

‘THIS IS NOT A MARRIAGE’: HUSBANDLY
VIRTUE ON TRIAL IN QING
DYNASTY LAW

by

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ABSTRACT

This master's thesis examines two visions of male failure during the Qing dynasty (1644 to 1912): husband suicide and husband killing. The adjudication of these cases created a gap between narrative rhetoric and judicial logic that complicated the clear-cut ideology of the Qing Code. I examine this gap, arguing that while of little controversy in the law, husband suicide and husband killing stemmed from issues of patriarchal weakness and abuse that undermined orthodox notions of masculinity and ordinary women's expectations of marriage. Chapter 1 examines male suicide cases that presented the husband as simultaneously morally righteous and yet a disappointing example of Confucian manhood, exploring the hypothesis that judicial discourse gendered suicide as a female or *yin* form of agency. Chapters 2 and 3 move to a discussion of husband killing cases that complicated the Qing Code's image of a righteous husband as the victim of a villainous wife. These cases portrayed deeply flawed husbands, bearing no resemblance to ideal notions of moral masculinity described in the Code. A complex case about a wife who sells another wife and kills said wife's husband occupies Chapter 4. This case allows us to examine judicial attitudes towards a living husband-failure who had no interest in enforcing state-supported gender norms. Altogether, this thesis examines the complex matrix of logics and ideals that intersected between disparate masculinities, female agencies, and conflicting state goals.

To Jesse,
with love and appreciation

TABLE OF CONTENTS

ABSTRACT.....	iii
INTRODUCTION	1
Historiography	4
Summary	7
Chapters	
1. THE PROBLEM OF MALE SUICIDE.....	9
Husband Suicide in the Qing Code.....	12
Male Suicide in Imperial Discourse.....	16
Judging Husband Suicide.....	19
A Potential Lover Flirts with a Virtuous Wife and Causes a Husband to Commit Suicide	26
Conclusion	30
2. “THERE IS NOT EVEN THE LEAST BIT OF GOOD IN MY LIFE”: JUDICIAL SYMPATHY IN HUSBAND-KILLING CASES	32
Husband-Killing in the Qing Code	32
Judging Husband-Killers	35
Judicial Sympathy in Spousal Homicide	36
Killing the Wastrel.....	40
Judicial Sympathy for a Husband-Killer.....	43
A Desperate Wife Strangles Her Abusive Husband	45
An Aggravated Wife Shoots Her Callous Husband.....	50
Conclusion	54
3. ENVISIONING LIFE BEYOND A FAILED PATRIARCH: PLOTTING WITH A LOVER TO KILL A HUSBAND.....	55
Adulterous Husband-Killing in the Qing Code	57
Judging the Adulterous Husband-Killer	59
An Abducted Woman Plots with a Lover to Kill a Kidnapper	67
Conclusion	74

4. “A GOOD PLACE TO FIND A FAMILY”: MALE FAILURE OPENS SPACE FOR FEMALE AGENCY IN LATE IMPERIAL SUZHOU.....	77
Case Summary	78
First Round of Questioning.....	85
Second Round of Questioning	90
Verdict.....	94
Conclusion	95
CONCLUSION.....	97
BIBLIOGRAPHY.....	103

INTRODUCTION

Qing judicial elites imagined husbands as defenders of morality and righteous disciplinarians who cultivated wifely virtue and upheld the state's vision of family order. Spousal homicide undermined this normative ideal. In particular, male suicide and husband-killing placed disparate examples of disappointing manhood on the desks of Qing magistrates. These cases portrayed suicidal, excessively abusive, unauthoritative, and economically inept husbands, presenting a disturbing image of marriage among the poor that included emasculated husbands. How did judicial officials manage these issues? What's more, how did wives deal with failed husbands outside the courtroom?

This thesis begins to answer these questions by drawing upon Qing dynasty (1644 to 1912) legal cases, case summaries, and Code to explore state and female responses to male failure.¹ This research builds upon the multidisciplinary approach of *Writing and Law in Late Imperial China* to “illumine the complex intersections between writing as a cultural practice and the administration of justice.”² Considering these cases in the realm

¹ This thesis principally examines central criminal cases from University of Utah professor Dr. Janet Theiss' collection of Board of Punishments routine memorials (*xingke tiben*) from the Number One Historical Archive in Beijing.

² Robert E. Hegel and Katherine N. Carlitz, ed., *Writing and Law in Late Imperial China: Crime, Conflict, and Judgment* (Seattle: University of Washington, 2007). This thesis applies this work's multidisciplinary approach to the study of Qing dynasty law. In the introduction, Hegel states that “law ostensibly aims at fixity and stasis, whereas writing is inherently innovative...Case reports—however strictly they seem to apply the law—effectively supplement and undermine its certainties. By examining writing and law together, we bring out the ceaseless dynamism in late imperial Chinese culture” (xi). This project builds upon Hegel's analysis, viewing case reports as legal and literary narratives that reflect the complex attitudes of judicial officials.

of discourse, the process of writing a case report involved narrative construction that paralleled with the composition of fiction. Literature provided judicial elites with a framework to approach and make sense of social disorder in their provinces far removed from their own elite expectations of husbands, wives, and marriage. Judicial elites were familiar with archetypes in oral stories and literature. Well-known archetypes from literature, such as the shrew, reemerged in cases of domestic violence. The stories of such characters familiarized elites with causes of marital strife, offering up persuasive rhetorical devices to evoke compassion or contempt for culprits in their narration of spousal homicide. Thus, considering the genuine pathos of many of the testimonies included in this thesis, it is important to remember that the magistrate, not the culprits or witnesses, had the final say in the construction of these case reports. The magistrate controlled the representation of confessions and decided what and how much of their stories appeared in the final case report.

However, the murder of a husband, and the judicial attitudes around these cases, did not always align neatly with classic storylines of fiction. Rather, a gap exists between narrative rhetoric and judicial logic that may provide the clearest picture of lived experience available. I examine this gap by looking at the extent and limits of the utility of literary archetypes, arguing that while these violent crimes were judicially straightforward, husband suicide and husband-killing stemmed from issues of patriarchal weakness and abuse that undermined orthodox expectations of patriarchy. This compelled magistrates to fit these paradoxes uncomfortably into established gender norms, evoking judicial anxiety about flawed masculinity.

These cases complicated the clear-cut ideology of the Qing Code and pushed the

boundaries of both literary and legal paradigms. Qing elites seldom characterized husbands as dangerous men. In law and literature, the *guanggun* (“bare stick”), a man prone to criminality without a wife, family, or property, occupied this space. He embodied elite and common fears about men outside the bounds of moral and social order.³ In principle, a husband was the opposite of a *guanggun*. He had an interest in the existing system and his social role implied a fundamental superiority linked to the performance of state ideals. Judicial elites desired to come away from legal cases with moral clarity that supported the state dichotomy between proper and improper masculinity. However, the behavior of these married men blurred the boundaries between husband and *guanggun*, and magistrates strained to place the flawed husband in a morally superior category. This thesis contributes to the recent study of unorthodox masculinity during the Qing, suggesting that the state faced a broader failure of male authority that extended to the role of husband and threatened the gendered order of marriage.

This thesis also focuses on women’s rhetoric about expectations of marriage and their public reactions to husband failures. These case depicted women who behaved outside the bounds of normative gender roles and asserted agency by means certainly disapproved of by the state. They record women’s criticisms about failed husbandly authority, showing how such men led them to reject their marriage and the status of wife. This criticism designated husbands as weak links that prevented marriage from functioning as elites had envisioned, presenting a variety of female challenges to the Qing state’s idealized notions of patriarchy.

³ Matthew H. Sommer, *Sex, Law & Society in Late Imperial China* (Stanford, CA: Stanford University Press, 2000), 97-101.

Historiography

While scholars have begun to explore unorthodox masculinity, it remains a largely understudied topic in modern Chinese history. In *Sex, Law & Society in Late Imperial China*, Matthew Sommer argues that magistrates adjudicated crimes based on universal expectations of gender performance that held all people, regardless of social status, to the same notions of social and moral order.⁴ However, he leaves as an open question the larger consequences this shift may have had on the shape of marriage. In *Disgraceful Matters*, Janet Theiss picks up this discussion within her work on female suicide, highlighting the paradoxes of Qing state building ideologies. She argues that the state prioritized the canonization of female chastity martyrs often in direct opposition to patriarchal authority, revealing areas of male weakness in family order.⁵ Narrowing in on issues of weak patriarchy revealed in Theiss' work, this thesis moves to a discussion of judicial and female reactions to failed husbands and builds upon Sommer's most recent work.

In this publication, *Polyandry and Wife-Selling*, Sommer draws a distinction between state and local views of masculinity, examining customary practices of heterodox marriage among the poor, including wife selling and polyandry, that undercut the state's image of family and moral order.⁶ He identifies a spectrum of judicial responses, including the not infrequent practice of local magistrates to show compassion and permit these illicit arrangements to stand in clear violation of the law. Further

⁴ Sommer, *Sex, Law & Society in Late Imperial China*, 5.

⁵ Janet M. Theiss, *Disgraceful Matters: The Politics of Chastity in Eighteenth-Century China* (Berkeley: University of California Press, 2004), 79.

⁶ Matthew H. Sommer, *Polyandry and Wife-Selling in Qing Dynasty China: Survival Strategies and Judicial Interventions* (Berkeley: University of California Press, 2015), 18-19.

exploring the state's encounter with unorthodox masculinity among the poor, this thesis reaffirms many of Sommer's conclusions about the instrumental nature of marriage among ordinary people and judicial sympathies for the poor that complicate the vision of the Qing Code. This thesis' attention to female rhetoric advances this argument by exploring the ways women asserted agency because of patriarchal failure, as well as examining the disparate factors that motivated the actions of husbands and wives that transcended mere attempts at survival. This work thereby joins the conversation about questions of rupture between state ideas and local realities upon which these historical monographs center, highlighting the limits of state hegemony.

Male suicide, in particular, remains a generally underexplored part of late imperial masculinity. On the other hand, scholars have shown female suicide great attention. Theiss discusses canonization of female suicide as a tool to "promote and enforce evolving state orthodoxy" as the Yongzhen Emperor erected edifices to honor chaste martyrs.⁷ Considering the importance the Qing state placed on the chastity cult, it is striking that jurists remained relatively silent on issues of male suicide. Even in scenarios that imply that a husband committed suicide in defense of chastity, magistrates did not adopt male suicide as a component of Qing legitimacy in a manner analogous to their treatment of chastity martyrs. A system of canonization did not exist to honor the male suicide victim, nor did the state propagate suicide as a proper form of masculine behavior for ordinary men. In *Negotiating Masculinity in Late Imperial China*, Martin Huang examines elite attitudes toward male suicide after the fall of the Ming dynasty,

⁷ Theiss, *Disgraceful Matters*, 30.

which discouraged suicide as a proper performance of loyalty to the dynasty.⁸ Huang, however, limits his discussion to elite discourse, not considering the purpose or meaning of suicide in the lives of ordinary men.

Quinn Javers' recent dissertation, "Conflict, Community and Crime in Fin-de-Siècle Sichuan," has begun to fill this gap in scholarship on male suicide through an examination of local male suicide cases, concluding that the majority of male suicides occurred in the context of economic disputes.⁹ Theiss discusses how committing suicide became a form of agency for women to defend their chastity, often a significant part of female personhood.¹⁰ What role did suicide play in notions of male personhood? While male suicide appears a nonissue in Qing legal culture, archival research indicates that suicide had a function in ordinary society for men as well as women. This project thus adds to Javers' research by examining male suicide in the domestic context and from the perspective of central cases, showing how magistrates, aware that high-level judicial officials as well as the Emperor reviewed such reports, interpreted husband suicide within the framework of state ideology. Consequently, I hypothesize that judicial discourse gendered suicide as female. Regarding this form of self-sacrifice as a feminine and thereby a *yin* 'weak' performance of agency, the Qing state deemed suicide unfitting behavior for a strong patriarch. This thesis places male suicide in the broader context of discussions about male failure, including female critiques of marriage, that challenged the elite paradigm of chaste female agency and male investment in the established order.

⁸ Martin Huang, *Negotiating Masculinity in Late Imperial China* (Honolulu: University of Hawai'i Press, 2006), 75.

⁹ Quinn Doyle Javers, "Conflict, Community and Crime in Fin-De-Siècle Sichuan" (PhD diss., Stanford University, 2012).

¹⁰ Theiss, "The Logic of Female Suicide" in *Disgraceful Matters*, 192.

Summary

This thesis explores expectations of husbands and marriage, investigating how the Qing state and ordinary women approached flawed patriarchs. On one hand, this thesis examines judicial treatment and construction of husbandly failure in the Qing Code and case reports. On the other, it looks at female reactions to husbandly failure. In doing so, this research highlights the contradictions inherent in state gender ideology, further complicating our understanding of the relationship between the state and ordinary people.

Chapter 1 examines the problem of male suicide, arguing that husband suicide in the wake of adultery motivated judicial elites to reimagine masculinity. In such cases, husbands chose a weak or *yin* form of agency, compelling the creation of a compromised form of masculinity that interpreted this decision as reaffirming state orthodoxy. Counter to state expectations, these suicides reveal how ordinary men internalized female chastity as part of their personhood. Chapter 2 moves from a discussion of the passive to the excessive patriarch, explaining that a sentence of slow slicing did not necessarily imply judicial contempt for a chaste wife who killed a failed husband. Rather, the passionate confessions of such wives express a longing for normative marriage. However, husband-killers did not always act alone. Chapter 3 studies the judicially complex crime of a wife who plots with a lover to kill a husband. Unlike suicide and independent husband-killing, this crime inspired a spectrum of judicial constructions. Magistrates both villainized and expressed compassion for these women, but most importantly, feminine sexual desire generally maximized wifely guilt, and magistrates often looked to redeem the ignorant husband of such a wife. Chapter 4 includes an in-depth analysis of a case in which a woman sold a wife and killed the wife's husband. This complicated case reveals another

level of husbandly failure, the consciously passive husband who had no desire to enforce elite gender norms, potentially making this version of husbandly failure the most anxiety inducing for judicial elites.

Each chapter reveals a different component of a malfunctioning gender paradigm caused by a group of emasculated husbands, threatening the legitimacy of the Qing social order. Husbands were not performing the role of husband. Rather than killing the adulterous couple, husbands acted through a feminine form of agency or remained pathetically ignorant of the affair. Furthermore, the sympathetic tales of abused wives belied the idea of a righteous husband. These factors all undercut ideals of husbands as the privileged and assumed leaders of the family, showing how these men failed to hold a stake in state orthodoxy.

CHAPTER 1

THE PROBLEM OF MALE SUICIDE

In 1867, the provincial governor of Fujian issued a decree calling attention to the unforeseen problems suicide cases created for local Qing magistrates.¹¹ He wrote:

...falsely accused suicide cases overflow courtrooms, and because of this, magistrates do not have enough time to thoroughly review each case, and consequently draw hasty conclusions that leave a legacy of trouble... Therefore, [officials should] strictly forbid false accusations of suicide and display this letter around cities and villages so that all subjects are made aware of this notice. Hereafter, magistrates must report every suicide case to the central government and, without exception, resolve all matters within one month's time... The government will investigate cases in order to punish ruffians (*guntu*) and... avoid the arrest of innocent subjects. 自盡圖賴之案, 層見疊出, 地方官並不詳加勘審, 迅速完結, 貽害口非淺鮮... 告示嚴禁自盡圖賴惡習, ... 遍貼城鄉, 俾知警覺 所有奉文日期及貼示處所... 此後凡自盡命案, 呈報到官, 均限一月審結... 誣告, 圖賴等情, 即嚴究主使, 棍徒, 一併從重治罪, 如有逾限詳結及濫行差拘良民, 以致無辜受累, 立即分別嚴參.

Throughout the 19th century, courtrooms across China witnessed a surge of litigation that overworked local magistrates and worried the central government.¹² Many jurists argued for stricter adjudicatory procedures to manage increasing caseloads; however, courtroom efficiency was not the Fujian governor's only concern. From the Taiwan *Dan-Xin* archive, this proclamation reveals a particular state anxiety about male

¹¹ National Taiwan University Library, *Dan-Xin dang'an*, 12508, <http://dtrap.lib.ntu.edu.tw/DTRAP/index.htm>.

¹² Melissa Macauley, *Social Power and Legal Culture* (Stanford, CA: Stanford University Press, 1998) 18-20.

suicide. The governor continued, saying that, “[This decree must be enforced] so that all understand the importance of life, once dead one cannot regain life. False accusations [of suicide] are troublesome. Out of a thousand, it is difficult to find one true suicide case...[instead] father and son, husband and wife, older brother and younger brother, all of the five human relationships, kill one another for profit. These kind of people are worse than beasts!” 爾等須知, 人命至重, 既死不可復生. 公論難誣, 千虛難逃一實; 況父子, 夫婦, 兄弟, 皆人道之大經, 乃死而因以為利, 是雖覩然人面, 實則禽獸不如!

The governor’s apprehension about false suicide claims illustrates the tension between elite expectations and domestic realities during the Qing Dynasty. In particular, he emphasized the challenge unvirtuous men presented to state authority. Ideally, the state imagined men as the model defenders of morality who acted to uphold its vision of family order. Suicide allegations, especially false ones, exposed areas of male weakness and passivity that subverted state expectations. From the magistrate’s standpoint, suicide cases were about not only women, but also fathers, husbands, brothers, and sons. More specifically, men who had abandoned Confucian ideology and fallen short of state notions of masculinity. The governor and his officials therefore had no choice but to manage the disorder created by these failed patriarchs. How did the Qing state approach issues of male suicide across the empire?

Given the extensive discourse surrounding issues of female suicide, it is striking that male suicide received markedly less attention from Qing elites. The Qing dynasty experienced a high rate of female suicide. The state canonized women who committed suicide in defense of chastity, interpreting such acts as feminine support for state

orthodoxy and a fundamental component of state building efforts. Judicial officials extensively debated the proper performance of chastity martyrdom and state management of such matters.¹³ Male suicide, in comparison, seems to appear less commonly in cases and was far less talked about by judicial officials. However, when a case involving male suicide found its way into the courtroom, it often represented a judicial problem. To illustrate, the presence of male suicide in the “Conspectus of Legal Cases” (*xing an hui lan*, 刑案汇览) designated a man’s decision to commit suicide as a challenge to Qing legal logic and the gender paradigm it supported.

The *xing an hui lan*, organized according to the sections of the Qing Code, contains precedent-setting cases that did not fit easily into the criminal scenarios outlined by preexisting statutes and substatutes. Magistrates turned to this casebook for guidance when faced with strange cases that tested the limits of Qing judicial logic. The casebook approaches the topic of male suicide by placing it under multiple legal categories. For example, male suicide cases appear under the statute on “pressing someone to commit suicide,” addressed in this paper, but also under the statute on “depriving a person of clothing or food” and “acceptance of bribes by officials and their subordinates,” among others.¹⁴ Considering the casebook’s divided response to male suicide, the state had no singular conception of male suicide and considered it as a component in various crimes instead of a singular matter. This method of organization minimized the perceived frequency and visibility of male suicide, treating it as a legal obstacle rather than a

¹³ Janet Theiss, *Disgraceful Matters*, 2.

¹⁴ The *xing an hui lan* also included men’s suicides under the statutes on “doing what ought not to be done,” “sale or use of properties given in trust,” and “harsh treatment of prisoners.”

component of state hegemony.¹⁵

How did the Qing state imagine the male suicide victim? What role did it envision for itself in adjudicating such crimes? Chapter 1 begins to answer these questions by suggesting that husband suicide in the wake of adultery fit uncomfortably into the Qing state's vision of family order. I hypothesize that judicial discourse gendered suicide as female. This form of self-sacrifice demonstrated a 'weak' or *yin* agency used by juniors in a relationship that magistrates deemed unfitting behavior for a strong patriarch. Consequently, judicial elites did not originally envision husbands committing suicide in defense of chastity, nor did they incorporate such acts of male agency as a component of Qing legitimacy in a manner similar to that of the female chastity martyr. I draw from the *xing an hui lan* and Board of Punishments routine memorials (*xingke tiben*). Magistrates responded to case summaries and cases that brought emasculation to the forefront of adjudication by constructing a judicial version of masculinity that pointed to the slightest evidence of virtue to help redeem men who failed to perform the role of husband according to most ideal state expectations.

Husband Suicide in the Qing Code

In cases of adultery, the Qing state anticipated that a husband would punish the adulterers. The Qing Code's statute on "killing the adulterous male," states that "whenever a wife or concubine commits adultery with another, and (her husband) catches the adulterous wife and the adulterer at the place [in the very act of] adultery and

¹⁵ Derk Bodde and Clarence Morris, trans., *Law in Imperial China* (Philadelphia: University of Pennsylvania Press, 1974), 64. In 1834, Zhu Qingqi and Bao Shuyun compiled this casebook to serve as a guide in the adjudication of unusual cases that did not fit neatly into existing statutes.

immediately kills [both of] them, there is no punishment.”¹⁶ The Code characterized the adulterous male as endangering domestic space and the adulterous wife as representing conjugal disloyalty. The statute portrayed the husband, on the other hand, as a righteous and successful disciplinarian. Such a husband promptly discerned immorality and acted with immediate physical force to punish those who intentionally compromised chastity and patriarchal authority. Thus, the Code obligated *every* husband to value chastity, even above a wife herself.¹⁷

The original drafters of the Qing Code envisioned the husband as a strict defender of chastity, but did not consider that he might value marital chastity above his own life. The Code, therefore, did not consider suicide as an appropriate husbandly response to adultery. However, in 1805, an additional substature was added to the Qing Code to address such unorthodox responses to adultery. Section three of the statute on “compelling someone to commit suicide” 威逼人致死, states:

If a wife has consensual illicit sex with someone...[and] her husband does not tolerate [the illicit sex], but, as soon as he discovers it, tries unsuccessfully to kill the adulterers, and because of this out of humiliation commits suicide, the adulterous wife is sentenced to strangulation after the assizes. The adulterous male, without exception, is sentenced to 100 beatings with heavy bamboo, and three years penal servitude.¹⁸ 婦女與人通姦...其本夫並未縱容，一經見聞，殺姦不遂，因而羞忿自盡者，姦婦擬絞監候。姦夫俱擬杖一百、徒三年。

Examining this substature in light of the original statute on “killing the adulterous male” demonstrates that state notions of ideal masculinity fluctuated over time. Notably,

¹⁶ William C. Jones, trans., *The Great Qing Code* (Oxford: Clarendon Press, 1994), 127.

¹⁷ In *Sex, Law and Society in Late Imperial China*, Sommer argues that the adjudication of crime based on a notion of universal gender performance replaced status gender performance during the Qing. In other words, previous dynasties held ‘commoners’ to stricter standards of moral culpability than ‘debased’ populations, thereby allowing the ‘debased’ population to engage in otherwise amoral conduct, such as prostitution. During the Qing, however, the state held all subjects to the same degree of moral culpability, which made prostitution illegal.

¹⁸ Substature 03, *Duli cunyi* (DLCY), *juan* 34: 299.

this statute complicated state notions of masculinity by portraying a husband as weak. A husband who committed suicide in the wake of adultery unsuccessfully punished the adulterers and thereby failed to exercise the authority granted to him by the state (*sha jian busui*). Although magistrates considered this failure as part of the course of events that led to a husband's suicide, it did not excuse an adulterous wife and her lover from punishment. In the vision of the Code, his wife's adultery ultimately caused his death. Therefore, while husband suicide in the wake of adultery contradicted state ideas about proper husbandly action, nonetheless, the Code compelled magistrates to emphasize any trace of moral masculinity in the case. In doing so, magistrates placed special emphasis on the behavior of the cuckolded husband prior to death, to determine whether he was complicit in the crime of adultery. For even if such a husband could not break up the affair, a sincere attempt to stop the adultery upon discovery redeemed him in the eyes of the state.

For instance, the writers of the Code continued to imagine the husband suicide victim as righteous, if not a successful disciplinarian. As described in the statute, a husband was compelled by humiliation into suicide only after first refusing to tolerate illicit sex (*bing wei zongrong*). This decision characterized him as at least morally righteous in his intentions even though he could not break up the affair and ultimately committed suicide. While his actions contradicted state expectations of husbands, his refusal to tolerate the adultery emphasized his virtue. Thus, magistrates sympathized with a flawed patriarch, reasoning that at least the adultery caused him to feel properly humiliated (*xiu fen*). Consequently, the state punished the disloyal wife and her lover who undermined his authority.

Husband suicide in the wake of a wife's adultery required magistrates to reimagine less than ideal displays of Confucian masculinity within judicial logic. Judicial scholar Xue Yunsheng, in his late nineteenth-century commentary on the Qing Code, reflected on the unforeseeable nature of husband suicide in the wake of adultery, highlighting the gaps in legal logic that surrounded this issue. "It seems that in cases of husband suicide, the adulterous male cannot predict whether or not the husband... will commit suicide. [All the while, magistrates conclude that] the defiling of the wife by the adulterous male caused her husband's death; if the adulterous male cannot foresee [the husband's suicidal response], how can we conclude that he caused the husband's death?"¹⁹ 若謂其夫...自盡之案，非姦夫意料所能及，彼因姦致姦婦被殺，豈即為姦夫意料所能及乎。 If the writers of the Qing Code had not anticipated this reaction, how then could the adulterous male have foreseen it? Xue's anxiety regarding the logic of causation that guided the adjudication of husband suicide characterized the husband's suicidal response as unforeseeable, and therefore suggests that husband who performed suicide in the wake of adultery failed to live up to norms of masculinity.

Looking beyond judicial expectations of husbands, the statute on "killing the adulterous male" becomes less of a privilege and more of an unreasonable obligation for ordinary men. In its most idealized form, this statute gave husbands a license to operate on the state's behalf to preserve the patriline and orthodox social order. However, the ordinary husband stood to gain little to no practical advantage from the death of a wife. In reality, common men usually paid bride price to marry and often depended on their wives

¹⁹ Xue Yunsheng, *Duli cunyi* 讀例存疑 [Lingering doubts after reading the substatutes], ed. Huang Jingjia (Taipei: Chinese Materials and Research Aids Services Center, 1970), comments on Substatute 03, DLCY, 299.

as an important source of labor and a symbol of status.²⁰ The original statute on “killing the adulterous male” assumed that a poor husband would desire to, and have the ability to, kill his wife and the adulterous male. Ideal masculine behavior described in the Qing Code stood in stark contrast to the realities of life. The next section explores three case summaries and one wife’s testimony to reveal the challenges husband suicide posed to judicial logic and definitions of masculinity for ordinary men.

Male Suicide in Imperial Discourse

The Qing Code upheld the prerogatives and status of patriarchs. However, cases of husband suicide following a wife’s infidelity portrayed less than ideal specimens of Confucian manhood that undermined these principles. One indication of the interpretive challenge presented by such cases is the dearth of imagined scenarios of male suicide in fiction.

As with historical scholarship, literary scholars have focused predominantly on representations of women’s suicides.²¹ Moreover, the authors of classic Ming and Qing masterworks rarely portrayed leading male characters committing suicide. The closest major example, in *The Water Margin*, is Li Kui’s eagerness to relinquish life and follow Song Jiang into death after Song Jiang had poisoned him.²² Li Kui’s passing represents more of a consequence of fate than a sacrifice that was outside of his control. While not portraying his death as suicide, the author depicts Li Kui as agreeably, and obediently,

²⁰ Theiss, *Disgraceful Matters*, 26.

²¹ Paola Zamperini, “Untamed Hearts: Eros and Suicide in Late Imperial Chinese Fiction,” *NAN NÜ: Men, Women, and Gender in Early and Imperial China* 3 (2011): 77-104.

²² Nai’an Shi and Guanzhong Luo, *Shui Hu Zhuan* 水滸傳 (Beijing: Ren min wen xue chu ban she, 1990), original source. Translation quote from Shi Nai’an and Luo Guanzhong, *Outlaws of the Marsh*, trans., Sidney Shapiro (Beijing: Foreign Language Press, 2012), 2127-2128.

welcoming loss of life. Immediately after Li Kui's death, two minor characters, Hua Rong and Wu Yong, hang themselves from a tree. "I can never repay brother Song Jiang for all he's done for me," said Wu Yong, "and I can't bear to part with him. I'm going to hang myself here so that our spirits can be together, and as a demonstration of my loyalty and righteous heart."²³ Explaining his decision to Hua Rong, Wu Yong characterizes suicide as a profound demonstration of obligation in addition to devotion. However, Wu Yong cautions Hua Rong in his decision to join him, saying, "I'm alone, without any dependents. It doesn't matter if I die. But you have a young son and a sweet wife. What will they do?"²⁴

In the moments before the suicide, the novel places husbandly responsibilities in conflict with the demands of brotherhood, highlighting them as competing male loyalties. Choosing brotherhood over family, Hua Rong joins Wu Yong, but only after explaining that abandoning his family will not cause them to suffer. "I've left them a bit, enough to feed themselves. Besides, my wife's family will look after them."²⁵ The novel characterizes suicide as an act entered into by men without families, or at least men who have ensured that their families have support after their death. The final scenes of the novel depict the acceptance of death as an appropriate expression of fraternal loyalty in direct opposition to state and family loyalty.

Some scholars have examined the role of male suicide in broader imperial discourse. Wolfram Eberhard's classic sociological study, *Guilt in Traditional China*, classifies representations of suicide encountered in his study of the *shan shu* (morality

²³ *Outlaws of the Marsh*, trans., Sidney Shapiro, 2130.

²⁴ *Outlaws of the Marsh*, trans., Sidney Shapiro, 2131.

²⁵ *Outlaws of the Marsh*, trans., Sidney Shapiro, 2131.

books) and other short stories into moral categories. Unsurprisingly, stories about female suicide were more common, only 22 percent of suicides were committed by men. Not unlike the fate of Li Kui, some stories illustrated men seeking death out of loyalty. These ‘honorable deaths’ were committed by men primarily out of state loyalty, not fraternal loyalty. The majority of ‘sinful suicides’ were committed by humiliated men. Wolfram notes that in Pu Songling’s *Strange Stories from a Chinese Studio*, for example, a poor husband commits suicide after being reproached by his rich wife. A story from the same collection describes a man who committed suicide after a powerful man put him in jail and seized his valuables.²⁶ These brief examples reveal a meaning associated with suicide related to a personal sense of self-worth linked to economic status as opposed to state loyalty.²⁷

Outside of fiction, the collapse of the Ming dynasty brought a discussion of male loyalty, humiliation, and suicide into the forefront of elite discourse. In *Negotiating Masculinities in Late Imperial China*, Martin Huang discusses how Qing literati argued against the morality of committing suicide out of loyalty to the Ming dynasty in their writings. Instead, elite definitions of post-Ming manhood stressed humility and filiality, advocating continual care of parents and discouraging suicide as a performance of masculinity.²⁸ Interestingly, because many Ming loyalists compared their humiliation to that of women who could not remain chaste, Huang points out that antisuicide rhetoric held chaste women to higher expectations of performative loyalty than elite men. In other

²⁶ Wolfram Eberhard, *Guilt and Sin in Traditional China* (Berkeley: University of California Press, 1967), 95.

²⁷ For recent research on male suicide in the wake of debt or economic disagreements, see Quinn Doyle Javers, “Conflict, Community and Crime in Fin-De-Siecle Sichuan” (PhD diss., Stanford University, 2012).

²⁸ Huang, *Negotiating Masculinities in Late Imperial China*, 75.

words, during the Ming-Qing transition, elites excused men from committing suicide, but kept and strengthened the obligation for women.

Playing a marginal role in the literary masterworks, Qing discourse offers a sparse and inconsistent representation of male suicide. This seems especially true when considering Andrew Plaks' ironic reading of *The Water Margin*. Plaks argues that characters undermine themes of loyalty and righteousness, and consequently the actions of the brotherhood do not fulfill the high moral standards they profess to hold, leaving readers instead with a deeply flawed band of outlaws.²⁹ Thus, Plaks' analysis transforms suicide from a pure expression of brotherly commitment to a deeply pathetic act of misplaced male allegiance. One gains the sense that men committed suicide out of loyalty either to the state or to one's brothers, humiliation, or out of a failure to fulfill normative expectations of men. This chapter now returns to an examination of Qing judicial attitudes toward the husband suicide victim in legal cases, engaging in a conversation about proper performance of patriarchal loyalty and humiliation that might redeem a husband who unsuccessfully attempted to stop his wife's affair.

Judging Husband Suicide

In 1814, Yu Tianwu discovered that his wife, Ms. Kang, was sleeping with Jin Hongxiu. Even though Yu refused to tolerate the affair, Ms. Kang and Jin plotted to force Yu to divorce Ms. Kang. The summary then described the obstacles that prevented Yu

²⁹ Andrew H. Plaks, "Shui-hu chuan: Deflation of Heroism," in *The Four Masterworks of the Ming Novel: Ssu ta ch'i-shu* (Princeton, NJ: Princeton University Press, 1987), 320-321. For example, Plaks argues that Song Jiang merely idealizes himself as a righteous servant of the empire. However, when it comes to actually performing as a righteous disciplinarian, Song Jiang cannot bring himself to punish Li Kui, a man who has killed many innocent people.

from successfully breaking up the affair:

The governor of Jiangsu has reported a case in which Jin Hongxiu and Ms. Kang committed adultery. Yu Tianwu caught the couple in an embrace, chatting and laughing, and castigated them. Jin had a heated passion for illicit sex, and plotted to force Yu to divorce Ms. Kang so that he could marry her. Jin knocked Yu to the ground, and punched his upper back. He was persuaded to stop [the assault]. The beating caused Yu to spit up blood and he argued with Ms. Kang. She privately informed Jin that she had intentionally picked quarrels with Yu...[and she continued to] quarrel with Yu daily and was unreasonable [at home]. [She] scratched her husband causing injury. Then Jin and Ms. Kang continued [the affair] as they had before. Catching them together [for a second time], Yu scolded them. Jin kicked Yu with his right foot and beat him in the back. Ms. Kang humiliated and threatened her husband [saying] “You are useless, better I desert you.” Yu threatened to report them to the *yamen*. Jin responded, “if you go to accuse us before the magistrate, the most severe punishment [we will suffer] is beating, [I] will continue to fight [with you] daily.” Ms. Kang responded, even if Yu reports them to the magistrate she was not willing to stay with him. At this time, they left each other’s company and Yu hung himself inside the room.³⁰ 苏抚提：晋洪秀与康氏通奸，搂抱说笑，被本夫余添务撞见斥骂。晋洪秀恋奸清热，图逼余添务将康氏体弃，以更婚娶，随将其摔跌，拳殴背心，经劝而散。余添务被殴吐血，时与康氏吵闹，康氏私向晋洪秀告知被夫寻衅情由...遂与伊夫日逐吵闹撒泼，并将余添务抓伤。嗣晋洪秀复与康氏续旧，余添务撞见斥骂，被晋洪秀脚踢右膝拳殴脊背，康氏以如此无用不如体弃之言逼辱，余添务声言控告，晋洪秀回以控告不过杖责，将来逐日殴打，康氏亦称任凭告官总不愿随伊过度。晋洪秀走回各散，余添务乘间自缢殒命。

While the details of this case are brief, they illustrate Yu’s ineffectual attempts to break up the affair, and that the magistrate portrayed Yu as a well-intentioned husband who was ultimately aggravated to suicide by Jin and Ms. Kang’s abuse. The magistrate characterized Yu as a husband with righteous inclinations betrayed by his wife, recognizing that Yu disapproved of the couple’s illicit actions (*bing wei zongrong*). His comments reflected the Code’s portrayal of the husband suicide victim by emphasizing Ms. Kang’s lack of virtue. “[The adulterous couple’s plot] aroused Yu's anger and he

³⁰ Qingqi Zhu, *xing an hui lan* 刑案匯覽 (X AHL) [Conspectus of Penal Cases] (Beijing: Beijing Ancient Books Publishing House, 2004), 1217 (1814).

committed suicide. [This is] depraved violence in the extreme...Ms. Kang listened to and assisted the adulterous male in humiliating her husband, which aroused her husband's anger [leading him to] take his life lightly. [This is] an extreme category of excessive wickedness.” 以致余添务忿激自尽，淫凶已极...至康氏被奸无耻，复听从奸夫帮同逼辱，致伊夫抱忿轻生，殊属淫恶。 The magistrate then cited section ten of the statute on “pressing someone to commit suicide,” which states that “If a shrewish wife or concubine compels her husband's death, she is sentenced to immediate strangulation.” 妻妾悍澆，逼迫其夫致死者，擬絞立決 . The magistrate identified Ms. Kang as an unchaste shrew, maximizing her fault in Yu's death.³¹ In contrast, he depicted Yu as an innocent victim of his wife's marital disloyalty and shrewish behavior.

While Yu did not fulfill the Code's expectations of a husband, the magistrate highlighted his unyielding devotion to orthodox norms of marital authority. He described the multiple attempts Yu made to break up the affair, emphasizing the physical and mental pain he endured. On the other hand, the magistrate characterized the adulterers as openly defiant of state authority. The adulterous couple claimed that the *yamen* was irrelevant to them, and that they could get away with their adultery. The magistrate interpreted Yu's refusal to submit to the couple's illicit demands under coercion as evidence of his virtue. Therefore, in a scenario that presented an ethical patriarch in a position of weakness, deceived and humiliated by his wife and defeated by another man, the magistrate drew attention to Yu's righteous inclinations as perhaps a minimal

³¹ Janet M. Theiss, “Explaining the Shrew: Narratives of Spousal Violence and the Critique of Masculinity in Eighteenth-Century Criminal Cases,” in *Writing and Law in Late Imperial China: Crime, Conflict, and Judgment*, ed. Robert E. Hegel and Katherine N. Carlitz (Seattle: University of Washington Press, 2007), 54-56. In this article, Theiss examines wife-killing cases that characterized the wife/victim as a shrew, arguing that this rhetorical strategy functioned to mitigate the husband/culprit's sentence.

fulfillment of his role as husband.

However, not every case of husband suicide in the wake of adultery fit as seamlessly into a sympathetic narrative as the above case.

[In 1817,] Ms. Wang née Wang and Gao Jicheng committed adultery. Her husband [Wang Da] discovered the [affair] and so took her to live in another region. Ms. Wang absconded mid-way through the journey. Wang searched, but could not find her. [This] caused Wang to commit suicide. Ms. Wang is sentenced to strangulation after the assizes, [a punishment] analogous to the sub-statute sentencing a wife to strangulation after the assizes who causes her husband's suicide because he does not tolerate her adultery but fails to kill the adulterers.³²
 王氏与高吉诚通奸，本夫王大知觉，遂携王氏迁居他处。王氏中途潜逃，寻觅无踪，致伊夫自缢身死。将王氏比照妇女与人通奸，本夫并未纵容，杀奸不遂，因而羞忿自尽例拟绞监候。

The summary made no additional comments, providing only the basic facts.

Nevertheless, a comparison of these cases sheds light on the complexity of husband suicide. Like Yu, Wang failed to restrain his wife and end the affair. However, Wang's disapproval of adultery (*bing wei zongrong*) fails to convey the same sense of righteousness as that of Yu. Wang did not endure physical and mental hardship, nor did he ever confront the adulterous male or threaten to inform the *yamen*. Instead, Wang simply avoided the conflict by removing his wife from her lover. As a result, Wang's suicide may have left the magistrate with an impression of pathetic weakness, as contrasted with an aggravated suicide like that of Yu, and this difference appears to have influenced sentencing. For instance, Yu's wife received immediate strangulation in accordance with the substatute on shrewish wives causing a husband's suicide. Wang's wife, however, received the slightly lesser sentence of strangulation after the assizes in accordance with the substatute on adultery. One might conclude that Yu's behavior

³² XAHL, 1222 (1817).

garnered the magistrate's sympathy, moving him to increase the culprit's punishment. Consequently, these magistrates had a degree of leeway to argue for the use of the statute that led to greater punishment. The difference in the narration of the way Yu and Wang performed nontolerance of adultery indicates the degree of flexibility magistrates had when interpreting the behavior of a husband suicide victim and his wife, which may have had more to do with their personal attitudes about the case than the actual intent of the husband.

While these cases differ in terms of sentencing, judicial officials categorized both suicides in the *xing an hui lan* casebook under the heading, "pressing a husband to commit suicide." The differences in these cases, especially in terms of husbandly reaction to the adultery and judicial attitudes toward the victim, express varying degrees of husbandly virtue and righteous inclinations. For instance, Wang's case does not comment on his wife's character, nor that of the lover. Moreover, unlike the summary of Yu's suicide, this summary fails to explain the logic behind Wang's suicide, leaving many unanswered questions about motivation. Although the state regarded Wang and Yu's attempts to resolve a threat to chastity as less than ideal, the magistrates inferred righteous intent on the part of both Yu and Wang, albeit to varying degrees.

In strong contrast with the above scenarios, the magistrate in the next case did not find any redeeming qualities on the part of the humiliated husband. The magistrate in this 1827 case argued that the statute on "pressing a husband to commit suicide" cannot be applied to a case in which the husband tolerated adultery (*zongrong funü yu ren tong jian*).

The present case is one in which Lin K'o-chin, because of greed, tolerated the adulterous relationship between his wife and Wang Fu, in return for which he

repeatedly received money from Wang. Finally, however, Wang was unable to meet Lin's numerous demands, whereupon Lin forbade Wang to sleep with Mrs. Lin. At this, Wang demanded restoration of the money he had previously given Lin. Lin berated Wang in return, and Wang then struck Lin with his fists... [Lin] fell into such a state of uncontrollable passion that he hung himself... The Board finds that Lin was shameless in tolerating the affair between his wife and Wang and that by demanding money from Wang and picking a quarrel with him leading to being struck by Wang, Lin brought disgrace on himself which was of his own choosing. Under these circumstances, the sub-statute on pressing somebody into suicide through adultery may not be applied to Wang.³³

In this situation, Qing judicial logic eliminated the adultery as the main causal factor in Lin's suicide because he had tolerated the adultery.³⁴ In addition to allowing the affair to take place, Lin accepted money from the lover and intentionally fought with him over payment. In the eyes of the magistrate, the adultery did not compel Lin to commit suicide out of righteous humiliation; instead, his own "shameless" behavior caused his death. Therefore, the magistrate could not punish the adulterers for 'pressing suicide.' Overall, it was Lin's decision to disregard chastity that altered the state's impression of him and the crime. Unlike Wang and Yu, this case portrayed the husband suicide victim as not only an unsuccessful disciplinarian, but also lacking any trace of morality.

This case emphasized the importance the Code placed on evidence of virtue in the adjudication of husband suicide. In all three cases, the Code required an investigation of the husband's behavior following the discovery of adultery and before committing suicide. This process functioned to evaluate a husband's character, highlighting husbandly virtue in the first two cases. However, in Lin's case, this assessment emphasized only moral failure. In *Polyandry and Wife-selling in Qing Dynasty China*,

³³ Derk Bodde and Clarence Morris, trans., *Law in Imperial China: Exemplified by 190 Ch'ing Dynasty Cases* (Philadelphia: University of Pennsylvania, 1973), 357.

³⁴ Bodde and Morris, trans., *Law in Imperial China*, 357. The magistrate in this case stated, "If [the husband] is finally pushed by shame into committing suicide only after having first tolerated the adultery, his case may not be judged under the statute on pressing somebody, through adultery, into suicide."

Sommer discusses how, from the perspective of the Code, ‘tolerating illicit sex’ was a deeply unorthodox performance of masculinity, marking a husband as unrighteous and depriving him of virtue in the view of the state.³⁵ Thus, Lin’s neglect of chastity emphasized his guilt and made him an irredeemable patriarch.

Strikingly similar to the treatment of chastity martyrs, magistrates held the husband suicide victim to strict standards of virtue.³⁶ The role of husband alone did not guarantee judicial favor. Those who revised the Code appear suspicious of a weak husband’s ability to fulfill the expectations of the state. The Qing Code required the magistrate to provide evidence that proved refusal of adultery prior to death, and by inference a husband’s virtue; behavior that showed otherwise consequently transformed the category of the crime. Therefore, whereas suicide following adultery characterized a husband as less than ideal, suicide following tolerated adultery stripped a husband of all virtue. This scenario portrayed the husband as not merely an inadequate or incompetent supporter of the state’s conception of sexual morality and family order, but as starkly opposed to it. Thus, Lin not only fell outside the state’s vision of ideal masculinity in terms of husbandly response to adultery, but was even positioned outside the state’s compromised narrative of the suicidal husband.

Cases of husband suicide in the wake of adultery put husbandly virtue on trial. The case summaries of Wang Da, Yu Tian, and Lin K’o-chin illustrated three different

³⁵ Sommer, *Polyandry and Wife-Selling*, 277-308; 378-380. In cases that did not involve a homicide, some local magistrates allowed heterodox marriages to stand, showing compassion for the poor men and women who practiced polyandry or wife-selling in order to survive. However, in principle, Qing law criminalized this unorthodox behavior.

³⁶ Theiss, *Disgraceful Matters*, 191. Theiss states that “[women] were supposed to conform to rigid standards of chaste behavior, yet they could not avoid the suspicion that their weak moral fiber made chastity difficult, if not impossible, to maintain.”

judicial visions of husband suicide. However, in each case, an ineffective patriarch lost control of his wife and failed to emulate the state ideal of husbandly behavior following adultery. While the state approached these suicides with logic comparable to that of the female chastity martyr, Qing state hegemony did not stand to benefit from the male equivalent that highlighted less than ideal displays of husbandly virtue.

A Potential Lover Flirts with a Virtuous Wife and Causes a Husband to Commit Suicide

This chapter moves from a discussion of a husband's duty to discipline his unchaste wife to the idea that a wife's chastity was integral to a husband's sense of manhood. I examine one wife's confession included in a case of husband suicide in the wake of flirtation. This *xingke tiben* testimony provides another alternative vision of husbandly defense of chastity that undermined Qing state expectations, and continues to complicate our understanding of how the state approached unorthodox masculinities.³⁷

In 1767, a Hubei laborer named Zhao Tingzhen (age nineteen) discovered that his cousin Liu Dajun had propositioned his wife Ms. Dai (age twenty). In her testimony, Ms. Dai stated that Liu had entered her home while Zhao was out weeding a field.

One afternoon...Liu explained that his body ached and asked me to light a lamp for him. I told him that I had no oil. I then went to gather some leaves to make tea, when to my surprise, Liu entered the room and began to flirt with me. Liu grabbed me and would not let go. In anger, I slapped him and yelled, and he ran off. Still angry, I quickly went to the door and cursed him. 午候刘大俊走来向小妇人说他害气疼叫小妇人替他爆灯火，小妇人回说没有油，就近房去取茶叶泡茶，不料刘大俊跟进房去调戏，把小妇人扯住，小妇人气忿打了他一掌，叫喊起来他就跑了，小妇人气忿不过走出门前嚷骂。

After Liu left, Ms. Dai said, "everyone was out at work. No one came to inquire about

³⁷ XKTB, 220.4. This section examines Ms. Dai's testimony as recorded in Dr. Janet Theiss' research notes due to an inability to access the complete case.

me. I was unable to complain and had to tolerate my anger until my grandmother's brother, Liu Gaowang, returned home in the afternoon.” 一顿见勤坡都在做工，没人过来查问小妇人只得忿着换到下午去投诉舅公刘高王。

With this response, Ms. Dai emphasized her virtue. She repeatedly characterized herself as in a state of anger both during and after the incident, highlighting not only her emotional distress, but also the actions she took to resist her assailant. This description functioned to eliminate suspicions about Ms. Dai's potential consent. Ms. Dai's testimony also exposed the limitations of patriarchal protection. Zhao's work removed him from the home for long periods of time, which ultimately left Ms. Dai vulnerable. Frustrated by Zhao's absence and the lack of community support when Liu threatened her chastity, Ms. Dai emphasized her helplessness. Such testimony challenged the assumed security of the domestic space and questioned whether the state could expect a poor husband to protect his home and his wife.

Ms. Dai continued in her testimony, “my husband returned home later that night, and I explained what had happened. The next morning, he went to voice a complaint to Liu's landlord, and the neighbors came to discuss the incident.” 到夜间，丈夫回家，小妇人把这话向丈夫告诉了，到十一日，早丈夫去投鸣刘大俊的地主王禹卿，和邻佑们来理论。 Despite Zhao's efforts, Liu refused to take responsibility for his actions and the group dispersed. “The next day,” Ms. Dai told the magistrate, “my husband once again went to Liu's landlord and the neighbors to complain and Liu finally came to my house to offer a formal apology, but my husband and I did not accept.” 丈夫又去把这话向众人投诉众人，才叫刘大俊到小妇人家，替小妇人夫妇作揖陪礼。小妇人同丈夫

都不肯衣。

Ms. Dai described Zhao's refusal to tolerate the threat Liu had made against her chastity. Zhao, preferring to deal with the matter through local authorities, rather than through representatives of the central state, sought communal mediation to address this attack on his wife's chastity. Zhao, like Yu Tian, avoided trying to involve the *yamen*. However, unlike both Yu Tian and Wang Da, Zhao immediately announced this private matter to the community. Ms. Dai's testimony builds sympathy for Zhao by characterizing him as a restrained husband who demanded justice.

Discontented with the apology ordered by the local forum, Ms. Dai described how this disappointment affected Zhao. "My brother-in-law Liu Guoliang arrived and everyone consoled [us] with a few words and then left. I went with him to his home to watch the wheat and did not return home that night. Fearing that my husband was angry and upset at home, I returned in the afternoon. When I entered the house, to my surprise, I saw that he had hung himself in the doorway... Truthfully, my husband Zhao Tingzhen committed suicide because Liu Dajun flirted with me and his heart could not bear this, and he hung himself." 姊夫刘国染走来，大家又劝了几句，各自散去。小妇人就同姊夫刘国染往姊子家看麦，晚间不回家...怕丈夫在家里气恼，午候回家，不料走进房里只见丈夫吊死在房门上...丈夫趟廷珍，实因刘大俊调戏小妇人他心里不忿自缢。

Ms. Dai's testimony suggests that a wife's chastity functioned as a meaningful marker of identity for her husband as well as herself. Although the community ordered Liu to apologize for flirting with Ms. Dai, Zhao did not regard this punishment as suitable recompense for compromising his wife's chastity. Ms. Dai's narrative implied that this

inadequate remedy deeply affected her husband's emotional state of mind, portraying Zhao as a sympathetic defender of chastity.

After examining this case, it is difficult not to compare the judicial logic that guided this case with that of chastity martyrs. In particular, this case represented 'public defense of chastity' as an integral part of Zhao's personhood in a manner similar to cases of female suicide in the wake of flirtation. Theiss emphasizes the judicial controversy surrounding female cases, saying, "magistrates...talked about such deaths as preventable tragedies, the extreme response of hypersensitive women whose families had failed to comfort and reason with them." Furthermore, Chen Hongmou's handbook for women's education expressed an opinion mirrored in judicial commentaries. Theiss states, "Chen resolutely condemned the suicide of the insulted woman as an irrational and inappropriate act of blind fury."³⁸

Would Chen and other such magistrates have viewed Zhao's suicide as an 'act of blind fury' or a 'preventable tragedy'? Given the absence of judicial discourse surrounding male suicide, it is difficult to draw conclusions. However, at least in the case of Zhao, the magistrate's construction of Ms. Dai's testimony abstained from adopting an overtly disapproving attitude toward Zhao's 'humiliation suicide.' The testimony portrayed Zhao as sympathetic and Ms. Dai as blameless. Moreover, the magistrate sentenced Liu to strangulation after the assizes, identifying him as the sole culprit who caused Zhao's suicide. Considering the adjudication of husband suicide in the wake of adultery discussed above, the judgment in this case suggests that the magistrate regarded Zhao's behavior in confronting Liu prior to suicide as righteous.

³⁸ Theiss, *Disgraceful Matters*, 183-189.

Conclusion

Zhao's suicide, like that of the husbands discussed earlier in the chapter, did not conform to the Qing state's ideal vision of masculinity. The Qing Code permitted husbands to kill the adulterous couple upon catching them in the act. In this same scenario, the Code also allowed him to kill only the adulterous male and bring his adulterous wife into the *yamen* for punishment. Outside the Code, a husband could return his adulterous wife to her natal home, sell her, or simply walk away from the situation. In other words, unlike female chastity martyrs, husbands had options and alternatives to suicide. Thus, judicial elites did not imagine suicide a likely husbandly response to adultery, let alone flirtation. How then did judicial officials make sense of a husband's choice to commit suicide?

As we have seen, Qing discourse explained male suicide in terms of loyalty or humiliation. In these cases, however, we begin to see something quite different as the state applied this same logic to husband suicide in the wake of adultery. While judicial officials interpreted the humiliation of a husband suicide victim as a righteous expression of state orthodoxy, Ms. Dai's testimony and the above case summaries suggest that ordinary men viewed female chastity as part of their identity. Perhaps as an unintended consequence of the state's emphasis on the chastity cult, these cases provide a glimpse into the meaning and function of female chastity in ordinary men's sense of masculinity. These cases reveal how ordinary men reinterpreted state mandates on chastity in their own terms.³⁹ Qing judicial officials had no other choice but to respond to the unexpected

³⁹ Janet M. Theiss, "Femininity in Flux: Gendered Virtue and Social Conflict in the Mid-Qing Courtroom," in *Chinese Femininities/ Chinese Masculinities: A Reader*, ed. Jeffery N. Wasserstrom and Susan Brownell (Berkeley: University of California Press, 2002), 51-52. Theiss examines a case involving a husband named Fan who murdered his wife after she suggested that he could not "fulfill his Confucian masculine duty as

ways men adapted state orthodoxy, compelling them to create a compromised version of codified masculinity in tension with idealized notions of Confucian manhood.

What was it about husband suicide that so worried the Qing state? Why gender suicide as female? The compromised performance of husbandly masculinity integral to these cases resulted in an adjudication process fraught with judicial anxiety. A husband's decision to commit suicide, a recognizably feminine response to humiliation, inverted gender roles. Husband suicide in the wake of adultery fit uneasily into the gender paradigms of the state. As the following chapters of this thesis continue to show, husband suicide was only one of the problems with masculinity in the Qing.

This thesis moves from a conversation about judicial responses to patriarchal weakness in husband-killing cases towards a similar exploration of cases of excessive patriarchal abuse, the other end of the spectrum of husband failure. Almost as strikingly as in the cases involving a husband's decision to commit suicide, the magistrates who adjudicated the following husband-killing cases exhibited a remarkable amount of sympathy for the chaste wife who killed her less than ideal husband. What choices did a wife have once married to a wastrel or an excessive disciplinarian? How did the behavior of such husbands undermine a wife's own expectations of marriage and the state's interest in those expectations?

producer of sons," teasing him about his small penis. In his confession, Fan explained that he killed his wife because she had declared that "she would not remain chaste loyal to him after death." This case "offers a striking glimpse into how orthodox chastity norms could be internalized, reinterpreted, and mingled with feminine and masculine identity." The husband suicides discussed in this chapter open up further discussion about ways in which husbands viewed female chastity as integral to their self-worth.

CHAPTER 2

“THERE IS NOT EVEN THE LEAST BIT OF GOOD IN MY LIFE”: JUDICIAL SYMPATHY IN HUSBAND KILLING CASES

As with male suicide, Qing judicial discourse remained relatively silent on issues of husband killing. Designating it as one of the “ten abominations,” the Code recommended the strict punishment of slow slicing for a wife who killed a husband, and thus few statutes and commentaries discussed this seemingly straightforward issue.⁴⁰ How did Qing judicial officials imagine a wife who killed her husband? This chapter draws from the Qing Code and *xingke tiben* to answer this question. After an examination of husband killing in the Code, I analyze three such cases that fell outside the Qing state’s idealized vision of marriage, highlighting areas of patriarchal abuse of authority that complicated the state’s notion of orthodox masculinity, in addition to female rhetoric about expectations of marriage and reactions to male failure.

Husband-Killing in the Qing Code

Husband killing occupied a small space in the Qing Code. Section one of the statute on “plotting the killing of paternal grandparents and parents,” (謀殺祖父母父母)

⁴⁰ Jones, “The Ten Great Wrongs,” in *The Great Qing Code*, Art. 284.

states that “In the case of anyone who plots to kill...a husband...If the killing has taken place, then all will be condemned to death by slicing.”⁴¹ 凡謀殺...夫...已行...已殺者，皆凌遲處死。 This statute categorized husband killing among the crimes of juniors plotting to kill superiors who share a second degree mourning relationship. Amid the seven statutes listed, none concern husband killing, and noted commentator Xue Yunsheng made no remark on the matter. This absence suggests that magistrates viewed the adjudication of husband killings as legally uncomplicated and uncontroversial. Furthermore, judicial logic recommended clear-cut punishment for husband-killers. Regardless of reason or circumstance, a wife who killed her husband overturned patriarchal hierarchy and thus deserved the harshest punishment. In principle, magistrates lacked motivation to argue for leniency or consider mitigating factors during the adjudication process.

Outside the statute on “plotting the killing of paternal grandparents and parents,” the Qing Code envisioned only two scenarios for a wife to harm her husband: intentional and unintentional killing of a husband because of adultery, and unintentional beating of a husband to death.⁴² Magistrates faced with such crimes administered laws characterizing a husband-killer as either unchaste or disobedient, but always as a generally wicked woman. A statute to the statute on “killing the adulterous male” states that “all wives or concubines who, because of adultery, plot to kill their own husband will be condemned to death by slicing. The adulterous lover will be condemned to beheading (after the assizes).”⁴³ 其妻妾因姦同謀殺死親夫者，凌遲處死。姦夫處斬（監候）。 Subsequent

⁴¹ Statute 03, DLCY, *juan* 32.

⁴² Jones, *The Great Qing Code*, Art. 285; Art. 315.

⁴³ Jones, *The Great Qing Code*, 271.

substatutes delineate levels of culpability among those involved in the crime. In particular, substatute three states, “If the adulterous wife intentionally kills her husband, and the adulterous male has no knowledge of the plot, he shall be punished [only] for the crime of adultery.”⁴⁴ 姦婦自殺其夫，姦夫果不知情，止科姦罪。In addition, section one of the statute on “wives and concubines who beat their husbands” specifies that “whenever a wife or concubine beats a husband...if the husband wishes to divorce her, he may do so because the bond of righteous affection between them is already broken.”⁴⁵ 凡妻毆本夫，如本夫親告，又復願離，恩義已絕。In particular, Xue Yunsheng argued for heavier punishment than recommended by the Code in cases of husband beating. “For a wife to beat a husband is an example of one of the ten abominations. [Wives] who cause injury [to their husbands] ought to be sentenced to exile; how can a monetary fee serve to recompense for such an offense?”⁴⁶ 再妻毆夫，載在十惡，毆傷即應擬徒，豈得概准納贖。Magistrates viewed even the slightest act of violence toward a husband, let alone intentional murder, as a vile offense demonstrating a wife’s bad character, and deserving of harsh punishment with no consideration of leniency. The Code, therefore, explained husband killing under the assumption that only unvirtuous wives commit acts of violence against a husband.

Husband killing cases from the *xingke tiben*, while unambiguous in terms of sentencing, indicate that judicial attitudes toward a wife who killed her husband were more complicated than the clear-cut approach of the Code. In some cases, magistrates

⁴⁴ Statute 4, Substatute 03, DLCY, *juan* 32. Intentional husband killing by a wife often involved an outside male.

⁴⁵ Statute 2, Substatute 01, DLCY, *juan* 36.

⁴⁶ Xue Yunsheng, Statute 2, Substatute 01, DLCY, *juan* 36.

employed rhetorical strategies that built sympathy for a husband-killer. The culprits' testimony, in such cases, emphasized the role a husband's misconduct played in shaping her actions, and thus presented an alternative characterization of the husband-killer as an unfortunate victim of patriarchal abuse.

Judging Husband-Killers

This chapter examines three nonadultery husband-killing cases. The first involves Ms. Lai (age twenty-nine) from Guangdong who poisoned her husband Huang Yigong in hope of remarrying. Ms. Lai's plan, however, was short lived once her brother-in-law identified her as the murderer. The second involves Ms. Huang (age eighteen) from Guangxi who strangled her husband Gan Zichi (age nineteen), while the third involved Ms. Wang (age nineteen) from Xi'an who shot her husband Han Yangming. In these two particularly violent cases, both Ms. Huang and Ms. Wang did not plot to remarry as Ms. Lai had contemplated, but rather intended to kill their husbands and then themselves. After having successfully carried out the first part of this plot, neither wife had the opportunity to commit suicide before nearby family or neighbors discovered them. In the 17th year of Qianlong's reign (1752), all three wives were sentenced to immediate death by slow slicing as a wife who intentionally killed her husband.

The Qing Code ordered strict and severe punishment for husband-killers, making clear that no amount of husbandly vice warranted leniency for such criminals. Despite this straightforward logic, I argue that the following case reports express sympathy for a wife who killed her husband, containing rhetorical strategies that portrayed husband killing as aggravated homicide caused by patriarchal failure. The confessions of Ms. Lai,

Ms. Huang, and Ms. Wang describe marriage as an unbearable existence that they were unlikely to survive, stressing the physical and verbal abuse they and surviving parents-in-law suffered under their husband's authority.⁴⁷ Intriguingly, the rhetoric deployed to describe these husbands echoed literary archetypes of wastrel husbands to help explain the motives of homicidal wives whose actions fit uneasily into the paradigms of legal and popular culture.

Judicial Sympathy in Spousal Homicide

A brief look at the adjudication of wife-killing demonstrates the function of judicial sympathy in spousal homicide cases, serves as a useful comparison with husband-killing, and introduces how elite gender assumptions shaped law. Nearly as clear-cut as its treatment of husband-killers, the Qing Code's sentence for a husband who killed his wife was strangulation after the assizes. This statute reinforced the ideal notion of the husband as 'limited disciplinarian' who acted with restrained violence to discipline an insubordinate wife, severely punishing those husbands who behaved otherwise. However, unlike a husband-killer, a wife-killer could potentially evade the death penalty during the assizes.

In "Explaining the Shrew" Janet Theiss explains that magistrates created exceptions to the normal standards for judging wife-killers that allowed leniency.

...judicial officials had to choose whether to narrate the case so as to maximize or minimize the husband's guilt. They did this not only by labeling the homicides intentional or unintentional but also by highlighting circumstances that either mitigated the defendant's guilt, like a wife's misbehavior, mental illness, or evidence of the accidental nature of the fatality, or compounded it, like the

⁴⁷ Only 2 of the 3 cases examined in this section include testimony from parents-in-law.

defendant's immorality or 'bad personality or the wife's virtue.'⁴⁸

Theiss highlights the large degree of narrative flexibility magistrates had in sentencing a wife-killer. A magistrate was therefore likely to sympathize with a husband who used excessive violence to discipline an overly aggressive and disobedient wife who refused to conform to the wifely way. If a magistrate looked upon a wife-killing with compassion, the culprit had an opportunity to receive a lighter sentence.

How would such a magistrate successfully convince those reviewing his report to agree with his sympathetic interpretation of the case? As Theiss points out, magistrates accomplished this by likening the wife/victim's behavior to that of the well-known literary figure: the shrew. "A wife's unfiliality toward her husband's parents, a classic component of the shrew's repertoire, was one prominent mitigating factor, which, in 1762 (Qianlong 27) was incorporated explicitly into the Code's section on the assizes process."⁴⁹ Thus, literature merged with law and became an important tool for understanding marital strife that shaped the construction of judicial arguments about domestic violence. Magistrates who decided to characterize a victim of wife-killing as a shrew produced an image of an aggrieved husband whose marital problems originated with his unvirtuous wife. This put forth the argument that a husband who by chance killed a shrew deserved judicial benevolence.

For example, emphasis on the unfiliality of the victim in the following case functioned as an indicator of judicial sympathy and eventually leniency for a wife-killer. The magistrate described Mr. Yu Chengzheng's wife as having a 'bad temper.' The confession of Mr. Yu's mother bolstered this characterization, painting her as a generally

⁴⁸ Theiss, "Explaining the Shrew," 6.

⁴⁹ Theiss, "Explaining the Shrew," 55-57.

neglectful daughter-in-law. On the day the murder, Mr. Yu told the magistrate that his wife refused to bring his mother noodles when food was sparse. This so angered Mr. Yu that he beat her with a brick and unexpectedly killed her. The magistrate, while critical of Mr. Yu's excessive violence, argued that the culprit had rightfully intended to discipline his unfilial wife, not kill her. The shrewish behavior of Mr. Yu's wife created sympathy for him in the eyes of this magistrate, and instead of strangulation, Mr. Yu was sentenced to one hundred strokes of heavy bamboo and life exile.⁵⁰

Interestingly, regardless of the legal impossibility of leniency, some intentional husband-killing cases attributed the same 'shrewish' trait of unfiliality to the misbehaving husband. For instance, the case involving Ms. Lai, who deliberately poisoned her husband, Guang Yigong, conveys similar sympathy for the spousal homicide culprit.⁵¹ The magistrate's summary described Ms. Lai's husband as an "unemployed idle drunkard," and highlighted the impact his wasteful and immoral behavior had on his family. "[Guang] has an idle disposition, is fond of alcohol and does not work. He sold all of her clothing and ornaments and exhausted almost completely his own carpentry tools." 素性游荡好酒不务工作, 将赖氏衣饰花消殆尽复将本木作器具一并变卖. Ms. Lai told the magistrate that, "In the first week of the fourth month of Qianlong 17, my husband was out and had not returned home for many days, there was no rice in the house to cook. He never looked after my mother-in-law, and always went to his elder brother's house to eat while I starved." 乾隆十七年四月初间, 丈夫连日外出不归家里没米煮饭. 他总不管婆婆, 到夫兄黄仁恭...家去吃饭, 小妇人没法只得饿了. Ms. Lai's

⁵⁰ The summary of this example wife-killing case is taken from Janet Theiss' "Explaining the Shrew" article. See Janet Theiss, "Explaining the Shrew," 55-57.

⁵¹ XKTB, 195.3.

confession exposed Guang as both a negligent husband and unfilial son, frequently abandoning wife and mother without food while he indulged himself elsewhere.

On the other hand, the case eliminated shrewishness as a characteristic of the homicidal wife. In her testimony, Ms. Lai stressed her reluctance to criticize her husband, suggesting she only did so out of desperation. “On the 5th, my husband returned home drunk, and because I couldn’t stand the suffering, I spoke honestly with him. He beat me brutally, and he said that he ought to kill me.” 几月初五日，丈夫酒醉回家，小妇人因受苦不过据实说他几句，丈夫又把小妇人毒打，并说必要致死小妇人. Ms. Lai’s description of marriage juxtaposed Guang’s cruel temperament with her sincere concern, painting herself as a sympathetic figure who happened to marry a man who abused her excessively and did not care whether she lived or died. Ms. Lai distinguished herself from a shrew who henpecks her husband out of jealousy or selfishness by emphasizing the legitimacy of her grievances and the unreasonable attitude of her husband.

In both types of spousal homicide, magistrates often turned to surviving parents-in-law to evaluate the marriage and support their understanding of the case. As with the above wife-killing case, such testimony reveals clear signs of judicial sympathy for a husband-killer. In this case, Ms. Lai’s mother-in-law told the magistrate about her son’s bad behavior, saying:

My son Yigong had once been a carpenter, but because of his idleness and fondness for alcohol, he was unwilling to work. He pawned off all of my daughter-in-law’s clothing bit by bit and wasted the money he got. Later he sold off even his tools. He never did work, and the family is so desperately poor, it’s hard to get by. My daughter-in-law often pleaded with my son to do a little work. My son has a bad temper, and often beat and cursed my daughter-in-law....my son Yigong was gone for many days at a time, and didn’t come home, there was no rice in the house to cook, and he also didn’t take care of me. 儿子义恭原会做木匠，因他游荡好酒不肯做工，把媳妇衣服陆续当卖花消，后来连木匠的器

具都拿去卖了，竟不做工，家里穷苦，难过日子，媳妇时常劝儿子做些生理，儿子性气不好，又把媳妇打骂...儿子义恭连日在外，没有回家，家里没米煮饭，他也不管小妇人。

Comparable to the negative remarks made by Mr. Yan's mother against her daughter-in-law, in this case, Ms. Lai's mother-in-law, Ms. Ye, verified her son's neglect and criticized his disciplinary methods.

Strikingly, while the magistrate could have simply composed a case that painted Ms. Lai, a wife who killed her husband and therefore exhibited an extreme display of defiance, as a shrew, she does not come across as such in the final case report. Rather, the magistrate did not fixate upon Ms. Lai's disobedience, but instead primarily focused on the hardship placed upon her and her mother-in-law by an immoral husband. Just as characterizations by magistrates of shrewish wives used the same tropes found in fictional constructions of the shrew, this magistrate used tropes associated with the literary construction of the wastrel to emphasize the victim's failure as a husband and show judicial sympathy for a husband-killer.

Killing the Wastrel

In popular fiction, the wastrel often represented as young disobedient son who wastes money. “[The wastrel] is central because he is the one who can most effectively threaten everyone else's present and future...the wastrel will never change except if the superior woman sets things straight again...he is inherently weak.”⁵² The husband-wife relationship presented in the case of Ms. Lai echoes this literary model. The magistrate

⁵² Keith McMahon, *Misers, Shrews, and Polygamists: Sexuality and Male-Female Relations in Eighteenth-Century Chinese Fiction* (Durham, NC: Duke University Press, 1995), 8.

illustrated Ms. Lai as a wife who attempted to lead her wastrel husband down the right path.

Ms. Lai pleaded with Gongyi daily and was repeatedly beaten and cursed by him. The marriage was unharmonious...Ms. Lai starved for many days. Before the 5th, Yigong returned home drunk, and Ms. Lai voiced her complaints. In response, Yigong brutally beat her, declaring that he wished her dead. Since Ms. Lai was subjected to extreme poverty and constant humiliation [by Gongyi], she suddenly sprouted the idea to kill him. 賴氏勸諫屢被毆罵，夫婦不和已非一日...賴氏...連日飢餓...迨初五日，義恭酒醉回家，賴氏口出怨言，義恭復將賴氏毒毆，聲言必欲致死，賴氏既受貧困復被凌辱，輒萌毒死丈夫之念。

Rather than interpreting Ms. Lai's outspoken disapproval of her husband as a sign of willful disobedience unbefitting a wife, the magistrate clearly portrays her remonstrating with her immoral husband, suggesting that he found this behavior permissible. This testimony, as well as that of her mother-in-law, highlighted wifely refusal to tolerate husbandly idleness. Ms. Li repeatedly complained to Guang about the lack of food and actively attempted to persuade him to find work.

Late imperial fiction often represents the wastrel as a redeemable figure. For instance, Pi Wu's rags-to-riches story in the novel *Qingfengzha* portrays the morality of a wastrel improving along with the quality of his economic situation. Acquiring his wealth through gambling, Pi Wu becomes an affluent merchant, gives up alcohol, and turns his life around to the amazement of those around him.⁵³ The case, however, differentiated Guang from the redeemable wastrel, highlighting his obstinate opposition to reform as he responds poorly to the remonstrations of a 'superior woman.' Guang's stubborn disposition undoubtedly built judicial sympathy for her. In comparison, Ms. Lai comes across as especially filial, worried about her mother-in-law's welfare as well as her own.

⁵³ Margaret B. Wan, "Local Fiction of the Yangzhou Region: *Qingfengzha*," in *Lifestyle and Entertainment in Yangzhou*, ed. Lucie Olivova and Vibeke Bordahl (Copenhagen: NIAS Press, 2009), 11.

Thus, by characterizing her husband as an irredeemable wastrel, the case minimized Ms. Lai's moral culpability as it highlighted Guang's inability to fulfill his familial obligations. Faced with a spouse like Mr. Yu's shrewish wife who refused to conform to traditional gender expectations, this magistrate suggests that Ms. Lai's homicidal intent was, if not justifiable, to some extent understandable.

Furthermore, the pattern of judicial sympathy in this husband-killing case proposes that the magistrate, despite legal limitations, may have felt genuine compassion for a wife married to a failed patriarch. Ms. Lai's confession explained the logic behind her homicidal actions. "Enduring this suffering and being humiliated, it was truly difficult to go on. Suddenly I got the foolish idea to poison him and remarry." 小妇人想这样受苦，还要被他凌辱实时难过，一时愚昧起想毒死丈夫，想另嫁别人. Ms. Lai suggests that Guang was not treating her like a wife. Ms. Lai had a different expectation of marriage and saw Guang's death as a way for her to escape her current torment. Once again, this confession separated Ms. Lai's characterization from that of the shrew, describing no pattern of misbehavior of her part. Instead, the case report depicted Guang as beating, scolding, starving, and explicitly threatening to kill Ms. Lai, as he ignored his responsibilities as a husband. The magistrate thereby explained how Guang created an intolerable living condition that led her to act upon a 'foolish idea.'

While evoking the shrew might lighten punishment for a wife-killer, the Code prohibited magistrates from interpreting wastrel behavior as grounds for leniency in husband-killing cases. It seems a sympathetic husband-killer might only receive leniency if the homicide victim himself tolerated adultery prior to his death. Similar to the judicial disposition of the husband suicide victim, polyandrous husbands who shared their wives

with another man rendered themselves irredeemable from the standpoint of the Code. For example, a 1749 case involved a Shandong wife named Ms. Zhang who killed her husband because he compelled her to prostitute herself for his financial gain.⁵⁴ Ms. Zhang, like Ms. Lai, characterized her husband as a wastrel, emphasizing his economic failings. However, unlike Ms. Lai's case, Ms. Zhang's confession included evidence of a specific type of husbandly immorality, a complete disregard for wife's chastity. As a result, Ms. Zhang avoided death by slicing and was sentenced to beheading after the assizes.⁵⁵ In this case, husbandly misconduct functioned to decrease a husband-killer's culpability. Thus, judicial officials interpreted polyandry as the chief, if not only, form of husbandly weakness that they could *not* tolerate and they made a priority to punish. Nevertheless, it is difficult to ignore the sympathy expressed for Ms. Lai, who did not receive leniency, throughout the case report. How are we to understand a magistrate's decision to include sympathetic rhetoric in such husband-killing cases? Considering elite notions of husbandly temperance and restraint helps to make sense of this seemingly irrelevant narrative approach.

Judicial Sympathy for a Husband-Killer

Ideally, the Qing state expected a husband to embody the Confucian role of disciplinarian and educator in his relationship with a wife. As discussed above, a husband's responsibility included the punishment of an unvirtuous wife; however, the state also assumed that a husband would exhibit 'moral restraint' when disciplining his

⁵⁴ Sommer, *Polyandry and Wife-Selling*, 69-70. Sommer includes this case in his larger discussion of attitudes toward polyandry.

⁵⁵ Sommer, *Polyandry and Wife-Selling*, 69-70. See note 26 for sentencing.

wife, and thus promote her womanly virtue. Theiss discusses the influence Qing scholar-official Wang Huizu's "Handbook for the Regulation of Family Life" had on official standards of morality.

[Wang] pointedly notes that it is men who are responsible for cultivating women's virtue...[saying that] "Therefore, if a man is filial, his wife surely will not dare to be unfilial and unharmonious. Wives' lack of virtue is caused, for the most part, by men"...Wang thus articulates a practical, if elitist ethic of male self-containment, interpreting violent behavior in general as a result of ignorance and lack of self-control, and female misbehavior and marital strife in particular as signs of the failure of masculine authority.⁵⁶

Wang understood wifely virtue as a reflection of husbandly virtue and defined moral masculinity in terms of the husband-wife relationship. The state did not expect a husband to tolerate wifely disobedience, but also did not expect a wife to endure excessive violence from her husband. Wang indicates that a wife should anticipate a reasonable degree of husbandly guidance and care. Moreover, Wang reveals that magistrates were critical of the influence a weak husband had on his wife, requiring his morality as the underlying criteria for a harmonious marriage.

I suggest that magistrates approached the following violent husband-killing cases discussed in this section with this framework in mind. Sympathy for a husband-killer thereby highlighted what was at stake for the Qing state if husbands failed to perform ideal Confucian masculinity: a broader failure of masculine authority that included husbands. In the eyes of this magistrate, Ms. Lai's desperate choice to kill her wastrel husband revealed one disastrous consequence of unhusbandly behavior that, regardless of intention, symbolized a public challenge to patriarchal authority.

Furthermore, the legal impossibility of leniency increased the authorial freedom

⁵⁶ Theiss, "Explaining the Shrew," 47-48.

of the magistrate to communicate these opinions in case reports. Without having to worry about how his narrative might influence final sentencing, the magistrate could freely criticize the victim/husband. As these cases provided a space for magistrates to explore the motivations of a husband-killer, magistrates drew upon the wastrel to narrate this departure from the notion of husband as restrained disciplinarian and educator and explain the actions of a homicidal wife.

The magistrates in the subsequent husband killing cases adopted Wang's approach to domestic violence by portraying the culprit as an uneducated and overly abused wife of an ignorant and wastrel-like husband without self-control. The characterization of a husband killed by his wife within these cases reveals judicial anxieties about the danger that an unsuitable patriarch posed to the Qing state's vision of marriage that rested upon the foundation of husbandly virtue. These cases thus undermined the Qing Code's fixed description of the husband-killer as a singularly fiendish and irredeemable example of womanhood. Moreover, these cases expressed women's unmet expectations of marriage. Their testimonies criticized marriage and complicated late imperial orthodox notions of ideal masculinity, functioning not only as lasting testaments to female personhood, but also as real examples of the dangers that flawed patriarchs posed to the stability of social and moral order.

A Desperate Wife Strangles Her Abusive Husband

As a "child bride" (*tongyangxi*), Ms. Huang married her husband, Gan Zichi, at the age of eleven.⁵⁷ The magistrate's summary mentioned that the childless couple had

⁵⁷ XKTB, 192.10.

been “unharmonious” (*subu hemu* 素不和睦) during their seven years of marriage. In her confession, Ms. Huang described Gan’s abuse as unbearable. “My husband has a bad temper and regularly beats and scolds me. How am I to carry on living? I often stay at my mother’s home.” 丈夫性气不好，时常打骂小妇人，如何过得日子，原到娘家多住。 Her in-laws confirmed Ms. Huang’s claims of ill-treatment. One evening in 1752, Gan angrily scolded his wife and the couple began to argue. Ms. Huang told the magistrate that, “I returned to my mother’s home to pay a new year’s visit. My husband did not accompany me...My father told me to return to my husband’s home because the harvest season had ended. In the afternoon, my husband arrived home with some rice and corn. As soon as he saw me, he looked angry.” 小妇人回娘家拜年，丈夫没有同去...父親因农工近了，叫小妇人转回夫家...上午丈夫挑有一斗米一斗谷回来，见了小妇人就是气恼地样子。

Ms. Huang emphasized her obedience despite Gan’s bad mood. “He took off four pieces of clothes and ordered me to wash and dry them. I obeyed. Once he saw the washed clothes, he vehemently scolded me for doing a poor job and ordered me to re-wash them. I obeyed, and washed them a second time. Once again, he said that the clothes were not clean. This clearly shows that he was looking to quarrel.” 脱下四件衣裳叫小妇人洗了，用饭汤浆好，晒在屋边，丈夫看见就乱骂洗得不好，叫小妇人再洗。小妇人又浆洗了，丈夫又说洗净。这明是寻闹了。 Ms. Huang expressed her frustration, saying, “my heart refused to submit and I quarreled with my husband for a moment. He wanted to beat me.” 小妇人心里不服，与丈夫争吵了几句，丈夫就要打小妇人。

Later on, Ms. Huang returned with water to boil for lunch, but Gan would not allow her to eat. Ms. Huang continued to describe her husband's excessive physical and verbal cruelty, mentioning that her parents-in-law disapproved of Gan's disciplinary methods.

That evening, mother-in-law privately gave me some food to eat. When my husband found out, he cursed me saying, 'you like to eat but are too lazy to work, you often stay at your mother's home, and you can't even clean clothes properly, why should I give you food?' He grabbed a bamboo cane and began to beat me violently. Father- and Mother-in-law came and persuaded [him to stop]. When he replied, 'beating my wife does not concern you,' and ruthlessly beat me. He had dropped the cane, I went and cried in the kitchen. 天晚时是婆婆私下拿饭与小妇人吃了, 丈夫知道骂小妇人, 好吃懒做, 常回娘家, 连衣服都不会浆洗, 还给他饭吃做什么。就那一根荆竹把小妇人乱打公婆来劝, 丈夫说我打老婆何用你们来管, 把小妇人狠打了一回, 才丢了荆竹, 小妇人在厨房哭泣。

Ms. Huang portrayed Gan as abusive not only toward her but also toward his parents.

With this description, she portrayed Gan as a generally unfilial and abusive man. In comparison with Gan's characterization, Ms. Huang did not attempt to portray herself as the pinnacle of womanly virtue. She did not rebut Gan's accusations, declining to challenge the idea she was incompetent at household chores or to suggest that she was obedient (*xin li bu fu*). Interestingly, while depicted as falling short of the wifely way, the case nevertheless presents Ms. Huang as the narrative's victim.

That night, Gan continued to abuse Ms. Huang by humiliating her natal mother. Once Gan had entered the room to sleep, she explained that "while in bed, my husband cursed my mother saying, 'it's no surprise that a dim-witted mother would give birth to a dim-witted daughter. I should kill you and remarry a good wife. I do not fear your ghost.'" 睡在床上, 还千你娘万你娘的骂说有那样不长进的娘生这样不长进的女。我必要打死了另娶一个好的。我是不怕人讨命的。 Gan scolded Ms. Huang until

around midnight.

Supporting the characterization of Gan as an uncommonly severe disciplinarian, Ms. Huang described the insults Gan made against her mother and herself as evidence that Gan had failed in his obligations as a husband. “Hearing him thoughtlessly curse my mother, I became truly angry, and even more so, upon hearing him say that he wanted to remarry a good wife. This clearly shows that he did not want me and earnestly wished to kill me.” 小妇人听他牵我母亲混骂实是气恼又听得他说要另娶一个好的，这明是不要我巴，不得我死得了。 With this response, Ms. Huang implied that Gan had wounded not only her physical body, but also her sense of personhood: her pride, sense of security, and self-worth.

Disappointed with marriage, Ms. Huang expressed a desire to take revenge against Gan. “I thought I would never have any good days. Angry with my husband, I began to consider suicide, but that would give him the chance to remarry and benefit from my death. Therefore, I thought it better to kill him first.” 料想没有什么好日子了，原想自己寻个自尽又气他不过正好给他另娶受用，因想不如我先弄死了他。 In juxtaposition to the miserable reality that she had tolerated for many years with her husband, Ms. Huang painted a picture of what she had hoped marriage would be like.

In my heart, I thought other couples have arguments, but they also have good days. I have been married to Gan for six or seven years, and I have only been beaten and scolded. He even humiliates his parents. It looks like he truly does not want me. One day he will finally beat me to death. I thought about this matter over and over again, and concluded that there is not even the least bit of good in my life. I made up my mind to kill him and then hang myself. 心里想别人家夫妇相闹，也有好的日子。我嫁他六七年只管受他打骂，连父母他耻辱，看他光景是直不要我的了。终有一日被他打死，左思右想，并没有一点好处，拿定主意弄死了他，自己也吊死了。

Upon hearing the shouts from the bedroom, Ms. Huang’s in-laws burst through the door.

As they entered, they saw Gan's corpse laid on the bed with a rope tied around his neck and Ms. Huang standing beside him.

Ms. Huang entered marriage with a set of expectations. By the time of the murder, she determined that what she had experienced was not in fact a marriage. In addition, her testimony presented a conception of marriage that aligned with elite expectations of a husband as an educator and limited disciplinarian. While Ms. Huang understood marriage to include a certain amount of physical discipline and quarreling, she did not imagine marriage as overwhelming physical and verbal assault from her husband. Through excessive discipline, denying food, demeaning her personhood, and cursing her mother, in addition to his own parents, Gan created an intolerable marriage. Gan unsuccessfully instructed his wife in household management and approached her shortcomings not with restraint, but instead with unbridled physical and verbal assault. The correspondence between elite and female expectations of marriage in this case reflects the critical attitude of the magistrate toward Gan, but also a wider criticism of patriarchy led by failed husbands, pointing out the flaws in the system that brought this wife to kill her husband.

Ms. Huang's testimony also suggested that Gan failed her emotionally, implying that she expected, to some degree, that a husband and wife would share an emotional bond. Instead, Ms. Huang's story revealed that Gan's mother and her natal mother were her emotional support. In the end, the magistrate's portrayal of Ms. Huang's confession left the impression that Gan's excessive abuse put him at fault for his wife's unvirtuous actions, while Ms. Huang herself remained a sympathetic victim of his abuse. However, despite the magistrate's compassionate attitude, Ms. Huang received no leniency, as no room for leniency existed for the 'wicked' husband-killer in the Qing Code.

An Aggravated Wife Shoots Her Callous Husband

Magistrates did not require evidence of prolonged abuse to establish sympathy for a husband-killer. For example, Ms. Wang and her husband, Han Yangming, had been married only four months.⁵⁸ Compared to the previous case, which emphasized marital conflict over an extended period of time, this case described the couple's relationship as "harmonious in the beginning" (*chuze hexie*) 初则和谐. However, Han soon began to criticize Ms. Wang's poor cooking. The magistrate reported, "Ms. Wang was a bad cook, and over time they humiliated and cursed one another. [Ms. Wang] had just married into this family and was unsure about household duties. If [Ms. Wang] asked Han about such matters, he responded with only harsh words. The affection between husband and wife was not close." 王氏炊爨不工，渐乖离时相诟谇，氏因初至未谙家务，询及养明，亦无温语回答，伉俪请疎.

With this summary, the magistrate highlighted Han's reluctance to educate his wife in matters of household management. In addition, like Ms. Huang, Ms. Wang maintained a relationship with her natal home. Ms. Wang complained to her father, saying, "I told my father [about the situation], and he persuaded me to be patient, and also because my husband has a bad temper, I did not dare to argue with him." 会经告诉父亲王能，劝小妇人忍耐，又因丈夫性子不好，不敢同他吵闹. Ms. Wang characterized herself as properly submissive by including her father's demand for patience and her reluctance to argue with Han.

This case's description of patriarchal abuse emphasized verbal cruelty and failure

⁵⁸ XKTb, 198.3/209.16.

to communicate as the main cause of marital conflict, as opposed to the emphasis on physical abuse in the previous case. In her testimony, Ms. Wang established Han as an impatient husband, quick to scold her.

In the beginning, our marriage was good. At the end of October, I don't remember what day, I overcooked lunch and my husband became angry and refused to eat. He scolded me, saying, 'you have been raised by a donkey and you are a useless thing, you can't even make food, how are you going to manage the house! What do I keep you for?' Afterwards, he was detested by me, was often angry, and didn't speak much. 初夫妇原是和好的到十月尽间记不清日子，因做午饭把摸摸烧的焦若了，丈夫害气不吃就骂小妇人是驴养的竟是不中用的东西，连饭也不会做了，如何管家还要你做什么，从此他厌恶小妇人时常惹气不多说话。

Han, like the husband in the previous case, humiliated his wife for her lack of domestic skills, an important marker of personhood for both women. In particular, these cases linked youth and inexperience to explain the domestic conflict between husband and wife, characterizing both husbands as unsuccessful cultivators of wifely virtue. One symptom of this inexperience was each wife's attachment to her natal family, which became a chief issue in domestic disputes. In this case, Han involved Ms. Wang's natal family in their arguments, saying that her inadequacy stemmed from an improper upbringing. Like Ms. Wang, many wives remained in close contact with their natal families and, if possible, it was considered proper for a wife to visit home on the New Year. Therefore, Han's shaming of her mother struck a personal chord with Ms. Wang.

Moreover, Ms. Wang's response suggested that she expected some degree of communication and understanding from her husband. "I just came to my husband's house, and did not know much about the household. He didn't have any good words to say to me, and continuously scolded me. I could only cry in anger." 小妇人才到他家，诸事不晓得，问丈夫总没有好语回答，还要嗔骂小妇人，只是气得哭。

According to Ms. Wang's testimony, the couple argued over a quilt on the night of the murder and Han denied Ms. Wang room on the kang to sleep.

I sat near the kang entrance by the fire making shoelaces. I was about to go to sleep, but because my husband held the quilt tightly around him, as I pulled it, the threads tore. My husband scolded me saying, 'You're a useless thing, raised by a donkey.' You destroyed the quilt. He kicked me twice and cursed me again saying I was a useless thing, raised by a donkey and that he didn't want to share a bed with me. I could only get up and sit by the side of the kang.' I was angry, and began to cry. 小妇人还在炕门前，趟着火亮打完一条鞋底绳子，也上炕去睡，丈夫把被窝紧?在身上，小妇人用手扯被，不料扯裂线绛，丈夫就骂瞎驴养的，把被扯碎了，用脚蹬了两下，又骂不中用的，驴养的，不许同睡。小妇人只得起来座在炕边，心里生气，眼里淌泪。

While this case depicted Han as less physically violent than the husband in the previous case, both husbands explicitly told their wives that they were without practical use and failed to fulfill their proper obligations. In addition, Han denied his wife basic necessities of life, like a place to sleep, which emphasized his failure. Like Ms. Huang, Ms. Wang described how her husband's words, disparaging her as a wife undeserving of practical comforts or respect, wounded her psychologically.

I began to think about how since we have been a couple, he would often scold me because of the slightest offense. I suffered all the time, and now he did not want us to sleep together, and had kicked and scolded me. Even if I desired to argue back, he is a man, I am no match for him. A man such as this is no good for me. The more I thought the more I hated [him]...[I thought] it's better to use the gun to kill him and then kill myself, then it all will be over with. 想起，小妇人与他是个夫妇平日稍，不如意受他零碎辱骂也多了，如今又不许同睡，还要打骂，欲要与他争骂，他是男子汉敌他，不过这样丈夫活着也，没好处，愈想愈恨...上有鸟枪，不如把他打死了，自寻死路，也完结了。

Han had brought a loaded gun home upon returning from the mountains, intending to shoot a deer. Ms. Wang saw the gun propped up on the wall, grabbed it, steadied it against a stool near the bed, and shot her husband. Despite clear intent, this case presented Ms. Wang as a sympathetic figure. Ms. Wang argued that Han created an

unbearable life for her, leaving her degraded, beaten, and without the slightest demonstration of affection. Likewise, Ms. Wang's confession showed that Han had fallen short of state expectations. The case clearly suggests that Han's failure to embody the role of educator and restrained disciplinarian aggravated Ms. Wang to commit homicide. Nevertheless, Han's abuse did not warrant Ms. Wang's actions nor could it mitigate her sentence.

The characterization of marriage in the above two cases challenged the gendered assumptions that guided Qing legal logic. While the state imagined husbands as educators and limited disciplinarians, these cases portrayed the husband as an excessively abusive patriarch who failed to fulfill this ideal. In addition, while the state imagined a wife who killed her husband as unvirtuous, these cases built sympathy for the husband-killer, emphasizing her reasonable expectations of marriage. Therefore, in contrast with the Code's emphasis on the immoral and fiendish wife, these cases highlighted male failure as an alternative explanation for why a wife would kill her husband. An examination of the culprits' testimony provides a traditionally underexplored female perspective on domestic conflict. Nonetheless, neither a magistrate's personal sympathies for the maltreated culprit nor the persuasiveness of the testimonial narrative recorded in the case report could lessen a husband-killers' sentence. The Qing Code provided clear and immediate punishment, for what it ultimately interpreted as, a wife's intentional and public challenge to patriarchal order.

Conclusion

In the confessions of these wives, male failure took center stage. As the Code had indicated, their homicidal actions did indeed represent a challenge to patriarchal authority. However, what the Code failed to point out, but what these cases clearly indicate, was that female aggression toward a husband often stemmed from a failure of male authority in the form of excessive verbal and physical abuse as well as wastrel-like behavior. In many ways, these women not only expressed their expectations of marriage in their confessions, but their actions in response to these failed expectations evoke a sense of feminine revenge that is difficult to ignore. The strong tone of judicial sympathy in these cases suggests magistrates' disapproval of these husbands, showing that a verdict of slow slicing did not necessarily indicate a lack of judicial compassion.

In the above two cases, Ms. Huang and Ms. Wang decided to have revenge upon their husbands with suicide in mind, envisioning no future for themselves outside of their failed marriages. In the earlier discussion of Ms. Lai, who poisoned her husband in order to remarry, we saw another version of this situation in which an abused wife decided not only to undermine her wastrel husband's authority but also expressed a clear desire to find a better husband. Ms. Lai viewed the death of her husband as a survival strategy, even if only in a 'foolish' moment. Chapter 3 continues to explore marriage as a survival strategy for women, looking at the extent to which adulterous women acted as agents, taking advantage of the marriage market to create a future for themselves with another man.

CHAPTER 3

ENVISIONING A LIFE BEYOND A FAILED PATRIARCH: PLOTTING WITH A LOVER TO KILL A HUSBAND

Quicker than it takes to tell, [Wu Song] plunged the knife into [Pan Jinlian's] breast and cut...Another slash of the knife, and he cut the girl's head off...Ximen was lying flat, already half dead. Only his eyes moved. Wu Song pressed down on him and with one sweep of the knife cut off his head...Brother, your spirit is near, he said, weeping. "Go up to Heaven! I have avenged you! I have killed the adulterous pair!"⁵⁹

One of the most notable moments in the classic Chinese novel *The Water Margin* is Wu Song's merciless slaying of adulterous husband-killer Pan Jinlian and her paramour Ximen Qing. The beautiful Pan, once a maid of a wealthy family, refused her master's sexual advances, after which she was married off to Wu Song's brother, Wu the Elder, a short and cowardly man. The novel presents the marriage of this mismatched couple as unharmonious from the start. Unsatisfied with her husband, Pan carries on an affair with the attractive Ximen Qing, eventually plotting with him to poison Wu the Elder.

In the novel, Pan's sexual disloyalty builds compassion for Wu the Elder.

Although pathetically unaware of his wife's mischief, Wu the Elder comes across as a

⁵⁹ Nai'an Shi and Guanzhong Luo, *Shui Hu Zhuan* 水滸傳 (Beijing: Ren min wen xue chu ban she, 1990), original source. Translated quote from Shi Nai'an and Luo Guanzhong, *Outlaws of the Marsh*, trans., Sidney Shapiro (Beijing: Foreign Language Press, 2012), 560, 562, 563.

generally agreeable husband who was unfortunate enough to marry an immoral woman. He shares few traits with the abusive wastrels discussed thus far; instead, Wu the Elder's ignorance of the adultery makes him both a failed patriarch and sympathetic victim in the story. As with husband suicide in the wake of adultery, by not condoning illicit sex, Wu the Elder emphasized his morality in contrast with Pan's improper sexual desire, downplaying his failure to guard her from Ximen Qing and break up the affair. Consequently, the novel unsurprisingly romanticizes Wu Song's decision to take the law into his own hands and savagely kill Pan and Ximen Qing as a righteous act of moral justice.

This chapter examines how the portrayal of a homicidal wife as an adulteress influenced the judicial interpretations of husband-killing. While it is rare to find stories about a wife who acted alone to kill her husband, stories like that of Pan Jinlian were familiar to audiences of the time. This archetype may have left an impression on parallel legal case reports, providing magistrates with a literary framework from which to understand the motivations behind this particular type of homicide. For instance, "what makes Pan Jinlian such an evil character in the eyes of many traditional readers is not her indulgence in sexual desire per se but the fact that she is a woman who indulges her sexual desires."⁶⁰ While magistrates may have genuinely felt sorry for women in bad marriages, a wife's willingness to commit adultery tarnished her reputation, making her a less than sympathetic culprit.

As we shall see, magistrates did not automatically villainize the adulterous husband-killer. Domestic homicides involving the poor included factors addressing

⁶⁰ Martin W. Huang, *Desire and Fictional Narrative in Late Imperial China* (Cambridge, MA.: Harvard University Asia Center, 2001), 112.

everyday survival altogether absent from the Pan Jinlian narrative, which characterizes her decision to have illicit sex solely in terms of female sexual desire and vanity. It was not uncommon for an adulterous wife to engage in an affair largely for support she did not receive from her husband, hoping eventually to find a better husband. Thus, the following cases present a spectrum of judicial narrative constructs that placed varying degrees of emphasis on the behavior of husband, wife, and adulterous male.

The Adulterous Husband-Killer in the Qing Code

The Qing state prioritized chastity as a main component of state building, and consequently judicial officials targeted issues of illicit sex. The Qing Code identified adultery as a most probable motivating factor for a wife to kill her husband. If a wife was found to have had illicit sex with an outside male, the magistrate presumed that there was a causal link between the affair and the murder, often to the exclusion of other explanations. The statute on “killing the adulterous male” permitted a husband to kill his wife and her lover immediately upon catching them in the act of illicit sex. However, as illustrated in Chapter 1, not every husband was able, or willing, to fulfill this codified expectation, making this an arguably unobtainable standard for ordinary husbands. This chapter looks at the more typical consequence of adultery encountered by Qing magistrates. The second part of the statute on “killing the adulterous male” states that “a wife who, because of adultery, plots to kill her husband, is sentenced to immediate slow slicing, and the adulterous male to decapitation after the assizes.” 其妻妾因姦同謀殺死親夫者，凌遲處死。姦夫處斬監候。 In sharp contrast to the role of husband as righteous disciplinarian, and assuming he remained genuinely ignorant of the affair, this portion of

the statute viewed the cuckold husband as a passive homicide victim of wifely disloyalty.

Unlike the crimes discussed thus far, this criminal scenario became a judicially complex issue. The statute on “killing the adulterous male” inspired the proliferation of thirty-six statutes, which accounted for the varying levels of culpability between the wife, adulterous male, and husband in cases of homicide in the context of adultery. For example, “if an adulterous wife independently kills her husband, and the adulterous male had no knowledge of her plot, he is only sentenced for the crime of adultery.” 姦婦自殺其夫，姦夫果不知情，止科姦罪。In comparison, section five states that “if the adulterous male independently kills his lover’s husband and the adulterous wife, has no prior knowledge of her lover’s plot, and in that moment she shouts and reports the event to the yamen causing the adulterous male’s arrest, the adulterous wife, because she could not bear in her heart that she had caused her husband’s death, and being ignorant of her lover’s plot, shall be sentenced according to the original statute (immediate strangulation). 凡姦夫自殺其夫，姦婦雖不知情，而當時喊救與事後即行首告，將姦夫指拏到官，尚有不忍致死其夫之心者，仍照本律定擬。The Code prescribed the adulterous wife with specific behavior to perform and mitigate her culpability, a standard not expected of the adulterous male. This indicates a heightened suspicion toward women caught up in these illicit scenarios.

In addition, section seven turns a critical eye to the husband. “All of those who because of adultery plot the death of a husband, where the husband did not know about the adultery and comes to know of the adultery only through the force of the adulterous male, and where he did not retaliate, but also did not condone the affair, the adulterous wife is sentenced to immediate slow slicing. 凡因姦同謀殺死親夫，除本夫不知姦

情，及雖知姦情而迫於姦夫之強悍，不能報復，並非有心縱容者，姦婦仍照律凌遲處死外。 The conscious effort to delineate not only a model husbandly response to adultery, but also a less than ideal husbandly response to adultery, reveals how judicial elites attempted to control the definition of husbandly morality even when there was an inherent imperfection in that definition as applied to the case. Overall, these statutes manifest judicial anxiety over a broader failure of male authority that implicated husbands and compromised normative notions of marriage.

Illicit sex provided magistrates with a convincing motive to help explain such homicides. Moreover, these crimes centered upon the involvement of an adulterous male. His participation and clear interest created a plausible and perhaps more realistic situation in which a wife, with his help, could physically kill her husband as well as survive after his death. It is important to note that the Code does not make any mention of the husband's own misbehavior, abuse, or failure to provide food, which as discussed in Chapter 2, greatly influenced a wife's decision to kill her husband when illicit sex and an adulterous male were not an issue. Thus, this chapter will consider the degree to which the adjudication of husband-killing in the wake of adultery aligned with the vision of this crime in the Qing Code.

Judging the Adulterous Husband-Killer

As one might expect, agreeing to illicit sex functioned as a chief aggravating factor that reduced judicial sympathy for a husband-killer in a bad marriage. While the confessions of these wives included descriptions of flawed husbands, feminine sexual disloyalty diminished the efficacy of their grievances. Magistrates instead turned a

sympathetic eye toward the behavior of the cuckolded husband, emphasizing non-toleration of adultery as redeeming his masculinity in the aftermath of his failure to discover the affair. In contrast with the compelling confessions of chaste husband-killers, the cases in this chapter positioned the husband as not only a legal victim, but also a moral victim of extreme examples of wifely immorality.

Themes of weak patriarchy were difficult for magistrates to avoid in describing the murder of a husband by an adulterous wife and her lover. In one 1752 case, Ms. Yan from Jiangnan, who had been married to Sun Guansui for about ten years, told the magistrate that Sun could not support her.⁶¹ “My husband suffered from yellow fever, and we had no food to eat. I often worked for another family, helping with daily tasks...my husband objected; I was employed by a relative to pick tea.”小妇人的丈夫害黄病，没得食用，小妇人常帮人家做活度日...丈夫无服，族兄孙龙元雇小妇人到他家替他摘茶往来走动。Sun’s inability to work, Ms. Yan argued, compelled her to find a job outside the home. In 1737, another woman, Ms. Li (age nineteen) from Wuding, had been married to Guo Dongyi for just three years.⁶² She reported that Guo was never home and as a result, she began an affair with Lushen (age twenty-five) in exchange for money. “Because I asked [Lushen] to buy me some tobacco, he came over to my house asking for money. My husband wasn’t home at that time, and so I had illicit sex with him. He then gave me 150 *qian*. Later when he saw that no one was home, he would often come to have illicit sex with me. I don’t remember how many times.”因叫他给小的买烟来他来到小的家要钱，即时男人没在家，小的就合他有了奸，他给了小的一百五十个钱，

⁶¹ XKTB, 193.3.

⁶² XKTB, 153.11.

以后他见小的家没人，就常来合小的行奸，不记得次数了。

Ms. Yan and Ms. Li linked the circumstances that initiated their affairs to husbandly failure. Both wives seemed aware that judicial elites would disapprove of a husband who caused his wife to work outside or permitted an outside man to frequently visit his wife while he was away. Furthermore, their husbands did not properly supervise and care for them, leaving both women ultimately susceptible to outside men. Matthew Sommer's research on the customary nature of polyandry among the poor explains that a wife was likely to be the most valuable asset poor men like Guo and Sun had, and it was not unusual for such husbands to neglect traditional expectations of marriage and "pimp or sell his wife in order to survive."⁶³ Neither Ms. Yan nor Ms. Li spoke of any effort to resist the sexual advances of their lovers but instead willingly engaged in illicit sex. Their clear indifference for chastity suggests their eagerness to leave their current husband upon finding a man that could provide them with a better standard of living. This complicates understandings of how the wives themselves may have taken advantage of opportunities to secure survival through offering their own sexual labor to another man.

Despite underlying critiques of husbandly authority, these cases do not contain a clear tone of judicial sympathy for the unchaste husband-killer. Ms. Yan continued her confession by describing herself as having a minor role to play in the plot to kill her husband, placing prime responsibility on her lover. "In the 6th month, I don't remember what date, [Sun Longyuan] and I had illicit sex. After that, we had illicit sex a few more times. He saw that my husband and I were not harmonious, and told me that I should come and live with him. I said that my husband suffered from jaundice, and he was not

⁶³ Sommer, *Polyandry and Wife-Selling*, 40.

going to die right away. He replied, it doesn't matter if it's sooner or later, let's kill him after he has fallen asleep. I agreed.” 六月里，记不得日子，他与小妇人通奸起的，后又与他奸过几次，他见小妇人夫妇不睦，叫小妇人跟他过日子，小妇人说我丈夫害的是黄病，还不能就死，他回说不拘蚤，晚等他睡着弄死他吧，小妇人会说这也使得。

With this response, Ms. Yan emphasized that Sun Longyuan had successfully convinced her that she was dissatisfied with marriage and that he came up with the idea to kill her husband on his own. In doing so, Ms. Yan placed herself in a position of weakness in relation to her lover, appealing to elite assumptions about female passivity. Paola Paderni, in her research on eighteenth-century elopement, observes a similar pattern of minimized female agency in the confessions of wives who fled with a lover in hopes that magistrates might feel compassion for a wife tricked by an outside man.⁶⁴ In the case of Ms. Yan, the magistrate may have indeed felt sorry for an easily manipulated wife; however, Ms. Yan's readiness to murder her husband undermined her claims of feminine weakness.

Ms. Yan's thoughts about marriage bear a passing resemblance to those of the chaste husband-killer discussed in Chapter 2. “On the evening of the 8th month, 18th day, my husband told me that I liked to eat but was too lazy to work, and argued with me for a while. At that moment, Sun Longyuan entered and tried to persuade my husband not to beat me with a pole. [In response, my husband] yelled at Sun Longyuan, telling him not to interfere with a matter that does not concern him. [In that moment] Sun Longyuan

⁶⁴ Paola Paderni, “I Thought I Would Have Some Happy Days: Women Eloping in Eighteenth-Century China,” *Late Imperial China* 16 (1995): 25.

gave me a meaningful glance and left. [Later that night] Sun Longyuan returned and entered the room. I told him that my husband was asleep. Yuan said that we should kill him and I agreed.” 到八月八日晚，丈夫说小妇人好吃懒做，与小妇人吵嘴，恰好孙龙元走进来相劝丈夫不依拿棍要打小妇人，还骂孙龙元不该多管闲事，孙龙元向小妇人丢了个眼色就回去了，到了三更天，孙龙元走来叫开了门进到屋里，小妇人向他说丈夫已睡熟了，孙龙元说要此弄死他吧，小妇人该死允了。Ms. Yan’s description of the events that led to the murder began by evoking a sense of pity for a wife neglected and unappreciated by her husband, emphasizing, once again, the leading role Sun Longyuan played in the murderous plot.⁶⁵ Her confession, however, continued to romanticize the moment when Sun Longyuan came to her rescue and portrayed his behavior as heroic, implying that they shared a kind of mutual affection absent from her current marriage. By the end of the day, Ms. Yan’s loyalty resided firmly with Sun Longyuan, and without hesitation, she helped to kill her husband. Consequently, rather than judicial sympathy for a mistreated wife, we see judicial contempt regarding the corruptibility of wives and the ease with which an outside male might infiltrate his way into a husband’s home and turn his wife against him.

On the other hand, Ms. Li, who began an affair with frequent visitor Lushen for 150 *qian* while her husband was out, provides a less complicated example of a magistrate’s attitude toward the adulterous husband-killer. Most closely evoking the fictional account of Pan Jinlian, the case portrayed Ms. Li as an immoral wife inspired to murder her husband because of an unfeminine desire for illicit sex. Ms. Li continued her

⁶⁵ Sommer, *Polyandry and Wife-Selling*, 217. The phrase *hao chi lan zuo*, a shaming insult common among the poor, appears frequently in spousal abuse cases.

confession, saying, “My husband said, even if Lushen is a relative [of his], why does he visit so often? He grew impatient with Lushen, and I was afraid that Lushen would not visit and we would no longer have illicit sex. I then got the idea to kill my husband. I discussed this with Lushen and he agreed.” 男人说虽是合伸有亲戚，为什么常来，就不耐烦他，小的怕卢伸不来，不得合他行奸，就起意致死男人，合卢伸商量，卢伸应允了。 This answer characterized Ms. Li as anything but an embodiment of female weakness, but rather as someone explicitly motivated by lust. In his discussion of Pan Jinlian, Martin Huang explains that “...what is particularly disturbing about [Pan Jinlian] is her insistence on her own right to seek sexual fulfillment...”⁶⁶ As one can surmise, the magistrate found Ms. Li’s comparatively similar criminal intent especially upsetting. And unlike Ms. Yan, at no time in her confession does Ms. Li reflect upon her marriage or allude to any ill-treatment she may have suffered under her husband’s authority; rather, the magistrate’s reconstruction omits this reoccurring component of husband-killer confessions from the case, and instead emphasized that her husband had no knowledge of the affair.

This case paid attention to the ignorance of the husband homicide victim, emphasizing the specific behavior that proved he was morally righteous. Ms. Lai said, “My husband suddenly saw Lushen walking toward our house to pay a regular visit. He became suspicious and often cursed me. I told Lushen about this.” 不料男人见伸常往小的家走动，心里犯疑时常骂小的，小的也告诉过卢伸。 This part of Ms. Lai’s confession presented her husband, Dongyi, as a moral actor, describing how he had

⁶⁶ Huang, *Desire and Fictional Narrative in Late Imperial China*, 112.

attempted to dissolve an inappropriate male-female relationship. In addition, the magistrate specifically questioned both Ms. Li and Lushen about whether or not the husband tolerated their affair, confirming that while he was obviously suspicious of their closeness, he remained unaware of the truth. In his summary, the magistrate stressed this detail, saying, “Lushen and Ms. Li had illicit sex and Dongyi did not know about it. When [Dongyi] often saw Lushen coming to his house, he was greatly disgusted [by him].” 盧伸即與李氏通姦，東義雖未知覺，見盧伸時至其家，深為厭惡. In this case, the magistrate viewed Dongyi’s behavior, the way he questioned and reprimanded Ms. Li, as righteous discipline, and his sincere ignorance excused him from fulfilling the codified expectation that he break up the adulterous affair. The emphasis placed on this performance of husband masculinity minimized his guilt and effectively increased Ms. Li’s culpability.

Moreover, Ms. Li’s father-in-law, who provided the evidence that linked the adulterous couple to the murder, included no information about husbandly abuse or mistreatment in his testimony, conveying only his personal misgivings about Ms. Li.

The deceased Guo Dongyi is my son. He was married to Ms. Li for three years. On the evening of the second month first day, my son was along the street, and I heard that he went to bed between nine and eleven at night. The next day I did not see him. I asked Ms. Li [if she had seen him]. She said he went out early that morning to pawn the clothing. By evening, [my son] still had not returned. I looked everywhere but couldn’t find any trace of him. In the middle of the 3rd month, Ms. Li returned to her natal home...upon smelling a foul odor, I pried open the bricks of the furnace and found my son’s corpse inside [the kang]...clearly, Ms. Li killed my son...and I know the reason. My home had no regular visitor besides Lushen who frequently came and went. 这已死郭东义是小的儿子，娶媳妇李氏三年了，二月初一日晚上，小的儿子在街上，听说書二更时回来睡了，及至天明就不见儿子，小的问儿媳李氏，李氏说起早往外边当衣服去了，到晚上又不见回来，小的就各处寻找，并没有踪影，到三月里李氏就往他娘家去了...7；只是臭气难闻，小的就挖开一个炕坯，见儿子的尸在里头...明是李氏把儿子致死...的缘故就是明白了，小的家平日没有别

人走动，止有卢伸常在，他家来往。

In comparison with the testimonies from parents-in-law of chaste husband-killers, this confession is markedly silent on issues of husband cruelty, thus eliminating it as a motivating factor in Ms. Li's decision to kill his son. The details of the case justified this silence, for example, suggesting that Ms. Li was not starving and had enough food to eat. For instance, Lushen would "often go to Ms. Li's house to eat and smoke." 卢伸到小的家屋里来吃烟. What's more, in an especially eerie admission of guilt, Ms. Li states that, "I remained on the edge of the *kang* for 20 days, everyday making food to eat. I thought I could incinerate [the body], but [my efforts] were of no avail. In the middle of the 3rd month, I returned to my mother's home." 小的每日在炕头，火做饭吃，待了一二十日，小的觉得着可以烧化了是不相干的，到三月里小的就到娘家去了. The magistrate made sure to include the monstrous image of Ms. Li eating food on top of the *kang* that stored her husband's corpse, behavior that rivals the misdeeds of Pan Jinlian herself.

Magistrates may have villainized Ms. Yan and Li to different degrees, but they constructed both as deeply unvirtuous wives who could cause the downfall of pathetic husbands who, while not model patriarchs, were at least morally righteous in their ignorance. Thus, these cases privileged the performance of husbandly virtue in the face of feminine conjugal disloyalty. However, it is difficult not to read between the lines of judicial reconstruction and speculate on the signs of polyandry in these cases. For instance, the speed with which Sun Longyuan came to Ms. Yan's aid and the ease with which Lushen came and went from Ms. Li's home suggest that these men may have actually lived in the home at some point. An examination of these components of the

narrative makes it doubtful the husbands were completely ignorant of the affair. This being said, the magistrates in these cases made the decision to distinguish these husbands from those in polyandrous relationships who tolerated illicit sex, defining the husbandly behavior that demonstrated that they were not indeed “getting a husband to support a husband,” but instead attempted to conform to orthodox expectations of marriage.⁶⁷

A wife’s willingness to have illicit sex and successfully conceal it from her husband became a central theme of both narratives from which neither Ms. Yan nor Ms. Li could distance themselves. Comparing these cases to those from Chapter 2 puts the judicial sympathy bestowed upon the chaste husband-killer into perspective. One of the reasons for this narrative difference may be the influence chastity logic had on elite understanding of women, leading magistrates to feel compassion for husband-killers who did not seek adultery as a method of survival.

The adulterous husband-killer in the following case, Ms. Yu, struggled to compose a counter-narrative that complicated judicial assumptions about homicide in the wake of illicit sex. This case, in particular, reveals the tension between fact and fiction as judicial officials labored in vain to reposition Ms. Yu within the traditional Pan Jinlian narrative of adultery-motivated murder.

A Woman Plots with a Lover to Kill her Kidnapper

This 1750 case involves Ms. Yu (age thirty) from Ningbo.⁶⁸ The county magistrate initially thought that Ms. Yu had committed the same type of crime as Ms. Li

⁶⁷ Sommer, *Polyandry and Wife-Selling*, 49.

⁶⁸ XKTB, 176.1.

and Ms. Yan, considering her a wife who plotted with a lover to kill a husband. Ms. Yu, however, successfully convinced this magistrate and other judicial elites that the man she and her lover had murdered, He Wenlong, was in fact *not* her husband. Hoping to change the category of her crime and thereby lessen her sentence, Ms. Yu claimed that He Wenlong abducted her at the age of ten and forced her to marry him. Therefore, even though she remained with him for eighteen years and had one daughter by him, Ms. Yu was not his wife, making it legally impossible for the magistrate to punish her as such. Regardless of her marital status, Ms. Yu willingly engaged in illicit sex with Shi Shanli, and as seen in the cases discussed thus far, this behavior characterized her as an unvirtuous woman, hurting her credibility in the courtroom. In order to overcome the stigma attached to feminine sexuality, Ms. Yu appealed to notions of normative marriage and played upon fears about the insidious *guanggun* to persuade magistrates to believe her incredible story.

Ms. Yu began her confession by explaining what happened on the night of the murder.

My husband arrived [at Shi Shanli's] home on the night of the 4th, and Shi Shanli and I were having illicit sex. [My husband] beat and cursed me and grabbed a knife wanting to kill me. Shi Shanli hit him twice in the mouth and then stopped. I thought, how could [He Wenlong] behave like this, [thinking he had the right to kill me upon catching me with another man] when we did not have any bonds of affection and this was not a proper marriage. 丈夫是初四夜回来道，小妇人与史善礼通奸，把小妇人打骂要拿刀杀小妇人，是史善礼打了他两个嘴巴歇的，小妇人细想他这样无情义，原不是正经夫妻。

On the surface, Ms. Yu's description looked like an example of a righteous husband who attempted to discipline the adulterous couple upon catching them in the act. Ms. Yu, however, does not allow this interpretation to stand for long. She immediately challenged He Wenlong's privilege to discipline her, turning the focus away from her misbehavior

and toward what she suggested was He Wenlong's greater pattern of wrongdoing. Ms.

Yu elaborated upon what motivated her to kill He Wenlong, saying,

I thought about how [He Wenlong] had abducted me as a child and forced me to marry him. I had been with him for eighteen years passing the days along the road begging for food and had suffered greatly. [We] had no clear home and matchmaker did not perform the proper marriage rituals. How, with a marriage like this, did he think that he could exhibit such strict control over me and even [have the privilege to] kill me? From start to finish, there was no good. In that moment, I hated [him] bitterly and got the idea to kill him. 小婦人想起從幼被他拐騙出門，強逼成親，跟他十八年沿途討飯過日，受盡苦，楚連住處沒有，原算不得明媒正配的，夫妻如何這等，管束得嚴緊，既要殺小婦人，是始終沒有好處的了，一時恨極，起意想要弄死他。

Reflecting upon her life, Ms. Yu effectively softened her character by evoking the helplessness of a child tricked by an adult man and designated He Wenlong the true villain of this story. She not only stressed the illegality of her marriage, but also highlighted the misery and suffering she had endured in it. In Ms. Yu's view, He Wenlong's failure to provide her with a stable place to live and enough to eat was just as important as evidence of the illegality of the marriage. While judicial officials cared foremost about the ritual appropriateness of legal marriage, not necessarily the couple's quality of life, Ms. Yu strikingly equates these two components as components of what constitutes proper marriage.

Ms. Yu provided a detailed account of her abduction, portraying He Wenlong as a *guanggun* who had usurped the role of husband.

My father moved to Yaotao to be a bamboo craftsman. He Wenlong was a laborer at my father's house...My mother died when I was eight, and when I was ten my father also died. I was left without any relations ...It was the second day of the double ninth festival when He Wenlong tricked me into going out with him, saying that he was taking me to my maternal grandmothers house. Along the road, however, he said that she had died and that there was no other place for me to go. [He said] that I could only go begging on the roads with him. At night, we slept in abandoned temples. When I was twelve years old, he bought a pair of small candles and a bowl of tea and forced me to marry him. There was no one to

officiate the marriage and there was no matchmaker. I have one daughter by him and she is six. 人移住餘姚做篾作生理，何文龍在父親家僱工...小妇人八岁上母亲死了，十岁时父亲又死，别无亲人了...何文龍拐骗小妇人出门，只说领导外婆家去，到了路上，又说外婆死了，没去处，只得跟他沿途讨饭...到十二岁时他买一对小蠟燭一碗素菜，强逼小妇人成亲，没有主婚，也没有媒人的，只生一个女儿，今年六歲了。

Ms. Yu then explains that a man from Ningbo, where she had lived, came with them and she asked him about a place to live. She didn't know his background, but he was over forty years old. Without anyone to rely on, Ms. Yu went with He Wenlong, begging from house to house and eventually, they lodged at Shi Shanli's house. Ms. Yu's detailed description brought to life elite fears about the socially destructive nature of the *guanggun*. In his discussion of the *guanggun*, Sommer states,

...illicit sexual intercourse represented an assault on the patriarchal household. Specifically, that assault was envisioned as being made by an *outside male* on *another man's* household—a woman's social identity was defined here by her relationship with husband or father. That outside male was an aggressive penetrator in sexual and symbolic terms: he ruptured the boundaries of the household and threatened to violate women (and young boys) within.⁶⁹

Ms. Yu's confession and her lack of social status provided a clear example of how a dangerous male might disrupt social order, effectively mitigating her guilt by showing how her present state of misery was caused by an archetypal male predator. Strikingly, however, Ms. Yu's confession portrayed the *guanggun* making an effort to mimic a proper marriage ceremony. On one hand, Ms. Yu stressed the seductive nature of the *guanggun*, on the other, she portrayed the *guanggun* as interested in the performance of some semblance of ritual propriety. He Wenlong took advantage of likely the only opportunity he would have to secure himself a wife. Furthermore, He Wenlong's reaction

⁶⁹ Matthew H. Sommer, "Dangerous Males, Vulnerable Males, and Polluted Males: The Regulation of Masculinity in Qing Dynasty Law" in *Chinese Femininities, Chinese Masculinities: A Reader*, ed., Jeffrey N. Wasserstrom and Susan Brownell (Berkeley: University of California Press, 2002), 68-74.

to catching Ms. Yu and Shi Shanli in the act of illicit sex aligned with state expectations of a husband, suggesting once again that He Wenlong himself had an understanding of these norms and desired to perform normative marriage, while Ms. Yu viewed herself as irreconcilably outside those norms. This case thus deconstructs the *guanggun*/husband dichotomy.

With the details of this story in mind, Ms. Yu's decision to begin a sexual relationship with a man other than He Wenlong becomes more of a justifiable survival tactic than a deeply immoral act. Not unlike the adulterous husband-killers discussed thus far, Ms. Yu pointed specifically to He Wenlong's failure to support her as the motivation behind her choice to have illicit sex. "When He Wenlong was not at home, Shi Shanli flirted with me. Because I often went hungry and wanted him to take care of me, I had illicit sex with him. I don't remember how many times." 何文龍不在家里，史善礼就来调戏小妇人，小妇人因时常受饿要他照看，遂与他通奸起的，次数也记不清了。 In this scene, Ms. Yu depicted herself as potentially beginning a polyandrous relationship on her own, eventually surprised by He Wenlong's assumption that he had the right of a husband to monogamous ownership of her sexual labor.⁷⁰ Instead, Ms. Yu asserts her own prerogative to have illicit sex and He Wenlong had no authority over her. What's more, there appears to be a great deal of misunderstanding among Ms. Yu, He Wenlong, and Shi Shanli as to whether or not Ms. Yu was indeed He Wenlong's wife. In his confession, Shi Shanli said "Her husband, He Wenlong, returned from selling word blocks and Ms. Zhang and I were seated together. He quickly began to hit and scold his

⁷⁰ Sommer, *Polyandry and Wife-Selling*, 83-84. Sommer discusses cases in which wives, not husbands, first initiated polyandry. He explains the tendency for such a wife to exhibit a stronger sense of loyalty to the outside male than to an abusive husband, often leading the couple to kill the husband or elope.

wife. (5)” 他的丈夫何文龍賣字回來見小的與張氏同坐他就打罵妻子. Shi Shanli, in his original confession, was under the impression that Ms. Yu, whom he called Ms. Zhang, the name given to her by He Wenlong, was indeed He Wenlong’s legitimate wife. Shi Shanli’s confusion continued to exacerbate the judicial fears about the ease with which a *guanggun* could effectively assume the role of husband.

The magistrate’s response to Ms. Yu’s compelling kidnapping story reveals how displays of feminine sexual fulfillment, whether by a wife or not, colored official presumptions of women and diminished their credibility in the courtroom. For instance, the magistrate was initially extremely doubtful of Ms. Yu’s story, saying, “Your father was a craftsman; how did he have enough money to hire a laborer? Clearly, He Wenlong was mutually helping your family. When your father was alive, he approved him to be married to you. Now that he is dead, there’s no eyewitnesses and instead [you] have come up with this story about a kidnapping for marriage.” 你父亲是篾作生理的人，如何有钱雇得工人起，那何文龙明是相帮你家篾作的，你父亲在日，就把你许配与他为妻的了，你因死无对证，故把拐骗出门强逼成婚的话。

In response to this accusation, Ms. Yu responds saying, “My father was a skilled craftsman, why would he betroth me to a laborer?” 父亲虽是手艺的人，如何肯把女儿许配工人. The class logic behind Ms. Yu’s response appeared to have been somewhat persuasive. However, the magistrate’s questions implied that Ms. Yu might have had shared marital sentiments with He Wenlong despite their invalid marriage.

You have been with He Wenlong for 18 years, have a daughter by him and thus appear to have had deep kindness and strong affection [for each other], why were you so hardhearted to kill him? Clearly [Shi Shanli] coveted your good looks and wanted to have you for illicit sex, which started this evil idea [of murder]. How

are you exonerated? Your lover has already admitted to this. 你跟何文龙十八年，生有女儿，也算恩深情重了，如何忍心肯把他谋死，明是史善礼贪你颜色有心奸占起这恶意，你如何开脱了他自己承认呢？

Ms. Zhang responded, saying that for eighteen years, “He Wenlong just came and went, begging every day. There was never a moment of comfort, and I suffered a great deal.

What good was there here? ...If he really had kind feelings for me, he wouldn't have wanted to kill me. Truthfully, I came up with the idea to kill him.” 流来流去，日日在叫化，没有一刻安闲，苦楚受尽，有甚好处...他若有恩情，就不该要杀小夫人了，实是小夫人生意要杀死他. Despite Ms. Yu's compelling argument, the magistrate accepted her story only after a childhood neighbor, Zhang Xinhong, who had known Ms. Yu when she lived in Ningbo, confirmed it.

The original name of this Ms. Zhang is Ms. Yu and she is from Ningbo. Her father was called Yu Benqian and worked as a bamboo craftsman... This He Wenlong was a hired laborer at Yu Benqian's house. Because both husband and wife had died, this He Wenlong abducted Ms. Yu [at the age of ten]. 那張氏本姓俞，是寧波人，他父親叫俞本千是做篾作的...這何文龍是在俞本千家僱工的，因本千夫妻死了，那何文龍把俞氏拐了。

Finally, all the pieces had come together, and in his final summary, the magistrate acknowledged that He Wenlong was “some type of adulterous male” and should not be viewed as a husband under the law. While he nonetheless interpreted the homicide as caused by the illicit sex, he no longer sentenced Ms. Yu as a wife; her immoral sexual behavior did not influence her sentence. A neighbor corroborated her abduction story. As a result, Ms. Yu was sentenced as a person who intentionally killed another unrelated person, and received a lighter sentence of strangulation after the assizes.

Conclusion

Ms. Yu, by the age of thirty, had fallen through the cracks of society. She was not a wife, a daughter-in-law, or a daughter.⁷¹ One quickly discerns the judicial conundrum created by her situation. In “Theorizing Woman,” Tani Barlow explains that outside specific kinship roles, late imperial discourse “does not support a transcendent agent called Woman.” Only performance as a daughter-in-law or wife “[made] a person recognizably female.”⁷² In Ms. Yu’s case, she used the confusion surrounding her lack of a defined social role, and the corresponding absence of gendered expectations, to her advantage. She created a compelling argument centered upon the individual identity she carved out for herself because of male failure. Consequently, Ms. Yu comes across as an exceptionally resolute woman with clearly defined expectations of marriage and of husbandly duty, whose main priority was survival.

It is also important to recognize the tone of entitlement in Ms. Yu’s explanation. She approached this criminal matter knowing that she had not experienced a normatively ideal marriage. Not only had He Wenlong failed her, but the marriage system itself had also failed her. A female byproduct of husbandly failure from an early age, Ms. Yu’s testimony depicted her coping without a social status and an unpleasant life in a markedly nonpatriarchal manner. Instead of presenting herself as one willing to conform, Ms. Yu highlighted He Wenlong’s lack of legal authority over her, emphasized his

⁷¹ The only social role Ms. Yu held any claim to was that of mother. However, Ms. Yu had a daughter and not a son. Wives were considered to be in a precarious position within the family until they bore a son. See Charlotte Furth, “Concepts of Pregnancy, Childbirth, and Infancy in Ch’ing Dynasty China,” *The Journal of Asian Studies* 46 (1987): 9. It is uncertain, however, whether the magistrate considered the welfare of Ms. Yu’s daughter in his decision to mitigate her punishment.

⁷² Tani E. Barlow, “Theorizing Woman: *Funu, Guojia, Jiating* (Chinese Woman, Chinese State, Chinese Family),” in *Body, Subject & Power in China*, ed., Angela Zito and Tani E. Barlow (Chicago: The University of Chicago Press, 1994), 256. Barlow draws upon Chen Hongmou’s *Jiaonu yigui* (Inherited guide for educating women) to support her argument.

dependence upon her, and strikingly, marked out her own sexuality.

While confessing to plotting with a lover to kill He Wenlong, Ms. Yu's motivation for the murder had little to do with the illicit sex and more to do with the personal resentment she felt toward her kidnapper. The magistrate, as one might expect, was extremely hesitant to accept this more complicated rendition of criminal intent that undermined judicial assumptions about villainous feminine sexual desire. Whether viewed as an adulterous wife or simply an unchaste woman, Ms. Yu's willingness to have illicit sex injured her reputation and thus her standing in the courtroom. As a result, Ms. Yu fought an uphill battle to persuade judicial elites that she was the real victim of this unfortunate course of events.

In the absence of a contract or community of witnesses, how was a magistrate to judge whether a marriage was indeed a marriage? This chapter explores definitions of marriage that complicates our understanding about the meaning and function ordinary people attached to the state's vision of marriage and gender roles. The magistrate in Ms. Yu's case struggled to make sense of her less than ideal life. While the narrow legal definition of marriage prevailed in this particular case, magistrates did at times allow heterodox marriage practices, such as polygamy and wife-selling, to stand, recognizing the harsh realities that governed the lives of the poor that prevented them from performing marriage according to state expectations.⁷³

In addition, this chapter has argued that elite assumptions about the unchaste woman greatly influenced judicial attitudes toward husband-killing cases. In juxtaposition with Chapter 2, this chapter serves to stress the striking differences in the

⁷³ Sommer, *Polyandry and Wife-Selling*, 348.

way magistrates narrated cases about the chaste and unchaste husband-killer. From Ms. Li's Pan Jinlian-like desire for illicit sex, to Ms. Yan's appeal to notions of feminine weakness, lack of chastity shaped magistrates' attitudes toward the adulterous wife who killed her husband across a spectrum of judicial constructions. Even in peculiar cases such as that of Ms. Yu, positioned firmly outside of marriage norms, an unchaste woman found it difficult to persuade the court. To one degree or another, each of these women complicate judicial expectations of wives and prejudices about adulterous women, showing how for some women, survival was more desirable than conforming to societal chastity norms.

CHAPTER 4

“A GOOD PLACE TO FIND A FAMILY”: MALE FAILURE OPENS A SPACE FOR FEMALE AGENCY IN LATE IMPERIAL SUZHOU

The homicide cases discussed thus far have preserved a sense of narrative conflict between the state assumptions about marriage and the harsh realities of domestic life. These cases complicate our understanding of the Qing state's interest in how ordinary men performed the role of husband. The cases I have examined so far were generally straightforward in terms of sentencing. Agreement on the basic facts granted magistrates a degree of literary freedom to compose case narratives that echoed their opinions on the matter. However, more complex cases in which the identification of a culprit was not obvious required extensive requestioning of all those involved. Such cases often provides the historian with a closer look at the gendered assumptions of the law.

This final chapter examines one such homicide case, nearly 100 pages in length, to look at the way women themselves could become agents who stood to benefit from the marriage market. What obligation, if any, did a wife owe a husband who could not support her? How might wives, rather than depending on the agency of an adulterous male, rely upon other women to escape bad marriages and find better husbands? I argue that poverty created spaces for female agency in the wake of male failure to the detriment of patriarchal marriage and the gender logic of the Qing state. This chapter conducts an

in-depth examination of the real conundrum a purposefully passive husband created for judicial officials. This case shows again that legal and literary expectations of marriage and of the roles of husbands and wives often failed to mirror the social reality of the poor.

The case concerns Ms. Lu, who unintentionally killed Wang Xing, her cousin's husband, after he insulted her. However, it was the events leading up to the homicide, in addition to the homicide itself, that baffled the reviewing magistrates and that are of primary interest in this section.

Before the murder, Ms. Lu, age thirty-eight, from the Suzhou region, initiated and successfully carried out the illicit sale of Wang Xing's wife, her cousin Ms. Jin, without his permission. Ms. Lu confessed that she alone planned the unlawful sale of Ms. Jin, stressing that her husband, Wang Cai, had no knowledge of the plot. In addition, Ms. Lu explained that she had deceived the matchmakers into believing that Ms. Jin was unmarried, leaving them innocent of any wrongdoing. The magistrate's summary presents a detailed account of Ms. Lu's crimes, documenting her personal motivations, patterns of movement, and social interactions that explained how and why she came to sell Ms. Jin and kill Wang Xing.

Case Summary

According to the magistrate's final summary of the case, in Qianlong 3, the 1st month, the 12th day, Ms. Lu (age thirty-six), on her way to collect a debt, passed by the gate of her cousin, Ms. Jin (age twenty-two), and stopped in to have a visit.⁷⁴ Ms. Jin spoke of her poverty and upon hearing this, Ms. Lu asked that she accompany her and

⁷⁴ XKTB, 158.9.

borrow some money out of the sum she expected to collect that day. Ms. Jin agreed and let her husband, Wang Xing, know before leaving. Along the road, Ms. Jin explained, “Wang Xing was very poor. He had already sold her once before and she had been returned. She said her husband could not support her.” Ms. Jin reasoned that the money Ms. Lu intended to lend her was of no use given her dire poverty. Ms. Lu “wrongly” persuaded her to find work as a kitchen maid (*fanpo*), and Ms. Jin agreed. Instead of collecting the debt owed to her, Ms. Lu returned home with Ms. Jin. After Ms. Lu explained everything to her husband, Wang Cai, the two women went to visit Ms. Zhang, a local matchmaker, to seek out an employer. On the road, Ms. Jin once again objected to Ms. Lu’s plan, saying, “she was too young and it was not convenient for her to work as a *fanpo*.” At that time, Ms. Lu “wrongly” got the idea to entice the sale of Ms. Jin. Ms. Jin wrongly agreed and followed Ms. Lu.

That day, before entering Ms. Zhang’s home, Ms. Lu persuaded Ms. Jin to change her name to Ms. Chen and disguised her as an unmarried woman, telling her to wear a handkerchief around her head and act as if they were sisters looking to find her a husband. The women remained at Ms. Zhang’s home until the 15th day, and because Ms. Jin had not found a match during that time, Ms. Zhang suggested that they visit a marriage broker, Mr. Chen. The women were once again unsuccessful, and by the 17th day, Mr. Chen recommended that they see Mr. Wang, another marriage broker located in the city of Suzhou, “an excellent place to find a family.” At last, Mr. Wang found Ms. Jin a family looking for a wife. A merchant from Anhui had come to Suzhou to trade, and wanted to acquire a wife for his nephew. On the 27th day, they agreed on bride price and fees for Ms. Lu, the matchmaker, and marriage brokers. Then upon requiring a man’s

name to validate the marriage certificate, Ms. Lu wrongly gave a fake husband's name. Ms. Lu received 10 *liang* from the sale and the Anhui merchant departed with Ms. Jin.

During that time, Wang Xing, who had not seen his wife, repeatedly looked for Ms. Jin. He went to Wang Cai's home in search of her, but Wang Cai was unsure of Ms. Jin's whereabouts. On the 2nd month, the 9th day, Ms. Lu returned home and told Wang Cai about how she had enticed the sale of Ms. Jin. The next day, Wang Xing once again visited Ms. Lu's home looking for his wife. At first, Ms. Lu lied to Wang Xing, telling him that Ms. Jin had found work as a cook. When Wang Xing inquired further, asking for the address of her employer, Ms. Lu decided that she could no longer conceal the truth and told him that she had sold his wife. Ms. Lu offered to give Wang Xing 3 *liang* from the sale, but Wang Xing disagreed, threatening to report her to the *yamen*. She then offered him 7 *liang*, but he rejected this offer too. Ms. Lu finally said she would give him everything, the entire 10 *liang*, but Wang Cai suspected that she had received a greater sum and demanded that he get 30 *liang* to remarry. This sum greatly exceeded what Ms. Lu had earned, and she suggested that Wang Xing and she visit the matchmaker Ms. Zhang to confirm the profit made from his wife's sale. Wang Xing agreed.

Bad weather delayed their visit and Wang Xing remained at Ms. Lu's home for three days. On the evening of the 12th day, Wang Cai attended a relative's wedding, leaving Ms. Lu and Wang Xing at home alone. That evening, Wang Xing insulted Ms. Lu, saying that "he must receive 30 *liang* to remarry, or else he would use [her] as his wife." Upon hearing this, Ms. Lu "was so angered and full of discontent" that she wrongly hit Wang Xing twice with a brick, unexpectedly killing him. At midnight, Wang Cai returned home, and upon discovering what had happened, he cursed Ms. Lu but

“wrongly” helped her discard Wang Xing’s body in the nearby river. On the 3rd month, the 3rd day, a passerby discovered the corpse, and by the 12th day of that month, Wang Cai and Ms. Lu came to the *yamen* to confess.

The magistrate’s summary is striking for a number of reasons, foremost of which is the great degree of authority and independence attributed to Ms. Lu. In contrast to the image of the wife as one generally restricted within the inner confines of the home, the magistrate’s summary depicted Ms. Lu as actively solving problems, making financial arrangements, and traveling, uninhibited by her husband.

Knowledge about the urban economic conditions of late imperial Suzhou helps to put Ms. Lu’s portrayal into context. Suzhou had emerged by the end of the sixteenth century “as the economic and cultural center of China’s richest, most urbanized and most advanced region.” Developing rapidly, it remained one of the central cities of the Qing empire until the Taiping Rebellion.⁷⁵ Numerous canals intersect the landscape of Suzhou, facilitating commercial growth and allowing for quick movement of goods in an urban environment frequented by people from a wide range of social classes.⁷⁶ Textile production of cotton and silk became the region’s main form of commerce throughout the Ming and Qing dynasties. As a result, many of Suzhou’s residents worked as traders, brokers, spinners or weavers of cotton and silk.⁷⁷

This dominant industry in Suzhou blurred the lines between gendered divisions of labor widely practiced elsewhere in China. In his work on the economic conditions of

⁷⁵ Yinong Xu, *The Chinese City in Space and Time: The Development of Urban Form in Suzhou* (Honolulu: University of Hawai’i Press, 2000), 16.

⁷⁶ Yinong Xu, *The Chinese City in Space and Time*, 75-76.

⁷⁷ Michael Marmé, *Suzhou: Where the Goods of All the Provinces Converge* (Stanford, CA: Stanford University Press, 2005), 138.

Ming dynasty Suzhou, Michael Marmé notes that men often joined their wives in the production of textiles, taking up occupations as weavers inside the home instead of plowing the fields. What's more, it was not uncommon to find women planting and reaping in the fields, not expected to work only inside the home as spinners. The fluidity of gendered labor arrangements, as Marmé states, continued into the twentieth century "giving Suzhou women 'comparative freedom' of movement and perhaps somewhat higher standing within the family."⁷⁸

The account of Ms. Lu in the summary, characterizing her as an assertive agent, moving freely and engaging in matters of commerce, does not seem quite as extraordinary with Suzhou's socio-economic setting in mind. The canals allowed Ms. Lu and Ms. Jin to travel with ease to the city, helping to explain the quick sale of Ms. Jin. In addition, Ms. Lu worked as a cotton broker, traveling between the homes of relatives, and later admitted to engaging in her share of matchmaking. Thus, one can imagine how Ms. Lu's work familiarized her with matters of commerce that undoubtedly influenced Ms. Lu's ideas about the best way to end Ms. Jin's poverty and suffering. What's more, neither woman's confession represented a wife sale as an unfamiliar activity. Ms. Jin herself had already been sold once before, suggesting that wife selling may have been a standard in this community. However, Ms. Lu's decision to sell Ms. Jin without her husband's consent, misrepresenting her as an unmarried woman, appears to have been the only abnormality of this exchange.

Sommer's recent work explains that the buying and selling of wives became a customary survival practice among poor men, suggesting that wives could escape bad

⁷⁸ Marmé, *Suzhou: Where the Goods of All the Provinces Converge*, 141.

marriages and benefit from such illicit sales by entering comparatively better marriages: precisely the aim Ms. Lu had in mind for Ms. Jin.⁷⁹ However, scholars have not yet considered the potential for women themselves to function as active agents in the logistics of negotiating the sale. Sommer observes that the sold wife was often eager for her husband to sell her and did not challenge his decision. On the other hand, often the seller himself showed reluctance, typically selling a wife out of financial necessity.⁸⁰ This being the case, it is interesting to note the forcefulness of not just Ms. Lu, but also Ms. Jin, whom the case portrayed as actively pursuing the sale, rejecting Ms. Lu's two alternative offers of aid.

One quickly gains a sense that sisterhood shaped the relationship between Ms. Lu and Ms. Jin. For instance, one can see how sisterhood may have inspired Ms. Lu, an economically minded and assertive woman, to seize the role of seller from an ineffective husband and secure a better life for another woman, making herself considerable profit in return.⁸¹ In a similar way, Ms. Jin intentionally approached only Ms. Lu with her troubles. The magistrate made no mention of a suffering wife's attempts to remonstrate with her wastrel husband, as other cases have done. Rather, the narrative suggests that Ms. Jin bypassed this step and went directly to Ms. Lu, almost as if she knew only Ms. Lu had the ability to provide her with a resolution to her situation. Thus, this case provides a unique perspective on women's collaboration for mutual profit and the

⁷⁹ Sommer, *Polyandry and Wife-Selling*, 120.

⁸⁰ Sommer, *Polyandry and Wife-Selling*, 213. Sommer discusses the spectrum of women's attitudes toward wife-selling. In some cases, he discusses how some wives actively encouraged their husbands to sell them, while others sabotaged such sales. For a discussion of sabotaged wife-sales, see Sommer, *Polyandry and Wife-Selling*, 220.

⁸¹ For more on the topic of sisterhood in modern China, see Emily Honig, *Sisters and Strangers: Women in the Shanghai Cotton Mills, 1911-1949*; Janice E. Stockard, *Daughters of the Canton Delta: Marriage Patterns and Economic Strategies in South China, 1860-1930*.

manipulation of marriage in complete disregard to the norms of patriarchy.

From beginning to end, the magistrate's summary represented marriage as a commercial matter that removed any semblance of husbandly or wifely affection or love from the relationship. The methods used by Ms. Lu to complete this transaction made marriage integral to the "reproductive economy," in which the highly valued sexual labor of an unmarried, and presumably chaste, woman was bought and sold.⁸² The magistrate talked about what happened to Ms. Jin in terms of a 'sale' and never as a 'marriage'; he found Ms. Lu to have "enticed the sale" (*you mai*, 誘賣) of Ms. Jin, and she had been "sold once before and returned" (*mai shen tuihui*, 賣身退回). Both Ms. Lu and Ms. Jin thought about marriage as an exchange in which a husband owed a wife support, and a failure to fulfill that obligation effectively voided the marriage. While Wang Xing cannot provide testimony himself, the peculiar language attributed to him in Ms. Lu's confession evoked only monetary concerns. "He continued to question me [saying that he] wanted a person, if no person, he would bring me to the yamen." 他定要問小婦人要人，若沒有人，他就要告狀了. The nonspecific nature of his need for a "person" furthers the transactional tone. In Ms. Jin's words, his wife is nothing more than a valuable commodity stolen from him: "[He said] that I had abducted his wife and sold her, demanding 30 *liang* to remarry." [他]就說小婦人拐他妻子賣了，定要把三十兩銀子，與他另娶一房才罷. Knowing that what Ms. Jin had done was illegal, Wang Xing's

⁸² Johanna Ransmeier, "'No Other Choice': The Sale of People in Late Qing and Republican Beijing, 1870-1935" (PhD diss., Yale University, 2008), i. Ransmeier discusses the "reproductive economy" in her research about the continued practice of human-trafficking in the late Qing and Republican periods. Ransmeier explains that people "relied upon the menial domestic, child-rearing, and child-bearing labor of purchased people."

immediate reaction was to demand a generous reimbursement. These choices of language blur the lines between marriage and financial transaction, presenting marriage as a profitable business and obscuring the boundaries between sale and marriage among the poor.

Nonetheless, while Ms. Lu's behavior may have been fairly commonplace in this community, as we shall see from the magistrate's follow-up questions, he was surprised about the extent of this customary practice. As he began to poke holes in this female-centered narrative, the questions posed to Ms. Jin and Wang Cai captured a different picture that made the case as much about issues of male failure as it had been about female agency.

First Round of Questioning

During the interrogation process, the county magistrate was confronted with the difficulty of determining Ms. Lu's motivation and the relevance of the sale of Ms. Jin to the murder. He also had to determine whether potential accessories to the crime, the matchmaker, marriage brokers, Wang Cai, and even Wang Xing himself, shared any indirect responsibility for the homicide. During the questioning of Ms. Lu it soon became clear that the magistrate doubted Ms. Lu killed Wang Xing without her husband's help.

Where are you from? How old are you? On Qianlong 3.1.12, what inspired you to come to Wang Xing's home and entice the sale of Ms. Jin? Your husband, Wang Cai, must have known about this. Isn't it true that Wang Cai and Wang Xing are related? 你是哪里人? 多少年紀了? 乾隆三年正月十二日, 你如何到王興家去誘領金氏? 你丈夫王彩可是知情的麼? 王彩與王興是否一族呢?

Within the first set of questions, the magistrate identified Wang Cai as a likely accomplice, hinting that if the two men were related, they were possibly in on the sale.

However, Ms. Lu's response continued to support the summary but divulged more information about her reasons for selling her cousin.

I am from this village and 36 years old. Ms. Jin and I are cousins. While my husband and Ms. Jin's husband share the same surname, they are unrelated...Ms. Jin once again told me that her husband was useless, and could not provide for her. The previous year, he sold her to the Zhu family, but they returned her, and now [back at home] she suffers greatly. She goes without food daily, and said that the loan wouldn't help. I told her that if she truly suffered in this way, it was better to find another family that would provide her with some food to eat. Ms. Jin agreed. I told her, today I won't collect the debt but instead lead you to find a way out.' 小婦人是本縣人，今年三十六歲了，與金氏表姊妹，丈夫王彩與金氏的丈夫王興是同姓不宗的...金氏又討小婦人說他丈夫沒用養不活他，去年賣與朱家退回來苦得很，每日沒飯吃就借二百錢來也不濟事，小婦人就說這樣苦倒不如尋個人家吃晚飯罷，他說也好，小婦人說我今日不去討錢了，且領你去尋門路罷。

With his response, Ms. Lu characterized her decision to find Ms. Jin employment, and eventually sell her, as means by which to help a wife who found herself in a failed marriage. Her response also indicated that Ms. Lu approached Ms. Jin's situation with confidence and authority, assuming that she knew how to solve her problem.

Ms. Lu continued by recounting both the sale and murder as described in the summary. The magistrate seemed content with this narrative as a sufficient explanation of Ms. Lu's motive and culpability, but continued to press her on the possibility of Wang Cai's involvement.

From the 12th till the 7th of the following month, you left home and sold Ms. Jin to the Fan family, receiving 10 *liang* and returning home on the 9th with the matchmakers by boat. Absent from home for about a month, it is hard to believe that your husband did not question you about what had happened. Besides, you returned home with money, why did your husband not question you about how you came by this money? Surely your husband knew about the enticed sale of Ms. Jin. 你于正月十二日出門到二月初七日，把金氏賣與范家得了十兩銀子，同張親娘超君珠們回船，初九日歸家，你出門將及一月回家時，難道丈夫不盤問你的麼況，且又有銀子帶回，豈有你丈夫不問的理這誘賣金氏的事？你丈夫必定也是知情的了。

What the magistrate found most shocking about this case was not actually Ms. Lu's behavior but instead that of her husband. From the judicial perspective, Wang Cai's behavior following his wife's extended absence was abnormal, and he assumed that a husband would thoroughly investigate his wife, especially after she had been absent for such a long period of time.

Ms. Lu's response, however, reaffirmed Wang Cai's ignorance of the sale. "My husband is often out, working as a boatman hauling grain. I am also often out, selling cotton, staying with relatives. This is why my husband did not ask about my absence. I hid the money I returned with from my husband, I didn't tell him about it." 小婦人丈夫平日常在外邊或弄船或舂米，小婦人也常在外邊收紗到親戚人家往來住實的，故此出外日又丈夫也不盤問的，那帶回去的銀子原是瞞了丈夫不實與他說知. Ms. Lu's answer presents a picture of domestic life at odds with normative notions of marriage.

The magistrate interrogated Wang Cai with the same questions, saying, "How could you not have questioned your wife about where she had been and what she had been doing? Clearly, she plotted the enticed sale with you." 你難道不盤問他一向在外做什麼呢？明是與你商量拐賣的了. The magistrate appears to begin to lose his patience with the couple, further questioning Wang Cai, saying, "[Besides,] your wife is a woman, how could she have killed a man? If you provide false testimony, I will use torture." 你妻子一個女人怎么能打死男人呢？不實供要動刑了. Nevertheless, Wang Cai responded with answers that validated Ms. Lu's description of an unconventional marriage.

I am often out working, and [my] wife is also often out selling cotton and seeing her family. I don't manage her affairs... [Upon entering my home that night] I was surprised to see that the corpse was already tied up. I blamed my wife, and

she replied, 'I have already accidentally killed [Wang Xing], it is no use to point blame, [you] might as well [help me] discard [the corpse] in the river. Then no one will know.' 小的常出外傭工，妻子也不時出外收紗賣布，常到他的親戚人家去走動，小的原不去拘管他的...小的吃了一驚只見尸首已經網好在那里，小的埋怨妻子，妻子說已經失措打死埋怨也無用，不如扛到船上去棄撒湖中就沒有人知道了。

In her account of the night of the murder, Ms. Lu continued to indicate her forcefulness in her interactions with men, especially in her discussion with Wang Xing.

I [told Wang Xing that], 'I didn't collect the debt that day. Seeing that you suffered from extreme poverty and couldn't support a wife, I found Ms. Jin a family to work for as a cook.' He would not let me off easily and remained in my house, saying that I must return his wife...I told him 'You yourself don't have enough food to eat, what can you provide a wife? It's better to take some money from the sale and survive.' 小婦人說錢沒討回，我見你苦得很養不活妻子，我替他尋了一個人家雇做飯婆去了，他就不依，住在小婦人家說必要接妻子回去...你自己也沒飯吃把什麼養活妻子，不如弄幾兩銀子回去還活罷。

Ms. Lu justified her decision to sell Ms. Jin because of his poverty, and once again, characterized the sale as ultimately a good thing for Wang Xing, as she believed it had been for his wife. Wang Xing's refusal to take her advice provoked his insult against Ms. Lu.

However, the magistrate was not satisfied with Ms. Jin's explanation because it continued to exclude Wang Cai as a collaborator. "You falsely sold Ms. Jin, clearly this is why Wang Xing [used offensive language against you], and you got the idea to kill him...Except, you are a woman, how were you able to kill a man? You and your husband must have plotted and beat him together." 你把金氏誘出來賣了，明明是因王興向你要人沒有人你有意要謀死他...但你是一個女人怎么能打死男人？必定是與你丈夫同謀同打的了。 In this final part of the first round of questions included in the case, Ms. Lu held firm to her story, stressing Wang Xing's weak character.

I, because Wang Xing is a foolish person of no use, sold Ms. Jin, and originally thought to give him some money...it is only because he scolded me saying that he 'would use me as his wife,' that upon hearing this, I became so enraged that I picked up a brick and beat him. Truthfully, my husband did not kill him with me. 小婦人因王興為人猥愚無用賣了金氏，原想要分給他幾兩銀子就可了事...只因王興一頭罵一頭說叫小婦人做他妻子，小婦人聽他說話無理一時氣惱起來打的，實不是丈夫同謀打死的。

Ms. Lu's responses to these questions indicate her disagreement with the magistrate's suggestion of the involvement of others, but also reveal her own personal reason for selling Ms. Jin in the first place, not mentioned in the summary, as well as the limits of her husband's authority over her. However, this first round of questioning did not assuage the suspicions of the reviewing officials, who continued to doubt that Ms. Lu carried out these crimes on her own, but more specifically, could not believe that her husband created a domestic environment that permitted her to do so. Therefore, following the county magistrate's summary and recommendation for sentencing, the third official to review the case up the line requested additional questioning.

According to Ms. Lu's confession, Ms. Jin accompanied her to collect a debt and she [got the idea] to entice her into sale, Ms. Lu is a middle aged woman...absent from home for a month's time, how could her husband permit her to come and go and not question her. Clearly Wang Cai plotted with her to sell [Ms. Jin], I find it hard to believe that he had no knowledge of the plot... What's more, if Wang Cai did not know Wang Xing, why [did he] permit this man to be alone with his wife while he went out to stay at his uncle's house? 據稱陸氏因討欠錢與金氏同行和同誘賣，但陸氏乃中年婦人...回家相距幾及一月，伊夫豈有聽其去來竟不根訊之口明系王彩一同拐賣未便諉為不知...而王彩若不認識王興任聽單婦孤男同住自往舅家定無其事？

In the second round of questioning, the magistrate, appearing to lose his temper, continues to press Ms. Lu on the same issues, imploring her to admit that her husband was in on the crime. In this round of questioning, we learn more about the magistrate's assumptions about marriage, as he suspects that an environment of male failure caused

these crimes.

Second Round of Questioning

“[Ms. Lu] why would your husband permit you to [freely] come and go? Clearly Wang Cai was in on the plot to sell Ms. Jin.” 你丈夫王彩豈有聽你去來的？理明系王彩是一同拐賣金氏的了。Ms. Lu replied, “I often go out selling cotton and often act as a matchmaker, staying at my relatives. My husband is used to this. He doesn’t manage me (58).” 小婦人平日不時出外收紗賣布，又常提人家做媒在親戚人家住慣的丈夫也不來拘管小婦人。The magistrate does not envision this as a likely marriage relationship, saying, “quickly, admit the truth that your husband plotted with you to sell Ms. Jin. If you don’t speak truthfully, [you’ll be] tortured.” 快把你丈夫通同拐賣金氏的實情供來再不實說要用刑了。Ms. Lu replied, “I am telling the truth.” 小婦人實說罷。

Ms. Lu recounted her first conversation with Ms. Jin, revealing new information about Wang Xing’s poor economic situation. “Along the road, Ms. Jin told me that her husband begs outside, often sleeps at the Guanyin temple, and cannot support her. Before, she was sold to the Zhu family and received 4 *liang*, but the family didn’t want her, and returned her, and so now she often starves....” 小婦人出門走在路上，金氏又向小婦人說他丈夫在外求乞常住在觀音堂里不能養活，前日我夫妻兩個賣在朱允什升家得了四銀子，他家不要又退回來如今時常受餓。Ms. Lu then explained that because Ms. Jin suffered so, it was better to find her another home, stressing how Wang Xing failed to support her and himself.

However, the magistrate pressed Ms. Lu on the new issue brought up by the third

reviewing magistrates, the unlikelihood that a husband would allow a wife to remain alone with a male stranger. “Why did your husband permit you to stay alone with a man while he was out at his uncle’s home? If Wang Xing didn’t come up with the idea to sell his wife, how did you dare to sell her? (63)” 你丈夫豈有聽你們單婦孤男同住一處竟自往舅家去呢？王興并無賣妻子之意你何敢把他賣去？ “What would my husband have to worry about?” Ms. Lu replied, “This Wang Xing [was Ms. Jin’s husband], we were acquainted with [him]. (65)” 有什么不放心呢？那王興是表聯襟原是認得. Ms. Lu suggests a degree of comfort with the mixing of different genders that is at odds with normative conceptions of space. Ms. Lu continued to defend her position by stressing that Wang Xing failed to live up to the role of husband. “This Wang Xing was the most useless person. One could say it was not a marriage. They were always unharmonious. (68)” 那王興原是最沒用的人，能說不能行的夫妻本來不和.

With this response, Ms. Lu expressed her opinion about the components of normative marriage. In particular, she argued that husbandly failure could invalidate a marriage. From Ms. Lu’s point of view, if a husband could not support his wife, he was *not* a husband. His failure had dissolved the couple’s marriage contract, warranting her plot to sell Ms. Jin as a justifiable response. This provides another interesting perspective on how women themselves assessed the legitimacy of marriage. In the preceding case, a part of Ms. Li’s argument was that her alleged husband had failed to sustain an adequate quality of life for her. In addition to not carrying out proper marriage ceremonies, his failure to perform as a husband made him not a husband in her eyes. Here we see Ms. Lu making a similar argument. Not challenging whether or not Ms. Jin and Wang Xing had performed the necessary rituals, Ms. Lu interpreted his complete abandonment of his

husbandly duties as an indicator of an illegitimate marriage.

Wang Cai is then subjected to the same type of follow-up questioning. The magistrate reasons that it was illogical for Wang Cai to tolerate Ms. Lu's freedom of movement without question, and points to his collaboration as the only explanation for this obvious lack of husbandly authority. "My wife Ms. Lu often leaves home to sell cotton and act as a matchmaker, so I was not suspicious of her." 小的妻子陸氏時常出門販紗做媒，小的也不疑他的。

In this section, the case provides new information previously left out of Wang Cai's story. Wang Cai stated that after a few days, he did indeed go to Ms. Zhang's house looking for his wife. This admission partially satisfied the magistrate's apprehensions about a husband who did not care about the whereabouts of his wife.

Next, the magistrate once again asked Wang Cai to explain his wife's behavior.

Your wife is of the weaker sex, how could she dare to entice the sale of Ms. Jin? Since you knew that she was taking Ms. Jin to find employment as a *fanpo*, why did you not admit this before? It is likely that you also knew that she was enticing the sale of Ms. Jin. What else do you dare to place blame for on others? 你妻子是女流，如何敢拐賣金氏？你既然知道他領金氏去做飯婆，從前又不供明必定也知道他拐賣的了，還敢推諉麼？

The magistrate continued to press the new question. "How could you permit your wife to be alone with a strange man?" 你怎么肯任聽孤男單婦同住在家？ "Wang Xing is my friend," Wang Cai replied, "he often comes to stay." 王興是小的表聯襟，時常來住的。 He then claimed his innocence, saying, "If I had helped kill him, this corpse would have had more than just two wounds." 若有幫助情事，那尸身傷痕就不止兩處了。 This questioning illustrates judicial criticism about a husband's passive attitude toward the intermingling of sexes in his home. Oddly enough, this type of concern remained absent

from the magistrates' consideration in the adulterous husband-killing cases discussed earlier. This complete indifference to norms of gender separation and husbandly authority that Wang Cai articulated shocked the magistrates. The great amount of attention on these issues throughout the case narrative appears as an effort to explain not only the crime at hand but also a disturbing marriage between an emasculated husband and a commanding wife.

Wang Cai then described what happened when he returned home from the marriage banquet.

That night, I returned home, it was already midnight. My wife told me about how she had killed Wang Xing. I was shocked and scolded my wife, saying, 'this death will receive capital punishment, and you did this, you will be held responsible, don't involve me,' and I scolded her for a while. 那夜小的回家已有半夜時分了，妻子把打死王興的話告訴小的，小的吃了一驚原埋怨妻子說，這是人命要問死罪的你做的事，你去承當不要連累我，又把妻子罵了幾句。

Wang Cai explained that she asked him to help her hide the body, stressing his own helplessness in the situation. "In that moment I was foolish, and didn't know what to do." 小的一時愚昧也沒有法處. Making sure to note that Ms. Lu first grabbed Wang Xing's corpse, Wang Cai recounted how they used his boat to help his wife dispose of Wang Xing's body in the nearby river. Indicating that he did indeed help her tie up the corpse, a detail that he had previously concealed from the magistrate, afraid that he would receive more severe punishment. This appears to be the only change from the original story, in which he claimed that Ms. Lu had tied up the corpse alone.

The follow-up questioning of Ms. Jin, who had received markedly less attention from the magistrate thus far, reveals the judicial suspicion of Wang Cai as they are critical of his character. "You and Ms. Lu visited Wang Cai, this Wang Cai must have known about the fraudulent sale! Why did you not admit this before? Why did you only

say that Ms. Lu came up with the plot while you were on the road?” 你既同陸氏到王彩家，那王彩自然也是知情誘拐的了？你從前為什麼不供明只說是路上與陸氏說起的呢？ Ms. Jin holds to her original story, saying that Ms. Lu did not suggest the sale until after the women had left Wang Cai’s house, and that Wang Cai had believed they were going to find her employment as a *fanpo*. Wang Cai’s uncle and another person were brought in to prove his alibi.

While the county magistrate would eventually designate Ms. Lu the chief culprit of this crime, he was initially extremely apprehensive to do so. Reading the judicial questioning in juxtaposition to this case summary, one quickly discerns a distinct judicial apprehension about the large degree of unchecked female agency depicted in the case summary. Notably, Ms. Lu’s husband, Wang Cai, remained largely absent from the summary and this masculine scarcity troubled judicial officials. The magistrate consequently proposed an alternate explanation of the crime that situated Ms. Lu’s mischief firmly inside the realm of male failure. One gains a clear sense of a judicial logic that linked feminine criminality to husbandly weakness.

Verdict

The magistrate’s revised summary characterized Wang Cai as a husband who let his wife ‘come and go’ and that “Ms. Lu plotted to entice the sale [of Ms. Jin], Wang Cai had no knowledge of the plot.” 陸氏始起意拐賣，王彩實不知情。Also, Ms. Jin “knew that selling was not permitted.” 既知拐賣不行控告。Wang Xing demanded an extreme amount of money, and told Ms. Lu that “he wanted to use her as his wife, a category of absurdly dissipated [language].” 并欲陸氏底作妻子更屬荒唐等。This so angered Ms.

Lu that she indignantly beat Wang Xing. “Truthfully, Ms. Lu singlehandedly instigated the enticed sale of Ms. Jin and the murder of Wang Xing, and Wang Cai was not involved.” 誘賣金氏毆死王興實由陸氏一人，王彩始未同謀誘賣才未助毆。 Wang Cai, however, would be punished for helping Ms. Lu dispose of the body and was sentenced to 70 strokes of bamboo and a year and a half of exile. Ms. Jin was sentenced to 100 strokes of bamboo (but was allowed as a woman to pay a monetary fee in lieu of corporal punishment) and returned to her natal family. Finally, Ms. Lu was sentenced to strangulation after the assizes for the crime of beating and killing a person.

Conclusion

This case has illustrated the strategies employed by two women to maneuver around failed husbands. Wang Xing, the victim, is a familiar form of failed husband who did not provide material support for his wife, like many husbands in Chapter 2, leading her to look for better options. However, Wang Cai failed judicial expectations in a markedly different way, as a passive husband who showed no desire to enforce normative gender order or husbandly authority over a wife. Although Wang Cai maintained that he had no knowledge of Ms. Lu’s intent to sell Ms. Jin, he was clearly aware that she was acting as a largely autonomous agent. Consequently, the magistrate could not point to husbandly ignorance of blurring gender boundaries, as judicial elites did in Chapter 3. Nor could he point to an unsuccessful display of husbandly authority to redeem Wang Cai’s moral masculinity, as magistrates did in Chapter 1. Rather, Wang Cai was simply knowingly passive throughout the entire course of events. Judicial officials did not interpret his lack of concern for gender boundaries as collaboration in the killing, but

such an attitude appeared incredible enough to the magistrates to provoke intense scrutiny. This skepticism shows the difficulty the state had in applying the logic of the Qing Code to men who did not subscribe to the elite orthodoxy, even in provinces such as Suzhou where the blurring of gender roles was relatively commonplace.

CONCLUSION

This thesis has provided a glimpse at how Qing judicial officials and ordinary women maneuvered their way around failed husbands and broken marriages in courtrooms and daily life. When confronted with a homicide involving the death of a husband, officials looked to redeem the patriarch who was too weak to successfully carry out his duties. They constructed husbandly failure to preserve the sense that even flawed husbands could value the performance of orthodox norms. The Code's logic, however, did not necessarily reflect or predict magistrates' attitudes toward the variety of failed husbands witnessed in the courtroom. In some cases, magistrates may have pitied the suffering wife of an excessive disciplinarian or wastrel, but because they were compelled to uphold the Code, such sympathies could not lighten a husband-killer's punishment. Thus, the state prioritized the redemption of emasculated husbands whose death provided the perfect mechanism to accomplish this goal, while allowing magistrates a level of discursive authority that often highlighted the impact of the husband's deficiencies on marriage and social order. Since these deceased husbands were unable to testify in court, magistrates reconstructed the 'husband-failure' character and controlled his voice, avoiding, as the final chapter illustrates, the very real potential for the subject himself to further complicate this already compromised narrative.

This thesis has also brought women's criticisms of husbands and marriage to the forefront of the discussion. Despite extensive judicial editing, one can still discern

the voices of poor wives with a desire for some form of companionate marriage. For instance, the passionate confessions of the final two chaste husband-killers articulated a longing for a bit of happiness between husband and wife. These women expected to marry a husband that would not only support them, but also care for them, and in some cases even regarded lack of affection a greater point of dispute than poverty. While some elites may have shared in this wish, such as the magistrate in the kidnapping case who suggested that affection was a sign of marriage, the state does not seem to have endorsed companionship as a component of real marriage. While poverty constrained the lives of ordinary people and influenced their ideas about marriage, leading many to deviate from normative moral standards to survive, the issues raised by the women in the above cases complicate the notion of marriage among the poor as merely instrumental. These women envisioned marriage as something more than a survival method, viewing the role of wife and the marital relationship as fundamental parts of their personhood. None of these women opposed marriage; rather, they opposed the disfigured marriage that their unsuccessful husbands provided them, and their complaints originated from this understanding that their marriages failed to fulfill both personal and customary expectations to an extent that negated its existence in their lives.

Matthew Sommer's research on the practice of polyandry and wife-selling shows the extent to which a desire to survive superseded ordinary people's willingness to perform normative marriage. This thesis has provided evidence to support this argument. It examines cases about wives who committed adultery to find better husbands in complete disregard of their chastity as well as a case about a wife who eagerly pursued her own sale to improve her quality of life and the husband who tolerated this sale after

the fact in hopes of receiving a generous profit. Yet this thesis has also observed moments when men and women aspired toward normative ideals despite poverty. Consider, for instance, the husband suicide victim who regarded female chastity as an essential part of his masculinity. The state interpreted such problematic suicides to represent a desperate final bulwark against illicit sex and polyandry, which an unvirtuous husband might have easily taken advantage of for financial gain. The ignorant cuckold similarly comes across as sternly opposed to the benefits of polyandry in the magistrate's narrative. Perhaps most striking is the example of a *guanggun*, a man with no ritual claim to the role of husband, who conformed more closely to ideal husbandly masculinity upon catching his "wife" in the act than many of the actual husbands discussed in this thesis. This case reveals that even this poor man, who one might expect to have made survival a top priority, instead internalized normative expectations of husbandly behavior much like the chaste husband-killers who yearned for a sense of normative marriage. Containing both elements of state sanctioned morality as well as unforeseen variations on these principles, these cases begin to speak to a complex vision of marriage among the poor.

In addition to recognizing the contradictory motivations that shaped ordinary behavior, this thesis has questioned state assumptions about the stake husbands held in social order. The only surviving husband failure among the cases examined expressed a disregard for maintaining gender boundaries or exerting authority in marriage; for this husband, such a performance was not in his interest. It is important to note that these husbands were indeed economically disadvantaged, and in all the cases discussed, lacked a male heir. Not having a son may have left these poor husbands as individuals who had not yet fulfilled basic precepts of ideal Confucian manhood even though they had

performed marriage. These sonless husbands potentially presented a similar danger to the social order as the *guanggun*. While law and literature presented a stable distinction between the husband and *guanggun*, the realities of life significantly blurred this difference. As such, an approach to life independent of traditional performance of husbandly authority and wifely obedience without family ties also existed within the system. Magistrates, however, had to work to maintain this artificial dichotomy that was foundational to the chastity logic underlying the Qing Code.

In this construction, judicial officials envisioned the nontoleration of illicit sex as the most important component of orthodox husbandly masculinity. In other words, they defined a husband as the defender of his wife's chastity. He refused to practice polyandry and prevented his wife from engaging in it. This codified expectation represented the strictest demarcation between the husband/*guanggun*, making the case of the husband-like *guanggun* particularly fascinating. As these cases demonstrate, the state redeemed less than ideal patriarchs who had failed as husbands in many ways; however, judicial officials provided no excuse for a polyandrous husband who tolerated illicit sex. In husband suicide and husband-killing cases, the toleration of illicit sex by the husband reduced the culprit's guilt and punishment. One begins to see how legal logic linked husbandly virtue to chastity in a manner that paralleled standards of wifely virtue, using chastity as the basis for establishing a husband's credibility and reputation in the courtroom. However, the state provided men a greater degree of room to err from state norms short of polyandry. While evidence of monogamy provided magistrates with legal grounds to redeem the failed husbands discussed above, husbands who allowed wives to engage in illicit sex could garner no support from the central state.

The outset of this thesis examined one governor's concerns about the high rate of false suicide claims in Fujian. He described these homicidal subjects as 'worse than beasts' and feared their disregard for the five family relationships. The highest levels of the Qing state shared similar concerns. Janet Theiss highlights the importance Emperor Qianlong placed on the proper expression of moral sentiments by husbands within his larger discussion of female suicide. He wrote, "the statutes only grant the husband the righteous anger to kill the adulterers...For human beings are not equal. Close and distant [relatives] differ, and sincerity and falseness are ever changing. I fear the emergence of reckless killings for selfish motives."⁸³ With this statement, Qianlong promoted a precise vision of proper husbandly behavior within marriage and worried about the dilution of this social role. Such anxieties shaped Qing state-building efforts and may explain the judicial prerogative to magnify the slightest trace of virtue in the actions of an otherwise failed husband. However, the state was not willing to submit the basic structure of normative marriage to the same type of compromise as it had for husband masculinity, and thus could not redeem a polyandrous husband-failure. Judicial officials also disapproved of misbehaving husbands. Magistrates detailed how husbands overly abused wives or neglected to support them and their own parents in their case reports. They also blamed the negative impacts of extreme female agency on the deliberately passive patriarch.

As a whole, these cases reveal the matrix of Qing masculinities and marital expectations, both as they originate from the standards of elites and as they rise from the lived experience of common men and women. These cases reveal that more was at stake

⁸³ Theiss, *Disgraceful Matters*, 106.

for both poor men and women and the state than survival alone. People faced crucial questions of how to realize personal identity and their ideals of marriage, while the state was attempting to shore up family order by simultaneously reprimanding and redeeming failed patriarchs. This thesis finds Qing case files to represent a complex matrix of individuals attempting to assert their interests and perspectives, and officials attempting to make narrative and legal sense of unforeseen aberrations from statutory and Confucian norms that one cannot easily simplify by any single explanatory method. Historians should approach these judicial documents as hybrid narratives that pull together disparate logics, representing the clash and entanglement of different value systems.

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