*, would form a verb phrase or co-verb phrase.

40 *HMMS*: 365. Transcription in He 1998: 209.

41 *YZJWJC*: vol.18, no.12113.


42 Zhang 1981: 45.

However, given that the preceding words of the imprecation read “Cause to not have...” 俾毋有, we would expect a noun phrase to follow here. We are, then, justified in considering whether [由] *yóu* is better understood here as denoting another word. Consulting [由] *yóu*’s *xiéshēng* 諧聲 series (i.e. the group of characters which share [由] *yóu* as their phonetic component), we find an appropriate character: [胄] *zhòu*, denoting *zhòu* {胄} “descendant/s”.<sup>43</sup> I argue that this character and the next form a compound, “胄後”, meaning “descendant/s”. Although the use of [由] *yóu* to denote *zhòu* {胄} “descendant/s” has not been previously attested, such loan usage would not be surprising given that [由] *yóu* is phonetic signifier in [胄] *zhòu*. In fact, the two words may be cognate. The Old Chinese reconstructions for these words are: 由 *yóu* < *yuw* < \**l[u]* and 胄 *zhòu* < *drjuwH* < \**lrus*.<sup>44</sup> Based on the theory that Old Chinese had a morphology based on roots and affixes, we may conjecture that the root \**l[u]* > *yóu* {由} “to proceed from”, “to follow along”, “to go along with”, was suffixed with the nominalizing \*-s, and infixed with \*<ɾ>, indicating distribution (multiple actions or objects), to give the word \**lrus* > *zhòu* {胄} “multiple followers”, and thus “descendants”.<sup>45</sup>

### Graph 5

The graph is directly transcribed as [後] and formally transcribed as [透], denoting *hòu* {後} “descendant/s”.

Examples of the graph from the Wenxian texts are given in Figure 7. The graph’s several common components can be matched with forms found in the *Shuowen jiezi*’s component table: 𠂔 (WT1K2–112) matches 𠂔 [彳] *chì*; 𠂔 (WT1K2–112) matches 止 [止] *zhǐ*; 𠂔 (WT1K2–112) is close to 𠂔 [彳] *yāo*; and 𠂔 (WT1K2–120) matches 𠂔 [攴] *zhǐ*.<sup>46</sup> This allows us to construct a direct transcription: [透]. The right hand and lower components [彳] *chì* and [止] *zhǐ* frequently occur together and the *Shuowen jiezi* treats them as a single component [疋] *chùo*, later simplified to [讠]. Thus a formal transcription of the graph can be given as [透]. This character is found in the *Shuowen jiezi* with the small-seal form: 後, given as the “ancient script (*gǔwén* 古文)” form for [後] *hòu*.<sup>47</sup> The same graph is also seen in the Houma tablets, for example:

 HM 3:20<sup>48</sup>

43 Karlgren 1996: 279.

44 I use the reconstruction system for Old Chinese being developed by William H. Baxter and Laurent Sagart. See Baxter 1992 and Sagart 1999.

45 For the functions of these affixes, see Sagart 1999: 133, 111–20. Schuessler, following Karlgren, also treats these words as possibly cognate (2006: 579).

46 In the second example, from tablet WT1K2–120, the top stroke of the [止] *zhǐ* appears to have been transformed into a [口] *kǒu* which, together with the [攴] *zhǐ* above it, then forms the composite component [各] *gè*. The addition of [口] *kǒu* beneath the component [攴] *zhǐ* is a calligraphic variant common in the excavated covenant texts. The variant occurs with this same graph in the Houma texts (see *HMMS*: 322) as well as with other graphs (for example *HMMS*: 332).

47 *SWJZ*: 2b 彳 部: 10a.

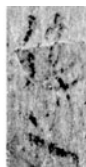
48 *HMMS*: 322.



WT1K2-112



WT1K2-120



WT1K2-107

Figure 7. Examples of graph 5, 後

In the Houma tablets, the graph denotes *hòu* {後} “after”, occurring in the phrase: 既質之後 *jì zhì zhī hòu* “after having pledged”. However, [後] *hòu* also commonly denotes the noun *hòu* {後} “descendants” and, as discussed above, I believe that in the Wenxian imprecation phrase this word and the preceding word, *zhòu* {胄} “descendant/s”, form a previously unseen compound *zhòuhòu* 胄後 “descendants”. This compound is discussed further in the following section.

### Analysis of the complete phrase

The above analysis gives an interpretative transcription for the whole phrase 俾毋有胄後 *bǐ wú yǒu zhòuhòu* “Cause [you] to not have descendants”. The compound *zhòuhòu* 胄後 “descendants” is not seen in lexicons, but similar combinations of paired synonyms that include either *zhòu* 胄 or *hòu* 後 do occur with this meaning, for example:

1. *zhòuyì* 胄裔: The ruler of Wu is a **descendant** of the Zhou, ... 吳, 周之胄裔也, ... (*Zuozhuan* Zhao 昭 30)<sup>49</sup>
2. *yìzhòu* 裔胄: ..., these are the **descendants** of Si Yue, ... 是四嶽之裔胄也, ... (*Zuozhuan* Xiang 襄 14)<sup>50</sup>
3. *hòuyì* 後裔: [Cheng Tang 成湯] bestowed *de* on his **descendants**, ... 德垂後裔 (*Shangshu* “Wei Zi zhi ming 微子之命”)<sup>51</sup>

The words *zhòu* 胄, *hòu* 後 and *yì* 裔 all occur independently to denote “descendants”, and in the above examples are paired to form compound words with the same meaning. The term *zhòuhòu* 胄後 from the Wenxian covenants is another example of such a synonym pair, and we can be confident that it too means “descendants”.

The suggested analysis for the phrase finds indirect support from examples of similar language in imprecation clauses from covenants quoted in the transmitted histories. For example:

*Zuozhuan* Xi 僖 28 (text: fifth–fourth century BC) (event: 632 BC)<sup>52</sup>

49 CCZZZ: 1508.

50 CCZZZ: 1006.

51 SS: 32.

52 CCZZZ: 466. Quotes from transmitted texts are generally given with a date for the text itself as well as a date, where applicable, for the purported event referred to in the passage quoted.

... cause his armies to fall, [cause him] not to be able to sacrifice for his state, and, to your most distant grandson, **[cause you] to not have aged or young [relatives]**.

... 俾隊其師，無克祚國，及而玄孫，無有老幼。

The initial *bǐ* 俾 governs each of the clauses that follow it, including the last, 無有老幼 *wú yǒu lǎo yòu*, giving: [俾]無有老幼. The character [無] *wú* is an example of the interchange between [無] *wú* and [毋] *wú* that is common in received texts: in this example the character should be understood as denoting the prohibitive negative *wú* {毋}.<sup>53</sup> Thus the phrase, “Cause [you] to not have aged or young [relatives]” [俾]無(毋)有老幼, is syntactically and semantically almost identical to the Wenxian phrase, “Cause [you] to not have descendants” 俾毋有冑後.

To wish someone to be without a male heir is surely one of the oldest and most common curses in Chinese culture. A version in current use is “break [the line of] sons and grandsons” *jué zǐ jué sūn* 絕子絕孫. The central importance in Chinese culture of the continuity of the male line, the target of such curses, can be traced back to the ancestor worship of the Shang period. The ancestors need sustenance, which is provided by offerings made by male offspring. Without male descendants to perform this duty, an ancestor would suffer. In Western Zhou bronze inscriptions one of the most common formulaic phrases calls for the inscribed vessel to be used by succeeding generations to make such offerings: “May all [his] [male] descendants, for evermore, treasure and use [this vessel]” 子子孫孫永寶用. Complementary curses directed at male descendants must have come into existence not long after the focus on the lineage and ancestor worship itself began.

## Discussion

The phrase 俾毋有冑後 *bǐ wú yǒu zhòuhòu*, “Cause [you] to have no descendants” is one of two imprecations found in the excavated covenant texts, the other being the more commonly seen *mí yí bǐ shì* 靡夷彼氏 “Wipe out that *shì*”. In this section I will make a preliminary appraisal of the significance of these and other relevant phrases from the covenants for our understanding of certain aspects of early Chinese punishment, law, and social organization.

The covenants provide what appear to be the earliest written references from excavated texts to the practice of collective punishment in the form of execution of family members of the offender. This is a practice that, while almost certainly of early origin, is generally associated with Qin, Han and later legal codes. In received texts the group of relatives to be collectively executed is referred to as *zú* 族, while the term used in the covenants is *shì* 氏. I conjecture that, in the imprecation phrase, the term *shì* 氏 refers to the covenantor and his direct male descendants, i.e. sons, grandsons, any great grandsons, and so on. In later legal codes, collective punishment is closely linked to the concept of

53 For discussions on the use of the prohibitive negative *wú* 毋 after verbs meaning “to cause”, such as 俾 *bǐ*, see Lü [1990] 1995: 87–8; and Harbsmeier 1981: 31.

collective responsibility and it is interesting to see that two of the covenant types from Houma and Wenxian threaten to punish not only one who commits the act prohibited in the oath, but also anyone who knows of this action having been committed by someone else but who does not report it. These findings support and expand on those of Susan Roosevelt Weld and Mark Lewis mentioned in the introduction, showing that the forms of collective punishment and collective responsibility present in the excavated covenant texts are precursors of those of the later legalist state. These points will now be discussed in more detail.

In Qin, Han and later periods, the penal system is well known for its inclusion of punishment, for certain crimes, of not only the convicted individual but also members of his or her family and close social network. This is called *lián zuò* 連坐, and referred to in English using various terms, for example: “mutual liability”, “linked responsibility”, “coadjudication” (for the synonym *xiāng zuò* 相坐), and “mutual implication”.<sup>54</sup> Collective punishment continued to be part of China’s legal codes in successive dynasties until the end of the Qing.<sup>55</sup> In the Qin and Han periods, in the case of “heinous crimes” (*dà nì wú dào* 大逆無道), that is crimes against the state, the punishment was generally execution of the guilty party along with members of his or her family (known as *zú zhū* 族誅, *yí zú* 夷族, *miè zú* 滅族, etc.).<sup>56</sup>

The transmitted historical texts record cases of group execution from early times. In the *Shangshu*’s “Pan Geng 盤庚”, dated to the later Shang or early Zhou period and concerned with the move of the Shang capital to Yin 殷 (modern Anyang 安陽), the following threat is made:<sup>57</sup>

*Shangshu* “Pan Geng zhong 盤庚中” (text: later Shang or early Zhou) (event: thirteenth century BC)<sup>58</sup>

If there are [those] who are not good, not principled, who overturn, overstep, not fulfilling their duties, who are deceiving, evil, behaving wantonly within and without, **then I will cut them down, destroy and wipe them out, they will not leave descendants**, they will not be allowed to spread their kind to the new capital.

乃有不吉不迪，顛越不恭，暫遇姦宄，我乃劓殄滅之，無遺育，無俾易種于茲新邑。

The aim of the punishment here is identical to that of the imprecation phrase analysed above: to leave the violator without descendants. Apart from execution of the transgressor, the threat here implies the collective punishment of, at minimum, his or her direct descendants. The *Zuozhuan* has many examples of the implementation of collective punishment, for example:

54 For “mutual liability” and “linked responsibility” see: Yates 1987: 219, 223; for “coadjudication”, see Vankeerberghen 2000; and for “mutual implication” see: Lewis 1990: 91.

55 Jia 2008: 15.

56 Vankeerberghen 2000: 113.

57 For dating see Edward L. Shaughnessy’s section on the *Shangshu*, in Loewe 1993: 378.

58 SS: 19.

*Zuozhuan* Xuan 宣 13 (text: fifth–fourth centuries BC) (event: 596 BC)<sup>59</sup>

In the winter, Jin punished [those responsible for] the defeat at Bi and the battle at Qing. The blame was laid on Xian Hu, and he was killed, **and his family (zú 族) completely wiped out.**

冬，晉人討邲之敗與清之師，歸罪於先穀而殺之，盡滅其族。

We may not trust such textual records as precise reports of specific events, but they do suggest that group execution had a long history. Such punishment is rooted in the broader practice of group killing, that is the killing of individuals on the basis of membership, or supposed membership, of some group.<sup>60</sup> In the case of early China, oracle bones provide examples of group killing in records of large-scale sacrifice of members of the group known as Qiang 羌, in numbers of up to 400 people at a single time.<sup>61</sup> The ninth-century BC “Yu 禹 *ding*” bronze inscription records a royal command to attack an enemy and: “not leave any old or young” 勿遺壽幼.<sup>62</sup> What is significant about the covenant tablets from Houma and Wenxian is that they appear to be the earliest excavated legal texts that threaten collective killing as punishment for non-compliance with given stipulations.

The *Shiji* records that such collective execution was codified in the Qin state as early as 746 BC: “In Duke Wen’s twentieth year, the codes first had the punishment of *sān zú* [killing of family members along with the guilty]” [文公]二十年，法初有三族之罪。<sup>63</sup> However, we have no conclusive evidence of systematized written codes before the third-century BC Qin examples from Shuihudi.<sup>64</sup> Neither the oracle bones nor Western Zhou bronzes have inscriptions referring to this punishment.<sup>65</sup> The Zhongshan bronze inscriptions are later than the excavated covenant texts, dating to the end of the fourth century BC, and these do include an imprecation similar to that in the covenants.<sup>66</sup> This appears as part of a command recorded on a plan of the Zhongshan royal cemetery:<sup>67</sup>

“*Zhongshan zhaoyu tu* 中山兆域圖” (late fourth century BC)

The King ordered [his minister] Jia to produce the measurements for the linear and spatial dimensions of the cemetery. The responsible officials drew these up [into this plan]. Any who alters [this design for] the cemetery,

59 *CCZZZ*: 752. This passage is quoted in Chen 1989: 25.

60 For an overview of the origins and history of group killing see Diamond 1993: 276–310.

61 That large-scale human sacrifice took place is corroborated by findings of sacrificial burials and pits with a great many victims. (See Keightley 1999: 267; Thorp 2006: 187–91).

62 *YZJWC*: vol. 5, no. 2833.

63 *SJ*: 5, 179. The meaning of the term *sānzú* 三族 is discussed below.

64 Skosey 1996: 158–61. We do, though, have texts related to legal cases and decisions from the late fourth-century BC Baoshan tomb 2 (see Weld 1999).

65 Liu 1998: 111–19; Skosey 1996: 118–54.

66 For this dating see Mattos 1997: 109–10.

67 This and the following example are given in Chen 1989: 26. For this inscription, see: *YZJWC*: vol.16, no.10478. In preparing the transcription and translation given here, reference was made to: Zhu and Qiu 1979; Qiu 1992; Liu 2005: 210–13; Li 2006: 23; Behr 2007: 117–8. I am also grateful to Chen Jian for a number of helpful comments and references concerning this passage (personal communication, 22 February 2009).

will die without mercy. **Any who does not carry out the King's commands, calamity will reach to his sons and grandsons.** One copy of this [plan] will follow [the King in burial], one will be stored in the archives.

王命賈爲兆窆闊狹小大之度。有事諸官圖之。進退兆窆者，死無赦。不行王命者，殃及子孫。其一從，其一藏府。

In the inscription on the *dìng* vessel from this tomb, there is also reference to such punishment:

Zhongshan Wang Cuo *dìng* 中山王譽鼎” (late fourth century BC)<sup>68</sup>

And so I bestow this command on him: “Even if he had capital crimes condemning three generations, none [of these crimes] would not be pardoned, ...”

是以賜之厥命：“雖有死罪及三世，無不赦，...”

The punishment of collective execution is codified in the Qin and Han laws and appears in excavated legal texts from these periods, for example:

“Ernian lüling – zei lü 二年律令·賊律” slips 1–2 (186 BC)<sup>69</sup>

Any one rebelling and surrendering a city, town or border fortification to a local ruler; any one manning the walls and fortifications who, when a local ruler's men attack and loot, does not keep up his defence but abandons and leaves, as if surrendering; and any planning rebellion: all [such offenders] will be cut in two at the waist. **That person's parents, wife and children, and siblings, regardless of age, will all be executed.** Any one mutually responsible for one planning rebellion may be arrested wherever located [but] if any such person first reports [the planned rebellion] to an officer, that person will be exempt from the crime of mutual responsibility.

以城邑亭障反，降諸侯，及守乘城亭障，諸侯人來攻盜，不堅守而棄去之若降之，及謀反者，皆腰斬。其父母、妻子、同產，無少長皆棄市。其坐謀反者，能遍捕，若先告吏，皆除坐者罪。

The excavated covenants, then, provide evidence of the threatened use of such collective punishment in a legal document dating two to three hundred years earlier than the Qin and Han codes and one to two hundred years earlier than the Zhongshan bronze inscriptions.

In the covenant texts the group targeted in the imprecation clause is referred to as *shi* 氏. As David Sena observes, the term *shi* 氏 “has been used inconsistently since the Eastern Zhou to indicate various types of social groups”.<sup>70</sup> It is,

68 YZJWJC: vol. 5, no. 2840.

69 ZJSHMZJ: 133 and plate on page 7. Quoted in Jia 2008: 13. For annotations to the “zei lü 賊律”, see Xu 2004 and Zhu 2005.

70 Sena 2005: 11.

however, generally equated with the English term “lineage”. Sena defines the early Chinese lineage as: “a named group of individuals . . . related by virtue of *demonstrable* descent from a common male ancestor through the male line”; the lineage “refers to an actual functioning group of people . . . . Members of a lineage maintained ancestral temples . . . and lineage burial grounds . . . . Each lineage had a territory associated with it . . . and at least a portion of the lineage members lived on that territory”.<sup>71</sup> The term *shì* 氏 could, then, refer to a very large social grouping. That collective punishment of such extended groups was carried out, or at least sanctioned, is suggested by passages such as this:<sup>72</sup>

*Shi ji* “Sunzi Wu Qi liezhuan 孫子吳起列傳” (text: second–first centuries BC) (event: 381 BC)<sup>73</sup>

When King Dao died, chief ministers from the ruling lineage rose up and attacked Wu Qi. Wu Qi ran to the king’s corpse and took cover. The soldiers attacking Qi, when shooting [arrows] at Wu Qi, also struck King Dao[’s corpse]. After King Dao was buried, the heir ascended to the throne and despatched officials to punish thoroughly those who had shot at Wu Qi and also hit the king’s corpse. **More than seventy families were executed in the wiping out of lineages collectively punished for the shooting of Qi.**

及悼王死，宗室大臣作亂而攻吳起，吳起走之王尸而伏之。擊起之徒因射刺吳起，并中悼王。悼王既葬，太子立，乃使令尹盡誅射吳起而并中王尸者。坐射起而夷宗死者七十餘家。

In the case of the excavated covenants, however, the threatened punishment cannot have targeted the covenantor’s entire lineage. A large number of the covenantors at Houma and Wenxian were no doubt members of the lineages that organized the covenants, that is Zhao and Han.<sup>74</sup> If the term *shì* 氏 in the imprecation clause encompassed the whole lineage, the leaders who organized the covenants would have been effectively cursing themselves. Thus the *shì* 氏 of the imprecation clause must refer only to a subset of the larger lineage. The following passage from the *Zuozhuan* provides an example of the use of *shì* 氏 with a restricted scope:

*Zuozhuan* Xuan 宣 4 (text: fifth–fourth centuries BC) (event: 605 BC)<sup>75</sup>

Duke Xiang was going to expel the Mu *shì* 氏 [Duke Mu’s sons], but spare Zi Liang. Zi Liang did not approve, saying: “The Mu *shì* should all remain, that was my original wish. If you will exile them, then exile all [of us], what have I [Quji, i.e. Ziliang] done [to deserve special treatment]? [Duke Xiang] then excused them and made them all ministers.

71 Sena 2005: 10.

72 This passage quoted in Chen 1989: 26.

73 *SJ*: 65, 2168.

74 On the question of the lineage affiliation of the covenantors at Wenxian, see Williams 2009.

75 *CCZZZ*: 679.



襄公將去穆氏，而舍子良。子良不可，曰：“穆氏宜存，則固願也。若將亡之，則亦皆亡，去疾何為？”乃舍之，皆為大夫。

Duke Mu 穆's son, Duke Ling 靈, had been killed, after which another son, Zi Liang 子良, had declined the throne in favour of a brother, Gongzi Jian 公子堅, who then became Duke Xiang 襄. The *Zuozhuan* records that Duke Xiang was going to expel the “Mu *shì* 穆氏” but spare Zi Liang. Given this context, the “Mu *shì* 穆氏” by whom Duke Xiang feels threatened must refer to the other sons of Duke Mu, i.e. the new duke's brothers. Thus Zi Liang clearly identifies himself as a member of this group and the members of the group are all in a position ultimately to be made *dàfū* 大夫 ministers. So, the *shì* 氏 of this passage is restricted to the sons of an individual. The *shì* 氏 of the covenant texts must have a similarly restricted usage.

I believe that the *shì* 氏 used in the imprecation of the excavated covenant texts refers to the covenantor and his direct male descendants, i.e. sons and, where applicable, grandsons, and so on. This is a usage similar to that in the *Zuozhuan* passage just quoted and evidence from the covenants themselves corroborates this suggestion. Firstly, the imprecation phrase “Cause [you] to have no descendants” 俾毋有冑後, analysed above, makes it clear that the aim of the curse is to break the male line of the covenantor. In the WT1K2 covenant this imprecation directly follows the phrase “Wipe out that *shì* 氏” 亡夷彼氏, clearly implying that it is extermination of the *shì* 氏 that will result in the covenantor having no descendants. The *shì* 氏 must, then, be composed of, at minimum, the covenantor and his male offspring.

Further corroboration for this definition of *shì* 氏 is provided by the lists of enemies included in many of the covenants. Such covenants list individuals with whom the covenantor is to have no dealings or, in some cases, is to kill if the opportunity arises. Here is part of one such list:<sup>76</sup>

杻痍及其子乙及其伯父、叔父、[兄]弟、子孫，杻直及其子孫，杻  
鑿，杻母之子孫，杻譽，杻癩之子孫，中都杻彊之子孫，杻木之子孫，跋及  
親昆弟子孫，陞及親昆弟子孫，趙朱及其子孫，趙喬及其子孫，...

76 This is taken from an example of the Houma “Pledge texts (*wéizhì lèi* 委質類)” category, tablet HM 156: 20. The transcription here generally follows that of Tsang Chi-hung (1993: 148), but with the following alterations: Names are underlined. The lineage name written with the graph [杻] has not been convincingly identified and is given here in its original form throughout. Tsang punctuates with a “、” between the names [杻鑿] and [杻母], arguing that the following *zhī zǐsūn* 之子孫 refers to both men, but I would expect the *zhī zǐsūn* 之子孫 to be repeated after both names in this case, so I use a regular comma, assuming the first name to be an individual, presumably known not to have a son. The names [杻譽], [杻癩] are also treated in this way. The phrase originally transcribed as *xīn jūn dì* 新君弟 is given here with the reading Tsang ultimately adopts of *qīn kūndì* 親昆弟, which he takes to mean brothers by the same father, in contrast to *xiōngdì* 兄弟, which he suggests could include male cousins of the same generation.

The enemies are, for the most part, treated in subgroups of the form: “[name] *ji zǐsūn* 及子孫” or “[name] *zhī zǐsūn* 之子孫”, i.e.: “X and his sons and grandsons” or “X’s sons and grandsons”. In the latter case, where the father himself is not included as a target, the obvious conjecture is that he had already been killed and that this detail was known to those who composed this text. These groups, then, are limited to an individual along with his sons and grandsons, or the sons and grandsons of a dead individual. If the targeted range is any wider, then this is specifically indicated, as is the case for the first group in the above example: “X and his son Yi and his [Yi’s] paternal uncles, [and his] brothers, sons and grandsons” 牂痲及其子乙及其伯父、叔父、[兄弟、子孫].<sup>77</sup> These lists suggest that the elite organizing the covenants recognized a man and his sons and grandsons as a basic unit, and I believe this is the same unit that they targeted in the imprecation clause. The enemy lists also demonstrate the point that, in the context of these covenants, lineages are not treated as unified groups. This is clear from the many examples of enemies who share the same lineage name (e.g. 牂): it is individuals (along with their direct male descendants) who are targeted, not the lineage as a whole.<sup>78</sup> Lineages were not targeted as groups because they no longer acted politically as groups: they were factionalized and lineage affiliation did not necessarily correspond to political allegiance.<sup>79</sup> This, again, is why the term *shì* 氏, as used in the imprecation clause, must refer to a subset of the lineage group, not the lineage as a whole.

Among the examples of collective punishment from excavated texts discussed above, the group threatened in the “Zhongshan *zhaoyu tu*” is the transgressor and his “sons and grandsons”, i.e. precisely the group I suggest comprises the *shì* 氏 unit of the covenants’ imprecation clause.<sup>80</sup> In contrast, the collective punishment in the Han period “Ernian *lüling*”, also quoted above, extends to a wider group, the “parents, wife and children, and siblings” of the convicted person. This range of family members is similar to that given in glosses for *sānzú* 三族, the term used in the *Shiji* quote given above that refers to the Qin state’s early use of such punishment. The *Jijie* 集解 commentary of Pei Yin 裴駟 (fifth century) quotes two explanations for the term, one equating it with the families (*zú* 族) of the father, mother and wife (*fūzú*, *mǔzú*, *qīzú* 父族、母族、妻族), the other with “parents, brothers, wife and children” (*fùmǔ*, *xiōngdì*, *qīzǐ* 父母、兄弟、妻子), the latter differing from the “Ernian

77 The term “paternal uncles” may have included male cousins of the father’s generation and “brothers” may have included male cousins of Yi’s generation.

78 The enemy lists also include people whose names identify them with the lineages organizing the covenants. Thus in the enemy list quoted there is a Zhao Qiao 趙喬 who must share lineage affiliation with the Zhao 趙 covenant lord, and yet is politically an enemy.

79 Williams 2009.

80 The other Zhongshan text quoted, the “Zhongshan Wang Cuo *dìng*”, talks of “capital crimes condemning three generations (*sān shì* 三世). The term *sān shì* 三世 in early texts is usually understood to refer to the three generations of grandparents, parents and children, which would mean we are seeing two different ranges for collective punishment in these Zhongshan texts. Alternatively the *sān shì* 三世 might simply refer to the three generations of violator, his sons and grandsons, in which case the two inscriptions would be consistent in this respect.

lūling” only in its use of “brothers” *xiōngdì* 兄弟 where the Han text has “siblings” *tóngchǎn* 同產.<sup>81</sup> Regardless of the precise meaning of this term, this evidence suggests that the group targeted for collective punishment in fifth-century BC Jin and fourth-century BC Zhongshan was, at least in the cases examined here, rather different to that of the later Han-period state.

These differences in the membership of the units targeted for group killing are significant for Mark Lewis’s argument, mentioned at the outset, that in delineating the scope of collective punishment those in authority were identifying a politically and organizationally significant unit. Lewis argues that: “the gradual disappearance of the kin group as a state-like unit and its replacement by the individual household as a unit of economic production and the provision of service” was marked “by the shift in the meaning of *mie zu* [滅族] from a political event approximating the destruction of a state to a form of collective punishment that fixed the legal limits of the individual family”.<sup>82</sup> Lewis suggests that: “In the range of those included in the punishment of ‘destruction of the lineage’ (*mie zu* 滅族), the Qin and Han governments marked out the limits of kinship that they regarded as socially or legally significant”.<sup>83</sup>

Lewis, as mentioned earlier, describes the enemy lists in the Houma covenants as made up of “individual households” and takes this as evidence of the transition to a society in which the “household” is the basic social, economic and legal unit. Elsewhere, Lewis states that, throughout the Zhou period, the “household” was based on the “nuclear unit of a couple and their children”.<sup>84</sup> I am suggesting, however, that the key characteristic of the basic group targeted in the enemy lists, as well as that of the *shì* 氏 in the imprecation clause, is the direct bloodline relationship between a man and his male offspring. Such a group does not correspond precisely with the basic “household” unit as defined by Lewis, given that it ignores females and would correspond to several households if a man’s grown sons lived separately. The group is, rather, the basic patrilineal unit of the larger lineage. This qualification in fact strengthens Lewis’s argument for a transition from the lineage as basic social unit to the individual household, providing evidence for a transitional period in which a lineage subset of a man and his male offspring was recognized as a significant unit.

In the period in which the Houma and Wenxian covenants were produced, lineages were highly factionalized and lineage affiliation was of secondary significance to political allegiance. However, in the minds of the elites that created these covenants, it was still the direct male bloodline that defined the most significant relationships in society. Thus the narrowly defined *shì* 氏 of a man and his sons, grandsons, etc. was conceived of as a basic structural unit within the groups over which they ruled. The elite still assumed strong ties of loyalty within this basic unit, which is precisely why it is targeted in the enemy lists in order to avoid revenge attacks by male offspring of the named enemy, and also in the imprecation clause, in order to coerce the covenantor by threatening those responsible for nourishing him in the afterlife with

81 *SJ*: 5, 180.

82 Lewis 1990: 50.

83 Lewis 1990: 91.

84 Lewis 2006: 79.

ancestral offerings. By the Qin and Han periods, the significance placed on lineage-based loyalties had weakened. This was politically expedient given the diverse groups ruled by the Qin and Han states, and also a necessity for their implementation of the collective responsibility system, which is at odds with such loyalties.<sup>85</sup> Significantly, the excavated covenants provide evidence of the use of collective responsibility in legal texts well before the Qin period.

Collective punishment was based on this concept of collective responsibility, that is, the idea that members of a group are liable for transgressions of others in the group. Collectivity in matters of criminal responsibility and punishment is considered by many anthropologists as an archaic phenomenon, observed in pre-industrial, acephalous (non-centralized) societies.<sup>86</sup> In China, the highly centralized Qin state continued the practice, setting it down in its codes.<sup>87</sup> In the Qin and Han systems, collective responsibility required that family and neighbours monitor each other and report on any illegal activity.<sup>88</sup> Compliance was rewarded, while non-compliance was heavily punished.<sup>89</sup> In the Houma and Wenxian texts a form of collective responsibility is evident in the following two covenants. The first is the covenant from Wenxian pit WT1K2, discussed above, the second is from Houma pit 67.

#### Tablet WT1K2–159

- I. If [covenantor's name]
- II.A dare falsify publicly-posted notices in Shaoqu,
- II.B if [covenantor's name] dare know of the falsifying of notices and does not report this,
- III. mighty superior, Lord Yue, attentively and tirelessly watching him,
- IV. [will] destroy that [i.e. his] *shì*, [and] cause [him] to have no descendants.

#### Houma tablet: HM 67:6

- I. If [covenantor's name], from today onwards,
- II.A dares not to abide by the words of this covenant,
- II.B and, furthermore, dares to seize property,
- II.C or knows of lineage members who have seized property, but does not apprehend them and turn them in,
- III. resplendent Lord Yue, Great Mountain, perspicaciously and tirelessly watching him,
- IV. [will] wipe out that [i.e. his] *shì*.

- I. □自今以往,
- II.A 敢不帥從此盟質之言,
- II.B 而尚敢或納室者,
- II.C 而或聞宗人兄弟納室者而弗執弗獻,
- III. 丕顯岳公大家, 明極視之,

85 On such contradictions in Han law, see Vankeerberghen 2000.

86 For a discussion on the topic from the anthropological literature, see Moore 1972.

87 Lewis 1990: 93–4 and Hulsewe 1986: 523.

88 On mutual liability in Qin law, see, for example: Yates 1987: 219–27; Sun 1986; Tomiya 2006: 140–62.

89 Sun 1986: 103.

## IV. 靡夷彼氏。

In both examples the stipulations not only prohibit a specific action but also make the covenantor responsible for aiding in the capture of any person the covenantor knows to have committed the prohibited act. In the Wenxian covenant the requirement is to report the person, while in the Houma case the covenantor is expected to apprehend the person and hand him or her over to the authorities. In both covenants, the punishment for not turning in another group member is identical to that for committing the offence oneself, i.e. the extermination of one's *shì* 氏. These appear to be the earliest excavated Chinese texts that refer to the practice of collective responsibility.

In the Houma example the group over which this collective responsibility extends is clearly stated: the *zōngrén xiōngdì* 宗人兄弟. I tentatively take this to refer to fellow branch-lineage members of the covenantor.<sup>90</sup> It may be, as Tsang Chi-hung suggests, that the covenantors in this case were leaders of lineage subgroups and are being required to take responsibility for those under their authority.<sup>91</sup> In the Wenxian example collective responsibility is required within a geographical location, a place called Shaoqu. Inscriptional materials provide evidence that Shaoqu was a city under Han (韓) control during periods of the Warring States and its prominent mention here suggests that this was already the case at the time of this covenant.<sup>92</sup>

It is significant that these two covenants only require that a transgressor be reported or handed in, i.e. the right of final adjudication is held by the central leadership. This is in contrast to the right granted to covenantors in some of the other covenants to execute certain outsiders.<sup>93</sup> It implies a wish on the part of the leadership for sole jurisdiction over those under its direct control.

## Conclusion

The excavated covenant texts date to the early Warring States period, a time of upheaval and instability during which elites sought to consolidate power over large groups of people. The covenant texts used the threat of collective punishment to coerce the individuals that made up these groups, and this collective punishment was targeted at the individual's direct male descendants. In the commonly found imprecation, "Wipe out that *shì* 氏", the term *shì* 氏 refers to this unit of the covenantor and his son, grandson, and any further direct male progeny. The previously unseen imprecation analysed above, "Cause [you] to have no descendants" 俾毋有胄後, indirectly threatens the same group. The male descent line of this *shì* 氏 unit reflects the continuing significance of the concept of the patriline, the basic organizing principle of the lineage system.

90 Weld (1990: 403) translates the phrase as "senior or junior members of my house".

91 Tsang 1993: 197–8. For Tsang's discussion of the term *zōngrén xiōngdì* 宗人兄弟, see p. 202.

92 For a discussion of the location and state affiliation of Shaoqu, see Williams 2005a: 439–47.

93 The Houma "Pledge Texts", for example, include a stipulation requiring that the covenantor kill certain named enemies: "[If you] meet the descendants of [name] on the road and do not kill them, ..." [name] 之子孫遇之行道弗殺, ... .

However, in size the *shì* 氏 unit is small, limited to the male offspring of the individual covenantor. This is evidence of a conscious focus on the individual rather than the lineage, a concern most apparent in the covenants in the use of a personalized tablet for each covenantor. The elites overseeing the covenants acted on the assumption that individuals were not tied by lineage affiliation when choosing political allegiance. The covenants aimed to instil loyalty in large groups of people, regardless of their lineage affiliation.

While the scope of collective punishment was limited to the small *shì* 氏 unit, the examples of collective responsibility in the excavated covenants involve larger groups. In calling for responsibility for the actions of the *zōngrén xiōngdì* 宗人兄弟, the lineage system is clearly utilized, perhaps reflecting exploitation of an existing kin-based system of collective responsibility. The requirement for collective responsibility in the area of Shaoqu, in contrast, extends to any person within a specified location, regardless of lineage affiliation. The varying make-up of the groups marked for collective punishment and collective responsibility in the excavated covenants differs to that of the later Qin and Han periods, and reflects a situation in which the lineage system continued to exert a strong influence, even as its relevance was waning in an increasingly fragmented and mobile society.

#### Abbreviations used in footnotes

- CCZZZ: *Chunqiu Zuozhuan zhu* 春秋左傳注. Yang Bojun 楊伯峻. 4 vols. (Rev. ed.). Beijing: Zhonghua, [1990] 1993.
- GWSSY: *Guwen sisheng yun* 古文四聲韻. Xia Song 夏竦 [Northern Song], in Li Ling 李零 and Liu Xin'guang 劉新光 (ed.), *Han jian, Guwen sisheng yun* 汗簡古文四聲韻. Beijing: Zhonghua, 1983.
- HMMS: *Houma mengshu* 侯馬盟書. Shanxi Sheng Wenwu Gongzuo Weiyuanhui 山西省文物工作委員會. *Houma mengshu* 侯馬盟書. Beijing: Wenwu, 1976.
- JWB: *Jinwen bian* 金文編. Rong Geng 容庚 (ed.). Beijing: Zhonghua, [1985] 1992.
- SJ: *Shi ji* 史記. Sima Qian 司馬遷 [Han]. 12 vols. Beijing: Zhonghua, [1982] 1992.
- SS: *Shangshu* 尚書. Lau, D.C. and Chen Fong Ching (ed.), *A Concordance to the Shangshu*. (CUHK ICS The Ancient Chinese Texts Concordance Series.) Hong Kong: The Commercial Press, 1995.
- SWJZ: *Shuo wen jie zi* 說文解字. Xu Shen 許慎 [Han]. Beijing: Zhonghua, [1963] 1992.
- YZJWJC: *Yin Zhou jinwen jicheng* 殷周金文集成. Zhongguo Shehui Kexue Yuan Kaogu Yanjiusuo 中國社會科學院考古研究所 (ed.). 18 vols. Beijing: Zhonghua, 1984.
- ZJSHMZJ: *Zhangjiashan Han mu zhujian (247 hao mu)* 張家山漢墓竹簡(二四七號墓). Zhangjiashan 247 hao Han mu zhujian zhengli xiaozu 張家山二四七號漢墓竹簡整理小組 (ed.). Beijing: Wenwu, 2001.

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