To rot and not to die

To Rot and Not to Die:
Punitive Emasculation in Early and Medieval China

Abstract

While it is generally accepted that the main line of supply for eunuchs in late imperial China was the practice of self-emasculation, the institution of court eunuchs as a political practice and punitive emasculation as a legal practice were separated at a much earlier stage. Whereas historians have argued that emasculation was not among the mutilating punishments that Han Emperor Wen abolished in 167 BC, but evidence for the practice after his reign shows that it was no longer applied as a regular punishment but only in exceptional cases. Moreover, there is sufficient evidence from Wen's reign that he also abolished emasculation. Finally, although research in anthropology and on the ancient orient suggests that the idea of emasculating men arose out of the use of bellwethers by pastoralists, this paper will demonstrate that, in China, conquest dynasties adopted human emasculation from the Chinese and not vice-versa.

Keywords: Castration, emasculation, eunuchs, Gao Lishi, Han Emperor Wen, mutilating punishments, Northern Wei, Tang.

宫刑至唐乃赦也。[1]

By the Tang, punitive emasculation was remitted.

Introduction

The practice of using eunuchs—castrated or emasculated men—to exercise social or political control was widely spread among empires in the southern regions of continental Eurasia and parts of Africa up until the twentieth century.[2] In most cases, eunuchs were employed in the female quarters of the rulers' palaces, where they performed tasks that required male physical strength. More important for the polygamous ruler of a patrilineal society, eunuchs controlled access to his women, so that he could rest assured that all children born by those women were of his own flesh and blood. From there, eunuchs frequently extended their reach to other, more political spheres, sometimes rising to positions of considerable power.

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[1] Sub-commentary to *Rituals of Zhou*, "Autumn Offices, Supervisor of Punishments" 周禮秋官司刑疏, in Ruan Yuan 阮元 (1764–1849) (ed.), *Shisanjing zhushu* 十三經注疏 [hereafter: SSJZS] (8 vols. Taipei: Yiwen Yinshuguan, 2001), vol. 3: 539b. Based on an emendation in the notes, the sentence is most often read as "by the *Sui*, punitive emasculation was remitted" 宮刑至隋乃赦也, see Shen Jiaben 沈家本 (1840–1913), *Lidai xingfa kao* 歷代刑法考, in Xu Shihong 徐世虹 et al. (eds.), *Shen Jiaben quanji* 沈家本全集 (8 vols. Beijing: Zhongguo zhengfa daxue chubanshe, 2009), vol. 3: 132 and Cheng Shude 程樹德 (1877–1944), *Jiu chao lü kao* 九朝律考 (2nd ed. Beijing: Zhonghua shuju, 2006 [1963]), 433.

[2] Kathryn Reusch, "'That Which Was Missing': The Archaeology of Castration" (Oxford: PhD dissertation, 2013), 11 and 20. The practice was widespread in the continental Old World, but seemingly unknown in the Americas and Japan.

As Robin Yates argues, a person who suffered mutilating punishments (*xingren* 刑人) was socially dead and henceforth a non-person (*xingren fei ren ye* 刑人非人也).[3] Emasculation was the severest form of social death: not only did it mark the person who suffered it as socially dead in this life, but also in the next, as he was cut off from the religious solace of being fed and worshipped by his descendants after having died biologically. The social death entailed by emasculation seemingly made it the perfect tool in the hands of rulers to humiliate and degrade their victims. At the same time, just as the death penalty, it had to be applied judiciously, as capital punishment and emasculation equally had the potential of enraging the ancestors.

By analyzing sources on punitive emasculation[4] from the second century BC to the late seventh, early eighth century AD, this article will show that, contrary to common stereotypes, prisoners of war and convicted criminals were not the main source for Chinese court eunuchs. One such exception was the Northern or Tuoba Wei 北/ 拓跋魏 Dynasty (386–534), which inflicted punitive emasculation on boys at or below the age of fourteen sui 歲 (thirteen years in Western reckoning), whose fathers and other male relatives had been sentenced to death for "great sedition and impiety" (*dani budao* 大逆不道).[5] The Tuoba, in turn, had adopted the

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[3] Robin D.S. Yates, "Slavery in Early China: A Socio-Cultural Approach," *Journal of East Asian Archaeology* 3.1–2 (2001): 283–331 (299).

[4] There is a difference between castration – the removal of the testicles – and emasculation – the removal of testicles and penis – which will be further discussed below. As it is not always clear which is meant in early Chinese sources, I will use 'emasculation' most of the time. See Melissa Dale, "Running Away from the Palace: Chinese Eunuchs during the Qing Dynasty," *Journal of the Royal Asiatic Society* 27.1 (2017): 143–167 (143).

[5] In the cases discussed below, the fathers had refused to submit to the Tuoba rulers. See Wei Shou 魏收 (506–572), *Weishu* 魏書 [hereafter: WS] (8 vols. Beijing: Zhonghua shuju, 1974), 111.2874. The translation "great sedition and impiety" is taken from Anthony J. Barbieri-Low and Robin D.S. Yates, *Law, State, and Society*

practice from the Later or Eastern Han Dynasty (後/ 東漢, 25–220). The article is part of the authors on-going research on the history of Chinese eunuchs, the rise of military eunuchs and eunuch hereditary houses (*huanguan shijia* 宦官世家),[6] and the impact of the cultural and legal practice of emasculation on conceptions of masculinity in imperial China.

Scholars often tacitly assume a connection between punitive emasculation on the one hand and eunuchs on the other. As evidence from late imperial China shows, the court's demand for eunuchs was met by voluntary or self-emasculation (*zigong* 自宮) rather than through the legal system.[7] This paper will show that the practice of employing eunuchs as agents of social and political control on the one hand and the punitive use of emasculation on the other were separated at a much earlier date, although they were not yet entirely separated by the early Tang. Not only did the abolition or abatement of mutilating punishments (*rouxing* 肉刑) by Han Emperor Wen 文帝 (Liu Heng 劉恆, r. 180–157 BC), also involve emasculation, but its abolition also had far-reaching consequences for the evolution of the eunuch institution itself. Emasculation played a rather particular role in the legal system of early and mid-imperial China, which set it apart from the other mutilating punishments such as the amputation of a limb or the nose.

Scholarly debates about emasculation as a mutilating punishment in early imperial China often revolve around the questions whether it was the second-most severe punishment right

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in Early Imperial China: A Study with Critical Edition and Translation of the Legal Texts from Zhangjiashan Tomb no. 247 (2 vols. Leiden: Brill, 2015), 187. In Wallace Johnson, *The T'ang Code* (2 vols. Princeton: Princeton University Press, 1979–97), vol. 1: 65 and 68, they are translated as "great contumacy" (*e'ni* 惡逆) and "depravity" (*budao*), and quite unrelated to sedition.

6 See Du Wenyu, "Tangdai huanguan shijia kaoshu" 唐代宦官世家考述, *Shaanxi Shifan Daxue xuebao* 陝西師範大學學報, 27.2 (1998): 78–85.

7 See Dale, "Running Away from the Palace," 145.

behind the death sentence, whether it was exclusively used as a punishment for adulterers, or whether it was a (voluntary) commutation for the death penalty.[8] While those questions have some bearing on this paper, here I am more concerned with the role of punitive emasculation in the provision of eunuchs. Due to the entrenchment of the eunuch system in the imperial institution itself, that institution struggled longer with the abolition of punitive emasculation than with that of any other mutilating punishment. Furthermore, its abolition was a gradual process rather than a sudden event, which was due to internal and external factors. While the eunuch institution remained relatively small during the Western Han 西漢 Dynasty (202 BC–9 AD) period, the numbers rose during the Eastern Han and could no longer be met with emasculated convicts. Moreover, during the Eastern Han, the institution reached a threshold for self-reproduction, as eunuchs gained the right to adopt sons, which they could groom to become palace eunuchs in turn. Punitive emasculation all but disappeared under Chinese regimes after the Han, but resurfaced in the fifth and sixth centuries, when the alien regimes of the north started to emulate earlier Han customs. We do not know when the last punitive emasculation in China took place, but from the second half of the sixth century onwards, it was no longer part of the legal codes.

Background: Terminology and Sources

In modern English usage, the terms "castrate" and "eunuch" are often used interchangeably.[9] While both "castrate" and "eunuch" indicate a man whose reproductive organs have been

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[8] See Kiyoshi Miyake 宮宅潔, *Chūgoku kodai keisei shi no kenkyū* 中国古代刑制史の研究 [*A History of the Penal System in Early China*] (Kyoto: Kyoto University Press, 2010), 41–54 for a summary of the debates.

[9] See "castrate, adj. and n." and "eunuch, n.", in *Oxford English Dictionary Online* (Oxford: Oxford University Press, 2017), http://www.oed.com [accessed February 7, 2018].

removed completely or in parts, the first term is inappropriate to be applied to a eunuch for two reasons: first, castration is limited to the removal of the testicles, as was the case with the Italian opera singers or castrati.[10] In the case of eunuchs in empires outside of Europe such as China, both testicles and the penis were removed.[11] To distinguish castration from the latter operation, it is more appropriately called "emasculation."[12] Secondly, while a castrate might be any member of a society who had his testicles removed, for example as a punishment, or for ritual, religious or professional purposes, a eunuch is a person employed in a political or administrative function. Eunuchs formed and sometimes still form a separate caste or group that became rather powerful in pre-modern empires such as China and Byzantium.[13] Chinese language reflects that second distinction: while a *yanren* 閹/奄人 may be an emasculated or, in some cases, castrated man of any social position, the terms *huanguan* 宦官 and *taijian* 太監 exclusively refer to emasculated men employed at court – or, rather, the offices reserved for such men.[14] *Zhouli* mentions quite a few offices in the inner palace that were supposedly filled with emasculated (*yan* 奄) men;[15] others are identified by later authors or commentators,

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[10] See Richard Witt, "The Other Castrati," in Shaun Toughter (ed.), *Eunuchs in Antiquity and Beyond* (London: The Classical Press of Wales, 2002), 235–260 (235).

[11] See Reusch, "That Which Was Missing," 13.

[12] See Dale, "Running Away from the Palace," 143 and Melissa Dale, "Understanding Emasculation: Western Medical Perspectives on Chinese Eunuchs," *Social History of Medicine*, 23.1 (2010): 38–55 (39).

[13] See Shaun Tougher, *The Eunuch in Byzantine History and Society* (London, 2008).

[14] The great Han historian Sima Qian 司馬遷 (c. 145–c. 86), although he underwent punitive emasculation, was not a eunuch, because he held no eunuch office. The compound *huanguan* already contains the Chinese word for office, *guan* 官, while *taijian*, a term that is of much later date and falls outside the scope of this article, originally designated a non-eunuch director (literally "great overseer") of a government office.

[15] See D.C. Lau 劉殿爵 et al. (eds.), *Zhouli zhuzi suoyin* 周禮逐字索引 [*A Concordance to the Zhouli*] (Hong Kong: Shangwu Yinshuguan, 1993), 2, 4, 19 and 33.

for example, *gongzheng* 宮正, *gongbo* 宮伯, *neizai* 內宰, *xiao neichen* 小內臣, *hunren* 閽人, *siren* 寺人, and *neishu* 內豎.[16]

For China, the existence of eunuchs at the courts and of emasculation as a legal or ritual punishment can be traced back to the first and second millennium BC. The earliest references to eunuchs in China are found in the *Zuo Tradition* (*Zuozhuan* 左傳) and are dated to the sixth century BC;[17] a eunuch (*siren* 寺人) Meng Zi 孟子, also allegedly composed Ode no. 200 of the *Book of Odes* (*Shijing* 詩經) in the eighth century.[18] The continued existence of a eunuch institution at court in imperial China, however, can only be safely attested since the first century BC. Punitive emasculation, on the other hand, dates back considerably farther back, as characters in oracle bones and bronze inscriptions of the Shang 商 (16th–11th century BC) and Western Zhou 西周 (11th century–771 BC) are thought to signify that punishment as applied to war captives belonging to the foreign Qiang 羌 people.[19]

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[16] See Du You 杜佑 (734–812) et al., *Tongdian* 通典 [hereafter: TD] (5 vols. 4th ed. Beijing, 2003 [1988]) 27.755. *Siren* is usually taken to mean 'eunuch' unquestioned, but in fact, only later commentators of *Zhouli* identify it as such based on the identity of Siren Pi 寺人披 in *Zuozhuan*, see Sun Yirang 孫詒讓 (1848–1908), *Zhouli zhengyi* 周禮正義 (14 vols. Beijing, 1987), 1.48. See also Clara Wing-chung Ho 劉詠聰, "Lun Chunqiu Siren Pi zhi pingjia" 論春秋寺人披之評價, *Dalu zazhi* 大陸雜誌, 89.6 (1994), 42–48.

[17] Those references are for the 2nd (571 BC), 17th (556 BC) and 26th (547BC) year of the reign of Duke Xiang of Lu 魯襄公, see SSJZS, vol. 6: 498a, 574b and 643a.

[18] See SSJZS vol. 2: 428a–430a and Arthur Waley and Joseph R. Allen, *The Book of Songs: The Ancient Chinese Classic of Poetry* (New York: Grove Press, 1996), 182.

[19] See Zhao Peixin 趙佩馨, "Jiaguwen zhong suo jian de Shangdai wuxing" 甲骨文中所見的商代五刑, *Kaogu* 考古, 2 (1961): 107–10, Liu Hainian 劉海年 et al. (eds.), *Zhongguo zhenxi falü dianji jicheng* 中國珍稀法律典籍集成, series A, vol. 1: "Jiaguwen jinwen jiandu falü wenxian" 甲骨文金文簡牘法律文獻 (Beijing: Kexue chubanshe, 1994), 131–33, Michael Loewe, "On the terms *baozi*, *yin gong*, *yin guan*, *huan*, and *shou*: Was Zhao Gao a Eunuch?," *T'oung Pao*, 91 (2005): 301–19 (308, n. 27), and Miyake, *Chūgoku keisei*, 41.

Among the terms for punitive emasculation in Literary Chinese, the best known and most commonly used one is *gongxing* 宮刑, literally "palace punishment". Yet there are others, including more narrowly defined legal terms such as *gongpi* 宮辟, *gongzui* 宮罪, *gongfa* 宮罰, *fuxing* 腐刑 ("punishment of rotting"), *yinxing* 淫刑 ("punishment for licentious conduct, adultery, fornication"), *yinxing* 陰刑 ("genital punishment"), [*xia*] *canshi* [*xing*] [下]蠶室[刑] ("punishing by casting away into the silkworm house"). Various methods of emasculation are described as *qushi* 去勢 or *geshi* 割勢 ("removing/ cropping the potency. i.e. penis"), *zhuo* 椓 ("smashing"), or *yan* 奄/ 閹 ("castrating" or "emasculating").[20] Very rare indeed is *jiexing* 犗刑 (*jie* indicating the castration of a bull), of which I only know one instance.[21]

The classical reference to *gongxing* is found in the chapter "Penal Laws of Lü" ("Lü xing" 呂刑) in *Book of Documents* (*Shujing* 書經),[22] which lists it as one of the "Five Punishments" (*wuxing* 五刑) The Count of Lü 呂侯 allegedly designed the Five Punishments on the behest of King Mu of Zhou 周穆王 (r. trad. 1001–947 BC).[23].

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[20] See J.W. Jay, "Castration and Medical Images of Eunuchs in Traditional China," in *Current Perspectives in the History of Science in East Asia*, ed. Yung Sik Kim and Francesca Bray (Seoul: Seoul National University Press, 1999), 385–394 (389).

[21] See Fan Ye 范曄 (398–445) and Li Xian 李賢 (651/ 54–684), *Hou Hanshu* 後漢書 [hereafter: HHS] (12 vols. Beijing, 1973), 46.1556.

[22] It is also known as "Fu xing" 甫刑. For discussions of the "Lü xing" see Charles Sanft, "Concepts of Law in the *Shangshu*," in *Origins of Chinese Political Philosophy: Studies in the Composition and Thought of the* Shangshu (Classic of Documents), ed. Martin Kern and Dirk Meyer (Leiden: Brill, 2017), 446–74 and Geoffrey MacCormack, "The Lü Hsing: Problems of Legal Interpretation," *Monumenta Serica* 37 (1986–87), 35–47.

[23] SSJZS, vol. 1: 295b, MacCormack, "Lü Hsing," 35.

「宮辟疑赦，其罰六百鍰，閱實其罪。」傳：「宮，淫刑也，男子割勢，婦人幽閉，次死之刑。」[24]

In cases of emasculation, when doubts [speak for] a pardon, its fine should be 3[6]00 ounces, and their crimes be examined and verified.[25] The commentary [adds]: 'Emasculation, it is the punishment for licentious conduct. Men have their potency cut off; women are confined to the dark.[26] It is the punishment next to death.'

Traditionally, emasculation (*gong* or *zhuo*) was seen as the second most severe of the Five Punishments, only preceded by the death sentence (*dapi* 大辟) and followed by blackening or branding (*qing* 黥 or *mo* 墨), amputation of the nose (*yi* 劓) and amputation of a leg or foot (*yue* 刖 or *fei* 刵).[27] The list, rather than being a faithful representation of the legal practice before the Qin 秦 (221–206 BC) unification, may also be seen as a retrospective rationalization of the existence of mutilating punishments in the early imperial period. That is

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[24] SSJZS, vol. 1: 301a, trans. in James Legge (1815–1897), *The Chinese Classics*, vol. 3: *The Shoo King or The Book of Historical Documents* (Hongkong: Hong Kong University Press, 1960), 605. Emphases added.

[25] 600 (err.: 500) *huan* 鍰; one *huan* is estimated to add up to six 'ounces' (*liang* 兩), thus 3600 ounces. See Gu Jiegang 顧頡剛 (1893–1980) and Liu Qiyu 劉起釪, *Shangshu jiaoshi yi lun* 尚書校釋譯論 (4 vols. Beijing: Zhonghua shuju, 2005), vol. 4: 2026. Legge, *Shoo King*, 605 gives "3000" due to the error.

[26] See Cheng, *Jiu chao lü kao*, 40. The meaning of "confined to the dark" (*youbi* 幽閉) remains obscure. Jugel thinks that it refers to some sort of vaginal operation, or that the birth canal was sealed by heavy beatings that causes a uterine prolapse, see Ulrike Jugel, *Politische Funktion und soziale Stellung der Eunuchen zur späten Han-Zeit (25–220 n.Chr.)* (Wiesbaden: Steiner, 1976), 17–18. Others argue that women suffering *gong* were merely sentenced to serve in the palace ("women [and children] are locked up inside the palace" 女子閉於宮中) – hence *gongxing* or "palace punishment." See Paul Rakita Goldin, *The Culture of Sex in Ancient China* (Honolulu: University of Hawai'i Press, 2002), 76–7 and 162, n. 9. The early Chinese legal documents from Shuihudi 睡虎地 and Zhangjiashan 張家山 are inconclusive as to the matter of how *gongxing* was applied to women. I am grateful to Kiyoshi Miyake 宮宅潔, Kyoto, and Ulrich Lau, Hamburg, for their remarks.

[27] SSJZS, vol. 1: 45a.

also reflected in the assertion often-quoted under the Han that the Five Punishments actually refer to color markings on the clothes of convicts (*huaxiang* 畫象 or *hua yiguan* 畫衣冠) and not to mutilations at all.[28] The ideal-typical character is further apparent in the cosmological significance of the number five. In actual legal terms, historians would be hard-pressed to show that these punishments were a list of five "original" punishments from which all later punishments derived.

Our main sources for the history of emasculation in early and medieval China up to the Tang are the "Monographs on Punishment" ("Xingfa zhi" 刑罰志) or on "Punishments and Laws" ("Xingfa zhi" 刑法志) in the standard histories starting from the Han. The richest source material on eunuchs for that period comes in the shape of variously titled collective "Biographies of Eunuchs" ("Huanzhe zhuan" 宦者傳) that begin to appear in the standard histories with Fan Ye's 范曄 (398–445) *History of the Later Han* (*Hou Hanshu* 後漢書).[29] For the tumultuous period of fragmentation between the Han and Sui, the evidence is limited and problematic due to the vagaries of textual transmission. Our main sources on eunuchs and emasculation in that period are three historical works covering the Northern Dynasties, sometimes overlapping each other: *Weishu* 魏書, *Bei Qishu* 北齊書, and *Beishi* 北史. In *Bei Qishu* and *Beishi*, on the one hand, the biographies of eunuchs are put together with those of non-eunuch "favourites" in the so-called "Biographies of Minions" ("Enxing zhuan" 恩倖傳).

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[28] See Sima Qian, *Shiji* [hereafter: SJ] (10 vols. Bejing: Zhonghua shuju, 1975) 10.428, n. 4; Ban Gu 班固 (32–92), *Hanshu* 漢書 [hereafter: HS] (12 vols. Beijing: Zhonghua shuju, 1975), 6.160, 23.1098; Fang Xuanling 房玄齡 (578–648), *Jinshu* 晉書 [hereafter: JS] (10 vols. Beijing: Zhonghua Shuju, 1974), 30.917 and TD 168.4332.

[29] See HHS 78.2507–43. Sima Qian's 司馬遷 (c. 145–c. 86 BC) *Grand Scribe's Record* (*Shiji* 史記, ca. 100 BC) contains a chapter "Biographies of Minions" ("Ningxing liezhuan" 佞幸列傳) that treats the eunuch Li Yannian 李延年 alongside other favorites. See SJ 125.3195–96.

Weishu, on the other hand, contains an entire chapter dedicated exclusively to the biographies of eunuchs ("Yanguan zhuan" 閹官傳).[30] Only *Weishu* was completed before the seventh century, by Wei Shou 魏收 (506–572) of the Northern Qi Dynasty 北齊 (550–577); the other two were compiled under the early Tang. However, *Weishu* was revised substantially in the early Tang, at the time *Beishi* was compiled. Many chapters originally written by Wei Shou were lost and rewritten later, in the tenth century, using sources such as *Beishi*.[31] Hence, all three historical works must be treated with utmost caution, and their views on emasculation may differ from those under the Northern Dynasties they purport to depict. However, when comparing the three works, the chapter on eunuch biographies in *Weishu* appears to be much more detailed than those in *Bei Qishu* and *Beishi*. The biographies of eunuchs in *Weishu* may therefore be those originally compiled by Wei Shou or at least very close to them.

Unfortunately, the standard histories are our only sources for the biographies of eunuchs under the Northern Dynasties. The actual number of eunuchs in the imperial palace may have exceeded the two-dozen biographies in *Weishu* many times over, but for the greater majority,

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[30] See WS 93.1987–2010 and 94.2011–39, Li Baiyao 李百藥 (565–648), *Bei Qishu* (2 vols. 2nd pr. Beijing: Zhonghua shuju, 1972), 50.685–98, Li Yanshou 李延壽 (fl. early 7th cent.), *Beishi* (Beijing: Zhonghua shuju, 1974), 92.3017–60. On the eunuchs of the Northern Dynasties see Cai Xingjuan 蔡幸娟, "Beichao huanguan zhidu yanjiu" 北朝宦官制度研究, in Zheng Qinren jiaoshou rongtui jinian lunwenji bianji weiyuanhui 鄭欽仁教授榮退紀念論文集編輯委員會 (ed.), *Zheng Qinren jiaoshou rongtui jinian lunwenji* 鄭欽仁教授榮退紀念論文集 (Banqiao: Daoxiang chubanshe, 1999), 81–122 and Ma Zhiqiang 馬志強, "Beichao huanguan tanlun" 北朝宦官探論, *Xuchang Shizhuan xuebao* 許昌師專學報, 16.2 (1997): 81–4.

[31] See Li Zhengfen 李正奮, "Weishu yuanliu kao" 魏書源流考, Guoxue jikan 國學季刊 2.2 (1929): 362–82, cited after Jennifer Holmgren, "The Harem in Northern Wei Politics—398–498 A.D.: A Study of T'o-pa Attitudes Towards the Institution of Empress, Empress-Dowager, and Regency Governments in the Chinese Dynastic System During Early Northern Wei," *Journal of the Economic and Social History of the Orient*, 26 (1983): 71–96 (73).

we do not possess any historical or epigraphic records. The situation for the Tang, albeit still limited, is more favourable: apart from biographies for about two dozen eunuchs in the two standard histories, the *Old Tang History* (*Jiu Tangshu* 舊唐書) and the *New Tang History* (*Xin Tangshu* 新唐書),[32] epigraphic sources – tomb epitaphs (*muzhiming* 墓誌銘) and spirit path stelae (*shendaobei* 神道碑) – provide us with a plethora of information about a hundred eunuchs, their spouses and adopted children.[33] Before moving on to punitive emasculation in those later periods, the next two sections examine its fate under the Western and Eastern Han and its relation to the evolution of the eunuch institution in the early imperial period.

The Abolition of Emasculation under Han Emperor Wen

It seems counterintuitive to start the history of a punishment with its abolition, but the sources on the practice of punitive emasculation in pre-imperial China and the first several decades of imperial China are too sketchy to allow for any conclusions on the frequency or indeed the very application of the practice.[34] Beginning roughly half a century after the beginning of the empire in 221 BC further serves to highlight the degree to which the punishment on the one hand and the institution of eunuchs on the other were actually separate, because the number of eunuchs in the inner palace before the Eastern Han period was, by all accounts, relatively

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[32] See Liu Xu 劉昫 (888–947) et al., *Jiu Tangshu* 舊唐書 (16 vols., Bejing: Zhonghua shuju, 1975), 184.4753–4779 and Ouyang Xiu 歐陽修 (1007–1072) and Song Qi 宋祁 (996–1061), *Xin Tangshu* 新唐書 (20 vols., Beijing: Zhonghua shuju 1975), 207.5855–208.5902.

[33] See Michael Hoeckelmann, "Celibate but not Childless: Eunuch Military *Dynasticism* in Medieval China," in Almut Höfert, Matthew M. Mesley, and Serena Tolino (eds.), *Ambiguous Masculinity and Power: Ruling Bishops and Eunuchs in the Pre-Modern World* (London: Routledge, 2017), 111–28.

[34] Some evidence has been collected by Loewe, "Was Zhao Gao a Eunuch?", which I will not repeat here in full. Goldin, *Culture of Sex*, 76 argues that castration was a rare punishment in Western Han times.

low. There is a possible reference to emasculates participating in the construction of the First Emperor's notorious Epang Palace (*Epang gong* 阿房宮):

> 作宮阿房，故天下謂之阿房宮。隱宮徒刑者七十餘萬人，乃分作阿房宮，或作麗山。[35]
> They raised the palace [at?] Epang,[36] therefore the whole world called it Epang Palace. More than 700,000 persons convicted to "seclusion in the palace" or hard labor were allotted to raise the Apang Palace or the [First Emperor's burial mount at] Lishan.

There is, of course, also the case of the First Emperor's notorious eunuch Zhao Gao 趙高 (d. 207), but according to Michael Loewe, it is far from certain that Zhao Gao actually was a eunuch,[37] and the meaning of *yingong* 隱宮 in the above passage is sometimes questioned.[38] To date, there is little research on the history of emasculation in early and medieval China, partly due to the lack of clear evidence in the sources. What seems clear is that emasculation as a punishment was abolished, at least formally, early on in imperial China. The *Tang Code* (*Tang lü* 唐律), the earliest legal code from imperial China that survives complete and served as a model for legal codes until the Qing 清 Dynasty (1644–1912), does not list emasculation among its punishments.[39]

There is no scholarly consensus as to when punitive emasculation was abolished in early and medieval China or, indeed, whether it was abolished at all. However, it was no longer

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[35] SJ 6.256.

[36] On the naming of Epang Palace, see Charles Sanft, "The Construction and Deconstruction of Epanggong: Notes from the Crossroads of History and Poetry', *Oriens Extremus* 47 (2008): 160–176 (161–63).

[37] Loewe, "Was Zhao Gao a Eunuch?," 319.

[38] See Shen, *Lidai xingfa kao*, 128–29, Loewe, "Was Zhao Gao a Eunuch?," 308–10.

[39] See Changsun Wuji 長孫無忌 (?–659) et al., *Tanglü shuyi jianjie* 唐律疏議箋解 (2 vols. Beijing: Zhonghua shuju, 1996).

part of the legal code by the time of the Sui 隋 Dynasty (589–618),[40] although its immediate predecessors and, as shown below, even its successor, the early Tang 唐 Dynasty (618–907), reserved punitive emasculation for limited cases under clearly defined circumstances. There, emasculation became a collective punishment judiciously applied to prepubescent sons of a certain group of delinquents, which survived into the late seventh, early eighth century. That raises questions as to how literally the Tang Code was interpreted – even in Tang times. More controversial is the claim that emasculation was among the mutilating punishments abolished by Han Emperor Wen.[41] As A.F.P. Hulsewé states:

> It seems quite clear that as a principal punishment castration was abolished some time before 167 BC, but it was reintroduced, mostly – and especially during the Later Han period – in commutation for the death penalty, at least as early as 146 BC. It was again abolished in the second decade of the second century AD, and it does not seem to have been reintroduced later, during the Later Han.[42]

While emasculation is supposed to have been a punishment for adultery in pre-imperial times, after Han Emperors Wen and Jing 景帝 (Liu Qi 劉啓, r. 157–141), it was sometimes used as a commutation for capital punishment. As will be shown below, at the time when the Northern Wei, which was of non-Chinese origin, adopted Chinese institutions, its rulers used emasculation against the underage male offspring of officials who refused to submit to them or committed another serious crime. That punishment, however, was not newly introduced by

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[40] See Cheng, *Jiu chao lü kao*, 433.

[41] See Charles Sanft, "Six of One, Two Dozen of the Other: The Abatement of Mutilating Punishments under Han Emperor Wen," *Asia Major, Third Series*, 18.1 (2005): 79–100.

[42] Anthony François Paulus Hulsewé, *Remnants of Han Law, Volume I: Introductory Studies and an Annotated Translation of Chapters 22 and 23 of the History of the Former Han Dynasty* (Leiden: Brill, 1955), 27 and 384–86, n185.

the Northern Dynasties, but related to the punitive emasculation in use under the Eastern or Later Han. Hence, although sources on emasculation as a mutilating punishment from early and medieval China are scarce, a shift in the application of punitive emasculation took place during the Han period, which gives further weight to the argument that punitive emasculation and the eunuch institution were unrelated and should be treated separately.

Doubts about the continued use of punitive emasculation in early and medieval China are related to Han Emperor Wen's abatement of mutilating punishments (*rouxing* 肉刑) in 167 BC. The "Basic Annals of Emperor Wen the Filial" ("Xiao Wen benji" 孝文本紀)[43] in Sima Qian's 司馬遷 (c. 145–c. 86 BC) *Grand Scribe's Record* (*Shiji* 史記), and the "Monograph on Punishments and Laws"[44] in Ban Gu's 班固 (32–92) *History of the Han* (*Hanshu* 漢書) record a famous episode in which a woman named Chunyu Tiying 淳于緹縈 writes a letter to Emperor Wen, offering to give herself up into state servitude (*guanbi* 官婢) to ransom her father who had been accused of embezzlement. The Emperor was so moved by such display of daughterly piety that he decreed that henceforth all three forms of mutilating punishments should be abolished.[45] According to the third century commentator Meng Kang 孟康, those three forms were branding or blackening (*qing* 黥 or *mo* 墨), cutting off the nose (*yi* 劓), and

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[43] SJ 10.427f.

[44] HS 23.1097f.

[45] HS 23.1098 and SJ 10.427–28. A translation is found in Sanft, "Six of One," 89–90. Chunyu's main line of reasoning was that for people stigmatized until the end of their days, the path to "self-reform" (*zixin* 自新) would be obstructed forever. Yet the result of the abolition was that now more people died because of the heavy beatings than had by the mutilating punishments before, see Sanft, "Six of One," 94–96.

amputating a leg (*yue* 刖 or *fei* 剕). Notably, neither capital punishment nor emasculation are on Meng Kang's list.[46]

This has led many scholars to believe that Han Emperor Wen did not abolish punitive emasculation. Their doubts seem reinforced by a sub-commentary (*shu* 疏) to the "Penal Laws of Lü," the author or which is the famous Confucian scholar Kong Yingda 孔穎達 (574–648), who lived many centuries later under the Tang:

> 〔尚書呂刑正義〕疏曰：「伏生書傳云：『男女不以義交者，其刑宮。』是宮刑為淫刑也。男子之陰名為勢，割去其勢與椓去其陰，事亦同也。『婦人幽閉』，閉於宮，使不得出也。本制宮刑，主為淫者，後人被此罪者，未必盡皆為淫。昭五年左傳，楚子『以羊舌肸為司宮』，非坐淫也。漢除肉刑，除墨、劓、剕耳，宮刑猶在。近代反逆緣坐，男子十五已下不應死者，皆宮之。大隋開皇之初始除男子宮刑，婦人猶閉於宮。宮是次死之刑，宮於四刑為最重也。」[47]
>
> The sub-commentary [to *Correct Meaning of the "Punishments of Lü" in Book of Documents*] reads: "Fu Sheng says in *Tradition of the Documents*: 'For men and women who do not have lawful intercourse, the punishment is *gong*.' That is, *gongxing* is the punishment for adultery. The name for the male private parts is 'potency;' cutting off their potency or smashing their private parts is the same in substance. 'Women are confined to the dark' [means] they are locked in the palace and not allowed to go out. Originally, *gongxing* was established chiefly for adultery; later people who suffered that punishment did not necessarily all commit adultery. When in the fifth year of Duke Zhao in *Zuo Tradition* [537 BC] the Master of Chu [threatened]

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[46] Zhang Shoujie 張守節 (fl. under Wu Zetian 武則天, r. 690–705), quoting *Jinshu*'s "Xingfa zhi" 刑法志 in his *Shiji zhengyi* 史記正義, enumerates the mutilating punishments introduced by the Five Sage Rulers (*wudi* 五帝) of antiquity as: blackening/branding, cropping the nose, removing the kneecap/leg up to the knee (*bin* 臏), emasculation, and execution (*dapi* 大辟). However, according to Zhang, the names were symbolical, as the emperors merely marked the clothes and headgear of offenders and the people knew what was forbidden. See SJ 10.428, n. 4, and JS 30.917.

[47] SSJZS, vol. 1: 302a–b. Punctuation: Shen, *Lidai xingfa kao*, 126.

> 'to make Yangshe Xi a [eunuch] Palace Supervisor,' he was not accusing [him] of adultery. *When the Han abolished mutilating punishments, blackening, cutting off the nose, and cutting off the ears were abolished, gongxing was still present.* In recent times, as collective punishment for rebellion, when sons below the age of fifteen should not be put to death, they were all emasculated. The Great Sui began in the early Kaihuang era [581–600] to do away with the emasculation of boys, [but] girls were still confined to the palace. Gong is the punishment next to the death sentence, it is the heaviest among the four [mutilating] punishments."

Almost all later authors who claim that emasculation was not abolished by Han Emperor Wen base their claims on the sentence "when the Han abolished mutilating punishments […] gongxing was still there" from that passage. Cheng Shude 程樹德 (1877–1944) quotes it in a rather shortened but affirmative manner in his *Study of the Legal Codes of the Nine Dynasties* (*Jiu chao lü kao* 九朝律考).[48] He adds another phrase attributed to the Northern Wei official Cui Hao 崔浩 (d. 450 AD) – and often quoted by other scholars on the issue – that "Emperor Wen abolished mutilating punishments, but emasculation did not change." (文帝除肉刑而宮不易。)[49] However, Cheng and other scholars ignore evidence in *Hanshu* that clearly shows that Han Emperor Wen abolished punitive emasculation – albeit not during his abatement of mutilating punishments in 167 BC. They also overlook that the passages in question are of problematic provenance: both their authors, Kong Yingda and Sima Zhen 司馬貞 (fl. early

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[48] Cheng, *Jiu chao lü kao*, 40.

[49] In his *Hanlü xu* 漢律序, according to the *suoyin* 索隱 commentary of *Shiji*, ibid. Quoted in Sima Zhen 司馬貞, *Shiji suoyin* 史記索隱, SJ 10.428, n. 4, and Chen Yinke 陳寅恪 (1890–1969), *Sui Tang zhidu yuanyuan lüe lun gao* 隋唐制度淵源略論稿 (Bejing: Sanlian shudian 2001 [1944]), 115. Sanft, "Six of One," 90, n. 40, argues that the evidence for the abolition of emasculation is inconclusive.

8th cent.), were writing centuries after the fact and in a period in which punitive emasculation was no longer part of the legal code.[50]

Nonetheless, the abolition of punitive emasculation by Emperor Wen is mentioned twice in Ban Gu's *History of the Han*. The first instance is an edict of his son, Emperor Jing 景帝 (Liu Qi 劉啟, r. 157–140 BC), in the "Annals of Emperor Jing" ("Jingdi ji" 景帝紀):

> 孝文皇帝臨天下，通關梁，不異遠方；除誹謗，去肉刑，賞賜長老，收恤孤獨，以遂羣生；減膳欲，不受獻，罪人不帑，不誅亡罪，不私其利也；除宮刑，出美人，重絕人之世也。朕既不敏，弗能勝識。此皆上世之所不及，而孝文皇帝親行之。[51]
>
> When Emperor Wen the Filial ruled the realm, he opened up passes and bridges, did not discriminate against [people from] the far-away corners; he eliminated slander and removed the mutilating punishments, awarded the elderly, relieved orphans and the childless, and as a consequence the masses thrived; reducing the luxuries [in the palace], not accepting bribes, and not extending the punishment of evildoers to their wives and children, he did not execute the innocent and did not profit personally from them; *eliminating punitive emasculation and expelling consorts* [from the palace], he laid stress on the severity of cutting off people's lineages. I [Emperor Jing] am not sufficiently intelligent and do not know anything to the full, but all this is what previous generations did not accomplish, but Emperor Wen the Filial put it into motion himself.

Emperor Jing mentions "doing away with mutilating punishments" (*qu rouxing* 去肉刑) and "abolishing punitive emasculation" (*chu gongxing* 除宮刑) as two separate deeds of his father, indicating that the two events were unrelated to each other at the time. In contrast to late imperial times, when voluntary emasculation became the main source of supply for

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[50] Kong also thought the Sui had abolished emasculation, a view that has been contested since Song times; see Cheng, *Jiu chao lü kao*, 433.

[51] HS 5.137.

palace eunuchs and the latter had nothing to do with the penal system, Emperor Jing also establishes a connection between the "expelling of consorts or concubines" (*chu meiren* 出美人) and the abolition of punitive emasculation. A significant reduction of imperial consorts would have made a large number of eunuchs in the imperial palace superfluous.

The second reference to the abolition of punitive emasculation under Emperor Wen comes from the "Biography of Chao Cuo" ("Chao Cuo zhuan" 晁錯傳) in *History of the Han*, where Chao Cuo 鼂/晁錯 (d. 154 BC) responds to an edict that praises him (Chao) by Emperor Wen. That response seems to have been the model for Emperor Jing's edict above.

> 今陛下配天象地，覆露萬民，絕秦之迹，除其亂法；躬親本事，廢去淫末；除苛解嬈，寬大愛人；肉刑不用，辠人亡帑；非謗不治，鑄錢者除；通關去塞，不孽諸侯；賓禮長老，愛卹少孤；辠人有期，後宮出嫁；尊賜孝悌，農民不租；明詔軍師，愛士大夫；求進方正，廢退姦邪；除去陰刑，害民者誅；憂勞百姓，列侯就都；親耕節用，視民不奢。所為天下興利除害，變法易故，以安海內者，大功數十，皆上世之所難及，陛下行之，道純德厚，元元之民幸矣。[52]
>
> Today Your Majesty [Emperor Wen] matches Heaven and resembles Earth, luxuriantly protects the myriad people, eliminates the traces of Qin and abolishes its disorderly laws; personally attends the fundamental affairs [agriculture] and eradicates the licentious trifles [handiwork and commerce]; abolishes cruelty, resolves disturbances, and generously loves man; the mutilating punishments are not used, punishments for evildoers do not extend to their wives and children; slanders are not followed and the government mint is abolished; [You] open passes and remove barriers, and do not treat the feudal lords like bastard sons; treat the elderly with guest rites and relieve young orphans; criminal sentences have time limits and *women from the rear palace are married off*; filial and brotherly love are respected and awarded, and the farming population is not taxed; enlightened edicts for the armies show loving care for soldiers and officers; you seek intimacy with the just and upright, and discard adulterers and the crooked; *You abolish punitive*

[52] 49.2296–97.

> *emasculation* while enemies of the people are executed; You console the common people while the feudal lords come to the capital; You attend to plowing and reduce consumption, and show the people not to be extravagant. What has been done for the realm by raising profits and averting harms, reforming laws and altering precedents, in order to safeguard everyone within the seas, are great accomplishments manifold, all hardly reached by previous generations, Your Majesty put them into motion, your way is pure and your virtue profound, the myriad people are blessed indeed!

Here, as in Emperor Jing's edict, the abolition of punitive emasculation is connected to the reduction of women in the palace or, more specifically, to marrying them off. What is more interesting: the abolition of emasculation is juxtaposed with the execution of enemies of the people. This may confirm that emasculation, rather than being a punishment for adultery, was used as a commutation for the death penalty for "great contumacy and depravity" early on.

It seems clear that emasculation was abolished at some point during Emperor Wen's reign. More controversial and a point of disagreement among scholars is whether it was among the mutilating punishments abolished in 167 BC. On the one hand, according to the edict in which Emperor Wen abolished mutilating punishments quoted above,[53] there were three mutilating punishments at the time (*jin fa you rouxing san* 今有法肉刑三)[54] – none of which, according to Meng Kang, was emasculation. On the other hand, the same edict, a few lines further down, states that:

> 夫刑至斷支體，刻肌膚，終身不息[……]。其除肉刑，有以易之。[55]
>
> In any case, the punishments go so far as to cut off limbs (*duan zhiti*), mark (or blacken) flesh and skin (*ke jifu*), and not [being able to] procreate/ rest until the end of their days (*zhongshen*

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[53] HS 23.1098, SJ 10.427–28 and Sanft, 'Six of One', 89–90.

[54] HS 23.1098.

[55] HS 23.1098.

bu xi) […]. Better to do away with mutilating punishments and replace them with something else.

Since the Qing, scholars have argued that "duan zhiti, ke jifu, zhongshen bu xi" 斷支體，刻肌膚，終身不息 is a list of rather graphic descriptions of the three mutilating punishments that Emperor Wen abolished. Notwithstanding this, the meaning of *zhongshen bu xi* remains obscure, although the same Qing scholars tried to show that it stands for emasculation. Duan Yucai 段玉裁 (1735–1815) argued in his *Shuowen jiezi* 說文解字 commentary that *xi* 息 was "an expression for procreation" or "growth" (*shengzhang zhi cheng* 生長之偁). According to his interpretation, the whole phrase should be understood as "not being able to procreate until the end of one's days."[56] Wang Tang 王棠 (?–?) likewise expressed the view that *zhongshen bu xi* referred to emasculation in his *Record of Knowing Novelties* (*Zhi xin lu* 知新錄).[57]

The interpretation of Wang and Duan, however, is called into question by the use of the same phrase in the paragraph immediately following upon Wen's declaration in *Hanshu*, in a memorial attributed to Chancellor Zhang Cang 張蒼 (d. 151 BC). There, it doubtlessly seems to mean "not being able to rest until the end of their days."[58] It seems more likely that the two Qing scholars tried to accommodate the mitigation of punishments under Emperor Wen with the fact that emasculation as a regular punishment seemingly vanished from the records after that. The clause above equally makes sense, without precluding the possibility that Wen did away with emasculation at another stage, when understood as "the punishments go so far as to cut of limbs and blacken the flesh and skin, [so that the convicted cannot] rest until the end

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[56] See Ding Fubao 丁福保 (1874–1952), *Shuowen jiezi gulin* 說文解字詁林 (12 vols. 2nd ed. Taipei: Taiwan Shangwu yinshuguan, 1966), vol. 8, 4650a and Tao Guangfeng 陶廣峰, "Han Wei Jin gongxing cun fei xi" 漢魏晉宮刑存廢析, *Faxue yanjiu* 法學研究, 3 (1997): 142–45 (143).

[57] Cheng, *Jiu chao lü kao*, 39.

[58] HS 23.1099. See also Shen, *Lidai xingfa kao*, 130.

of their days." Based on Shen Jiaben's 沈家本 (1840–1913) observations that the mitigation or abolition of mutilating punishments took place in the thirteenth year of Emperor Wen's reign and that Chao's memorial dates to the fifteenth, Cheng Shude argues that emasculation must have been abolished sometime before the thirteenth year, as it was not counted among the three mutilating punishments.[59]

That notwithstanding, if emasculation was maintained or reintroduced shortly afterwards, it may be due to the fact that, even under Emperor Wen and his successors, the demand for eunuchs in the female quarters of the palace (*hougong* 後宮) remained unabated. As has been shown above, Emperor Wen is also credited with a reduction of the number of women in the palace.[60] As a consequence, the palace's demand for eunuchs may have dropped temporarily and, assuming that punitive emasculation ever was a substantial source of supply with court eunuchs, rendered the use of punitive emasculation redundant

An oft-quoted line from *Hanshu* suggests that emasculation was indeed reintroduced, not as an ordinary punishment, but as a voluntary commutation for the death penalty, shortly after Wen's reign under his son, Emperor Jing.

> 秋，赦徙作陽陵者死罪；欲腐刑者許之。[61]
>
> In the autumn (of 147 BC), [Emperor Jing] pardoned those who had been relocated to raise [his] Yang Mausoleum and were to be sentenced to death; those who wished the rotten punishment (*fuxing*) were granted it.

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[59] See Cheng, *Jiu chao lü kao*, 40, and Shen, *Lidai xingfa kao*, 129.

[60] SJ 4.436 and HS 4.137; compare HS 4.123.

[61] HS 5.147. Homer Dubs (1892–1969), in his comment on this line in his partial translation of *History of the Han*, states "that probably in the time of Emperor Wen emasculation had really been abolished." See Homer H. Dubs (trans.), *The History of the Former Han-Dynasty* (3 vols. Baltimore, 1938–1955), vol. 1: 306–7, n. 2.2. Also cited in Jugel, *Eunuchen zur späten Han-Zeit*, 62.

Does that mean that emasculation was still in use under Emperor Jing because it had not been abolished under his father? Or did Jing reintroduce emasculation for a completely new and different purpose, as a commutation for the death penalty – maybe even emphasised by calling it *fuxing*, not *gongxing*? Indeed, one explanation for the fact that emasculation does not feature too prominently in debates on mutilating punishments may be that it was still in use, although not in its earlier manifestation as a punishment for adultery. While Shen Jiaben has argues that emasculation simply came into use again after Emperor Wen's abolition in Jing's reign,[62] other scholars contend that the latter's *fuxing* had nothing to do with the earlier punishment, as it was targeted at completely different criminals and applied under completely different circumstance as the *gongxing* of earlier times. Instead of reintroducing emasculation as a regular punishment, in their view Jing introduced a new punishment.[63]

Nevertheless, the term *fu* 腐 (written *fu* 府) for emasculation is found in excavated legal texts written on bamboo from the early Han and thus decades before the abolition. Kiyoshi Miyake 宮宅潔 cites two statutes from *Statutes and Ordinances of the Second Year* (*Ernian lüling* 二年律令) on bamboo slips, discovered in tomb no. 247 of the Zhangjiashan 張家山 site in Hubei 湖北 Province on December 31, 1983, and dating to the second year of Empress Lü 呂后 (186 BC) of the Western Han:[64]

> 強與人奸者，府（腐）以爲宮隸臣。[65]

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[62] See Shen, *Lidai xingfa kao*, vol. 3: 115.

[63] See Tao, 'Gongxing', 145.

[64] On the discovery and dating of the *Statutes and Ordinances of the Second Year*, see Barbieri-Low and Yates, *Law, State, and Society*, 6 and 64.

[65] Slip no. 193, in Zhangjiashan ershiqi hao Han mu zhujian zhengli xiaozu 張家山二十七號漢墓竹簡整理小組 (ed.), *Zhangjiashan Han mu zhujian (ershiqi hao mu): shiwen xiuding ben* 張家山漢墓竹簡（二十七號墓）：釋文修訂本 (Beijing: Wenwu chubanshe, 2006), 34; see Miyake, *Chūgoku keisei*, 42, and Barbieri-

> Those forcefully performing adultery with another person are emasculated to become bondservants of the palace.
>
> […]有罪當府（腐）者，移内官，内官府（腐）之。[66]
>
> […] Those whose crimes make them liable to emasculation are transferred to the inner servants [and] the inner servants emasculate them.

This tells us two things: first, emasculation (called *fu*) was used as a punishment for rape or coerced adultery in the early Han; secondly, those to be emasculated were emasculated by the "inner servants" (*neiguan* 内官), indicating that from then on they served in the palace.[67] The number of eunuchs in the Han palaces, according to the fragmentary account, was rather small and did never reach the thousands of later centuries and dynasties.[68] Before moving on to the debates on mutilating punishments in later periods, we must take a look at the effects that this change in penal practice have for the institution of court eunuchs.

Low and Yates, *Law, State, and Society*, 616–17. Loewe, "Was Zhao Gao a Eunuch?," 308 erroneously cites the slip as no. 192.

[66] Slip no. 119, Zhangjiashan zhengli xiaozu, *Ershiqi hao*, 25; see Miyake, *Chūgoku keisei*, 44, and Barbieri-Low and Yates, *Law, State, and Society*, 510–11. There are a few more scattered references to emasculation (or castration) in the *Statutes and Ordinances of the Second Year*, one stipulating that someone who had undergone all other forms of mutilating punishments (branding, severing the nose, severing the left and right foot) should be castrated, one regarding redemption and one regarding impoundment (*shou lü* 收律), see Barberie-Low and Yates, *Law, State, and Society*, 501–3 and 600–1. The last one confirms emasculation as a punishment for illicit intercourse.

[67] Those inner servants, however, were by no means all eunuchs. Miyake, *Chūgoku keisei*, 44, thinks that the term may refer to female officials in the rear palace (*kōgū no jokan* 後宮の女官) or the Head and Assistant Supervisors of Inner Servants (i.e., females and eunuchs), *neiguan zhang cheng* 内官長丞.

[68] According to HHS 78.2509, the number of ranked eunuchs, distinguished by the titles they were granted, i.e., Regular Palace Attendant (*zhongchang shi* 中常侍) and Small Palace Gatekeeper (*xiao huangmen* 小黃門), never exceeded thirty even in the Eastern Han.

Emasculation and the Increase of Eunuchs in the Rear Palace

Punitive emasculation never was the main source of supply for emasculated palace servants in imperial China, but in order to understand the origin of eunuchs and the institutions behind them, we still need to take into consideration the history of emasculation. We know little about the origin of eunuchs in pre-imperial times: on the one hand, it seems rather unlikely that a ruler would allow any number of maimed men who had suffered emasculation at his hands and may therefore be expected to hold a grudge against him to live and work in the palace. On the other hand, this may explain why eunuchs and non-eunuchs were mixed in the early manifestation of those offices that later developed into the pure eunuch institution. As shown further below, there was a period in medieval China in which punitive emasculation resurfaces in the historical record and played a role in the supply of eunuchs.

Patrilocal residence and male polygamy is seen as one of the main, if not the only reason for the emergence of emasculation and eunuchs, or, in the words of G. Carter Stent, one of the first Western physicians who examined Qing court eunuchs in the late nineteenth century, emasculations are the "mutilations of one sex to keep the other pure."[69] Tani Yutaka 谷泰 has suggested a connection between the use of bellwethers (castrated male sheep) as flock leaders and of castrated or emasculates human males as supervisors of subdued sedentary populations by pastoral, nomadic people.[70]

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[69] G. Carter Stent, 'Chinese Eunuchs', *Journal of the North China Branch of the Royal Asiatic Society*, *New Series,* 11 (1877): 143–84 (143).

[70] See Yutaka Tani, 'Two Types of Human Interventions into Sheep Flock: Intervention into the Mother-Offspring Relationship, and Raising the Flock Leader', in *Domesticated Plants and Animals of the Southwest Eurasian Agro-Pastoral Culture Complex*, ed. Yukata Tani and Sadao Sakamoto (Kyoto, 1986), 1–42. Tani further elaborates this in 'Domestic Animal as Serf: Ideologies of Nature in the Mediterranean and the

During the whole course of China's imperial era, from 221 BC to AD 1911, there always existed certain offices within the imperial bureaucracy that were filled by eunuchs. The origin of these offices is far from clear, but they probably emerged in pre-imperial times. Later texts trace the origin of eunuchs to the classic *Rituals* or *Offices of Zhou* (*Zhouli* 周禮/ *Zhouguan* 周官), purportedly a blueprint of the bureaucratic system from the Zhou Dynasty but most likely a mid-Han creation.[71] The first text that attempts to give the existence of eunuchs a cosmological justification is *Hou Hanshu*, which correlates them with four eunuch stars (*huanzhe* 宦者) that are located in the proximity of the astral seat of the emperor (*dizuo* 帝座).[72] Beyond that, Fan Ye, the compiler of *Hou Hanshu*, gives a psychological explanation for the rise of eunuchs: since the *qi* 氣 of their bodies is not complete, their benign disposition makes them particularly suitable to communicate with the palace women.[73]

As Fan Ye and Du You 杜佑 (734–812), the compiler of the ninth century institutional history *Tongdian* 通典, point out, not only did the appellations of eunuch offices frequently change from the onset of the imperial period under the Qin, they also were not exclusively

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Middle East', in *Redefining Nature: Ecology, Culture and Domestication*, ed. Roy Ellen and Katsuyoshi Fukui (Oxford and Washington, D.C., 1996), 387–415.

[71] For the textual history of *Zhouli* see William G. Boltz, 'Chou li', in *Early Chinese Texts: A Bibliographical Guide*, ed. Michael Loewe (Berkeley: Society for the Study of Early China, 1993), 24–32, and Benjamin A. Elman and Martin Kern (eds.), *Statecraft and Classical Learning: The* Rituals of Zhou *in East Asian History* (Leiden: Brill, 2010). References to *Zhouli* as the origin of eunuch offices can be found in HHS 78.2507 and TD 27.755.

[72] HHS 78.2507. For an identification of the locations of the eunuch stars see Jennifer W. Jay, 'Another Side of Chinese Eunuch History: Castration, Marriage, Adoption, and Burial', *Canadian Journal of History/ Annales canadiennes d'histoire* 28 (1993), 459–78 (461, n. 4).

[73] See HHS 78.2507.

filled with emasculated men from the start, as that only began under the Eastern Han.[74] It was, however, in that period that eunuchs started to have their own branch in government, arising out of a separate administration for queens and empresses. That branch existed under various names throughout the imperial era.[75]

One way of recruiting new eunuchs was through adoption. Throughout imperial Chinese history, eunuchs were allowed to marry and adopt sons, whom they often made eunuchs in turn. The earliest mention of eunuch adoptions dates to the Eastern Han, at around 129 AD, when Emperor Shun 順帝 (Liu Bao 劉保, r. 125–144) allowed eunuchs to adopt one son to hand down their wealth, estates, and titles.[76] The first case of a eunuch adopting a child, in that case a daughter, is believed to be Zhao Gao 趙高 (d. 207), minister of Qin, although that is based on a much later tradition.[77]

Eunuchs made their first certain appearance on the political stage under the Western Han emperors Wu 武帝 (Liu Che 劉徹, r. 141–87 BC), Xuan 宣帝 (Liu Bingyi 劉病已, r. 74–48 BC) and Yuan 元帝 (Liu Shi 劉奭, r. 48–33 BC), in the guise of the emperors' "favorites" (*ningxing* 佞幸) Li Yannian 李延年, Shi Xian 石顯 and Hong Gong 弘恭. The biographies of all three claim that they "suffered emasculation under the law" (*zuofa fuxing* 坐法腐刑),[78] which indicates two things: first, punitive emasculation was still used to provide eunuchs for the palace during the Western Han; secondly, the fact that the punishment they endured is called *fuxing* and not *gongxing* probably means that it was used in a commutation for a death

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[74] For the early and medieval period up to the Tang see TD 27.755 and HHS 78.2508–9.

[75] See TD 27.754–758.

[76] See HHS 6.264 and 78.2518.

[77] See Lang Ying 郎瑛 (1487–ca. 1566), *Qi xiu lei gao* 七修類稿 (Beijing: Zhonghua shuju, 1959), 27.415 and Loewe, "Was Zhao Gao a Eunuch?," 311–14.

[78] See HS 93.3725–26.

sentence. The first point seems further corroborated by a memorial by Xiao Wangzhi 蕭望之 (ca. 107–47 BC), in which we read:

> 「武帝游宴後庭，故用宦者，非古制也。宜罷中書宦官，應古不近刑人。」[79]
>
> Emperor Wu held banquets in the rear court, therefore he used eunuchs, which is not an ancient institution. Your Majesty (Emperor Yuan) should do away with the eunuch secretary (Shi Xian) and, in compliance with antiquity, not be on intimate terms with *mutilated persons* (*xingren*).

Apart from exhorting the emperor to avoid those who had suffered mutilating punishment, Xiao's memorial also suggests that he did not consider the presence of eunuchs in the palace an ancient institution but a rather recent development that had only begun with Emperor Wu. However, the expression *xingren* was used for mutilated persons in general, not just for those who had suffered punitive emasculation, since before the Han.[80]

The Eastern Han retained emasculation as a commutation for the death penalty, as *History of the Later Han* mentions repeated acts of grace under the first four emperors of the restored dynasty, Guangwu 光武 (Liu Xiu 劉秀, r. 25–57), Ming 明帝 (Liu Zhuang 劉莊, r. 57–75), Zhang 章帝 (Liu Da 劉炟, r. 75–88) and He 和帝 (Liu Zhao 劉肇, r. 88–106).[81] Just as it had been under Emperor Jing, emasculation was not a regular punishment but only used on the occasion of special acts of grace (*she* 赦). At the six instances in *History of the Later Han*, the same formulation with regard to those who have been sentenced to death – "are enlisted(?)

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[79] HS 93.3727.

[80] See Jugel, *Eunuchen zur späten Han-Zeit*, 9.

[81] See Shen, *Lidai xingfa kao*, 131 and Jugel, *Eunuchen zur späten Han-Zeit*, 62–63. Shen believes that these were in emulation of the edict of Emperor Jing roughly two hundred years earlier. However, HHS does not refer to Emperor Jing as a model.

and sent down to the silkworm house" (*mu xia canshi* 募下蠶室) – is used.[82] From those instances we can further infer that emasculation was by no means a regular punishment but only granted on a number of occasions, at specific times – in late autumn or early winter – and to certain categories of criminals which are specified as: to those waiting in prison for execution (*sizui xiqiu* 死罪繫囚) under Guangwu;[83] to those who were to be beheaded (*shusi* 殊死)[84] under Emperor Zhang; and, more importantly for the present context, to those found guilty of "great sedition" (*dani*) under Emperor He[85] or "great sedition and impiety" (*dani wudao* 無道) under Emperor Ming.[86] However, "collecting firewood for the ancestral spirits" (*guixin* 鬼薪) and "building city walls from early dawn" (*chengdan* 城旦) seems to have been used more often as a commutation than emasculation.[87] Notably, none of the eunuchs in Fan Ye's "Biographies" is said to have gone under the knife as a punishment. However, Fan does generically refer to eunuchs as *xingren* on one occasion:

> 鄧后以女主臨政[……]不出房闥之間，不得不委用刑人，寄之國命。[88]

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[82] See HHS 1b.80 & 81, 2.111, and 3.143 & 147. The acts of grace are dateable to 25/11/52, 12/10/55, 20/11/65, 6/11/82, 8/10/84 and 23/9/96. Four out of five instances, with the exception of the act under Emperor Ming, add the clause "their daughters and sons (or just daughters?) are sent to the palace" (*qi nüzi gong* 其女子宮).

[83] See HHS 1b.80–81.

[84] See HHS 3.143 and 147.

[85] HHS 4.182.

[86] HHS 2.111.

[87] Miyake, *Chūgoku keisei*, 47–48. For those punishments, see Yates, "Slavery in Early China," 304.

[88] HHS 78.2509. I am inclined to take this not literally (i.e., someone who has suffered mutilating punishment) but as a vague or overgeneralizing, or even anachronistic expression used by the historian who was writing centuries later. Note that the expression may also refer to just one category of eunuchs, i.e., those used by Empress Deng to carry imperial orders.

> When Empress Deng [Deng Sui 鄧綏, 81–121] oversaw government business as Empress Dowager [...] she did not leave the inner palace and had no choice but to entrust *those who had been mutilated* with the imperial orders.'

According to John Kennedy Rideout, by the Tang the supply of court eunuchs was ensured by privately castrated boys (*sibai* 私白), mostly from the south, in particular from the areas of the modern provinces of Fujian 福建 and Guangdong 廣東 as part of those provinces' annual tribute (*jinxian* 進獻).[89] Research over the last twenty years on tomb epitaphs from the late Tang has shown that most high- and middle-ranking eunuchs came from the North, especially from the region "within the passes" (Guanzhong 關中) around one of the Tang capitals, Chang'an 長安, near present-day Xi'an 西安.[90] When did the shift from using those who had undergone emasculation as a commutation for the death penalty towards the use of privately emasculated persons (*sibai*) as eunuchs take place? Before finding answers to that question in the period of the Northern Dynasties, we need to take a look at the recurring debates on a return of mutilating punishments from the Eastern Han period.

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[89] J.K. Rideout, "The Rise of the Eunuchs during the T'ang Dynasty, Part One (618–705)," *Asia Major, New Series*, 1 (1949–50), 53–72 (55). The *Tang Code* forbade private individuals to own or employ castrates. If local authorities discovered castrates in private households, they confiscated and send them on to the capital, where they were added to the corps of court eunuchs.

[90] See Chen Jo-shui 陳弱水, "Tangdai Chang'an de huanguan shequn – te lun qi yu junren de guanxi" 唐代長安的宦官社群——特論其與軍人的關係, *Tang yanjiu* 唐研究, 15 (2009), 171–98 and Du Wenyu 杜文玉, "Tangdai huanguan de jiguan fenbu" 唐代宦官的籍貫分佈, *Zhongguo lishi dili luncong* 中國歷史地理論叢, 1 (1998), 161–74.

Disputes on Mutilating Punishments during the Cao-Wei

Debates over mutilating punishments among officials in pre-modern China often turned on the question of whether or not all of them were introduced by the legendary sage kings of antiquity and, if so, in their contemporary form. The official histories report that arguments for and against the reintroduction of mutilating punishments were brought before the throne regularly from the Later Han to the Eastern Jin 東晉 (317–420), most often initiated by the rulers of the day. As with so many court debates in early and medieval China, only a handful or memorials of what must have been a flurry of divergent opinions have come down to the present, contained in the standard histories and institutional sources of the medieval period. They came to be known to legal historians as "Debates on Mutilating Punishments" (*rouxing yi* 肉刑議).[91] One ruler who explicitly had his entourage discuss whether the death sentence could be replaced (or commuted) with emasculation was the King of Wei 魏王, Cao Cao 曹操 (155–220), posthumously enshrined as Emperor Wu 武帝 and Exalted Ancestor 太祖 of the Wei Dynasty (220–265). The debates on mutilating punishments under the Wei are also the best documented.

The strongest proponents for a return to the ancient mutilating punishments were Chen Qun 陳羣 (?–236) and Zhong Yao 鍾繇 (151–230), whose arguments are repeated in various

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[91] *Rouxing yi* appears in the title of several works: on the one hand, it is the title of two "disquisitions" (*yi* 議), the one by Kong Rong 孔融 (153–208), discussed below, the other by Fu Gan 傅幹, who only appears in a few instances in *Sanguo zhi* 三國志; see Ouyang Xun 歐陽詢 (557–641), *Yiwen leiju* 藝文類聚 [herafter: YWLJ] (2 vols. Shanghai, 1965), 54.972. On the other hand, it is the heading of a chapter in TD 168.4332–42. See Chen Junqiang 陳俊強, "Han mo Wei Jin rouxing zhengyi xi lun" 漢末魏晉肉刑爭議析論 (Taipei: National Taipei University, 2014), <web.ntpu.edu.tw/~chanck/paper/200310.doc>, accessed on February 20, 2018.

sources but ultimately go back to their biographies in *Sanguo zhi* 三國志.[92] In a response to Cao Cao's wish to discuss mutilating punishments, he argued in favor of emasculation and amputation of the feet:

> 若用古刑，使淫者下蠶室，盜者刖其足，則永無淫放穿窬之姦矣。[93]
>
> If one used the ancient punishments [of] having those who behave licentious sent down to the silkworm house and have the feet of those who steal amputated, then there would never be any licentious conduct and tunneling under or climbing over walls [i.e., stealing] anymore.

Chen Qun's argument, which echoes the arguments of all advocates of harsh punishments throughout history, is that mutilating punishments would have the effect of deterring possible offenders. Regardless of whether this has ever worked, Cao Cao showed himself particularly interested in emasculation, as seen in Zhong Yao's biography. While the latter's argument is classicist in the beginning, namely that the mutilating punishments were tested by the ancient sages, his argument in a memorial handed in under Emperor Ming 魏明帝 (Cao Rui 曹叡, r. 226–39) is rather surprising:

> 初，太祖下令，使平議死刑可宮割者。繇以爲「古之肉刑，更歷聖人，宜復施行，以代死刑。」議者以爲非悅民之道，遂寢。[…]太和中，繇上疏曰：「[…]其黥、劓、左趾、宮刑者，自如孝文，易以髡、笞。有能姦者，率年二十至四五十，雖斬其足，猶任生育。今天下人少于孝文之世，下計所全，歲三千人。張蒼除肉刑，所殺歲以萬計。臣欲復肉刑。歲生三千人。」[94]

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[92] Chen Shou 陳壽 (233–97), *Sanguozhi* 三國志 [hereafter: SGZ] (5 vols. Beijing, 1973), 13.397–98 and 22.634.

[93] SGZ 22.634.

[94] SGZ 13.397, see Cheng, *Jiu chao lü kao*, 204.

> Formerly, the Exalted Ancestor [Cao Cao] issued an order to initiate a discussion as to whether those sentenced to death could be emasculated.[95] [Zhong] Yao was of the opinion that "the mutilating punishments of antiquity were repeatedly tested by the Sages and it is appropriate to implement them again to substitute for the death penalty." The disputants did not consider this to be the way of gratifying the people, hence the matter was laid to rest. […] In the Taihe Era (227–33), Yao petitioned: "[…] As for blackening, cutting off the nose, amputating the left foot or *gongxing*, [one] ever since follows Wen the Filial and alters it to shaving the head or beating with the bamboo cane. Those capable of committing adultery are roughly between twenty and forty to fifty years of age, even when cutting off their feet, they are still allowed to procreate. Today, the population of the realm is smaller than at the time of Wen the Filial, in my inferior estimation those thus kept whole are three thousand persons per year. When Zhang Cang abolished mutilating punishments, those killed per year numbered tens of thousands. Your servant wishes to reinstate mutilating punishments and save the lives of three thousand persons per year."

After Emperor Ming opened the floor for discussion, Yao found himself in a minority position and the matter was laid to rest. More to the point, although he argues in favour of the other mutilating punishments, his demographic argument – that those being mutilated instead of executed could still be reproductive and help to increase the population decimated by civil war – must, by mere logic, exclude emasculation.

More common in disputes about mutilating punishments, but not unrelated to the idea of procreation, is the sentiment of renewal (*zixin* 自新) or correction (*gai* 改) that a penalty was supposed to offer the culprit. It was widely believed that since Emperor Wen had abolished mutilating punishments, the new penal practice had resulted in more deaths. That was partly because the death sentence was now applied to cases formerly punished by mutilation, partly

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[95] It is not clear whether this refers to the same event as in Chen Qun's biography.

because the harsh beatings with the bamboo cane (*chi* 笞) that replaced mutilations – at times several hundred strokes in a row – were often fatal. This meant that sentencing someone to severe beatings or canings was in many cases tantamount to a death sentence – if not *de jure*, then *de facto* – and left no avenue of self-reform.[96] That concern is echoed in a discussion at the Wei court a few years later, in the Zhengshi 正史 reign period (240–49) of the Prince of Qi 齊王 or Dethroned Emperor 少帝, Cao Fang 曹芳 (232–74, r. 239–54), between Xiahou Xuan 夏侯玄 (209–54) and Li Sheng 李勝 (d. 249). Li apparently initiated the discussion by proposing a return to mutilating punishments:

> 夫殺之與刑，皆非天地自然之理，不得已而用之也。傷人者不改，則刖劓何以改之？何為疾其不改，便當陷之於死地乎？妖逆者懲之而已，豈必除之邪？刑一人而戒千萬人，何取一人之能改哉！盜斷其足，淫而宮之，雖欲不改，復安所施。而全其命，懲其心，何傷於大德？今有弱子，罪當大辟，問其慈父，必請其肉刑代之矣。慈父猶施之於弱子，況君加之百姓哉！且蝮蛇螫手，則壯士斷其腕；系蹄在足，則猛獸絕其蹯：蓋毀支而全生者也。
>
> As for killing them [criminals] and mutilation, they all are not part of the natural order, but only used out of necessity. If an assaulter does not correct [his behaviour], then how can amputation and nose-cropping do it? How about a sick person who does not improve, is it appropriate that we should commit them do death? Evil-doers are to be disciplined and that is it, why must we eradicate them? Mutilating one person to be a warning for the myriad people – what does that have to do with one person's ability to reform? Cutting off the feet of thieves and emasculating adulterers, even if they have no intention of correction, there still remains the possibility of it. Besides, saving his life and disciplining his heard – what harm does it do to the Great Virtue? Now, if there was a young child, whose crimes deserved capital punishment and who would ask its merciful father [for a sentence], it would certainly ask for a mutilating punishment to replace it [death]. If even a merciful father grants this to a young child, how more so can a lord inflict it

[96] See Sanft, "Six of One," 94–6.

on the common people? Moreover, when a venomous snake bites the hand, then the brave man cuts his wrist; when a foot is ensnared in a trap, then the wild beast severs its paw: undoubtedly ruining a limb, but saving the life.

Further proof that emasculation was indeed among the mutilating punishments frequently discussed during the Han and Wei even when it was not explicitly mentioned, and lending further support to the argument above that it was among those punishments abolished under Han Emperor Wen, is a statement by Kong Rong 孔融 (153–208), a Later Han official in the service of Cao Cao. The undated text, which is transmitted in various sources, belongs in the context of the same debate initiated by Cao above, where Zhong Yao and Chen Qun argued in favour of mutilating punishments. Kong belonged to the side opposing their reintroduction that eventually won the day.[97] He does not need to mention emasculation explicitly, nor the other mutilating punishments for that matter, but rather uses a series of historical allusion to make his point:

且被刑之人，慮不念生，志在思死，類多趨惡，莫復歸正。夙沙亂齊，伊戾禍宋，趙高、英布為世大患，不能止人遂為非也。雖忠如鬻拳，信如卞和，智如孫臏，冤如巷伯，才如史遷，達如子政，一罹刀鋸，沒世不齒。[98]

Moreover, those who have suffered mutilating punishment are too worried to bother with life, all they can think of is dying. Their likes are often inclined to do evil, not one of them returns to what is right. Susha[99] brought chaos to Qi, Yili[100] ruined Song, Zhao Gao[101] and Ying Bu[102]

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[97] See TD 163.4201.

[98] The text follows JS 30.921, see HHS 70.2266, TD 168.4335 and YWLJ 54.972. Frames indicate the sort of punishment: ……: emasculation, ……: blackening, ……: amputation of leg(s), ……: imprisonment.

[99] A eunuch (*siren* or *yanren*) under Duke Xiang of Lu 魯襄公, see SSJZS, vol. 6: 498a and 574b.

[100] Mentioned as *siren* Huiqiang Yili 寺人惠牆伊戾 in *Zuozhuan*, Duke Xiang, 26th year, SSJZS vol. 6: 643a.

[101] Eunuch and minister of the First and Second Emperor of Qin, executed by its last ruler, Ziying 子嬰, see SJ 6.292–93. Whether he was a eunuch is contested, see Loewe, 'Was Zhao Gao a Eunuch?'.

> brought their generations great sorrow, [that shows mutilating punishments] cannot stop people from committing wrong subsequently. Even if they are as loyal as Yu Quan,[103] as trustworthy as Bian He,[104] as cunning as Sun Bin,[105] as pliant as the Chief of Attendants,[106] as talented as Qian the Historian[107] or as accomplished as Zizheng,[108] once fallen to the blade and saw, death does not scare them.

Five out of ten, that is, half of the individuals Kong Rong cites to support to his argument against mutilating punishments were emasculated, highlighting the ubiquity of emasculation – if not of the practice, then of the concept – in early medieval discourses on mutilating punishments. The majority – six – belong to the pre-imperial period, the rest lived during the Qin and early Western Han, only Liu Xiang – who is not known to have been mutilated at all – lived towards the end of the Western Han. That suggests that mutilating punishments, after

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[102] Also known as Qing Bu 黥布, "Blackened Bu," King of Huainan 淮南王. A physiognomist once told him he would "face punishment, but rule as a king" (*dang xing er wang* 當刑而王), see SJ 91.2597 and HS 34.1881.

[103] A dignitary of Chu 楚 who cut off his own leg(s), see SSJZS, vol. 6: 160a.

[104] Bian He presented an uncut block of jade (*pu* 璞) to two succeeding kings of Chu. The block was thought to be an ordinary stone and Bian, charged with fraud, was first deprived of his left leg, then of his right. After the accession of a new king, the block was discovered to be a genuine treasure (*bao* 寶). See Wang Xianshen 王先慎 (1859–1922), *Han Feizi jijie* 韓非子集解 (Beijing, 1998), 4.95.

[105] A successful general who lost both legs due to legal machinations by a rival, see SJ 65.2162 and Ralph D. Sawyer, *Sun Pin: Military Methods* (Boulder, 1995), 5.

[106] See SSJZS vol. 2: 428a–430a and Waley and Allen, *Book of Songs*, 182.

[107] Sima Qian, who chose emasculation instead of suicide and justified his choice in his famous "Letter to Ren Shaoqing (or Ren An 任安)" ("Bao Ren Shaoqing shu" 報任少卿書) in HS 62.2725–36.

[108] Liu Xiang 劉向 (79–8 BC), courtesy name Zizheng, is not known for having suffered any mutilation, but was sentenced to death for counterfeiting, from which he was redeemed by his elder brother. Later he was imprisoned and reduced to commoner status after falling out with the powerful eunuchs Shi Xian 石顯 and Hong Gong 弘恭, see HS 36.1929 and 1932.

their abolition under Han Emperor Wen – whether it was strictly enforced or not –, had gradually fallen out of use or at least become the exception by Kong Rong's time.

The Reinvention of Emasculation under the Northern Dynasties

The Discussions about mutilating punishments seem to have ceased after the Eastern Jin and, according to Shen Jiaben, punitive emasculation does not appear under the Wei and Jin or the culturally Chinese Southern Dynasties 南朝 (317–589).[109] It reappears under the non-Chinese Northern or Tuoba Wei. In the "Monograph on Punishments" ("Xingfa zhi") of *Weishu*, Cui Hao, who was already mentioned above, appears once more:

> 世祖即位[……]詔司徒崔浩定律令。[……]分大辟為二科死，斬死，入絞。大逆不道腰斬，誅其同籍，年十四已下腐刑，女子沒縣官。[110]
>
> After Shizu [Wei Taiwu 魏太武/ Tuoba Tao 拓跋燾, r. 423–52] had ascended the throne, he ordered the minister of education, Cui Hao, to settle laws and ordinances. […] [Cui] divided the capital punishment into two types of death: death by dissection and [death by] strangulation at home. Great traitors and offenders of the Way were cut in half at the waist, members of their households, and those at the age of 14 or below castrated and their daughters given over to the county officials [for servitude].

The phrasing resembles that of the Annals of Emperor Ming in *History of the Later Han* cited above, which granted emasculation as a commutation for the death penalty as special act of grace to those who had been found guilty "great sedition and impiety" (*dani wudao*). However, the Northern Wei punishment of emasculation was a regular punishment employed

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[109] Shen, *Lidai xingfa kao*, 131

[110] WS 111.2874. For Cui, see 15 above.

against the male descendent of insurgents, usually of different "ethnic" background[111] – Han 漢 Chinese in most cases – than the Tuoba-Wei rulers themselves. That was in compliance with the stipulation in *Record of Ritual* (*Liji* 禮記) that "emasculation does not apply to the clans of high dignitaries" (*gongzu wu gongxing* 公族無宮刑).[112] Most cases cited below fall under the reign of Northern Wei Emperor Wen the Filial 孝文帝 (Tuoba Hong 拓拔宏, b. 467, r. 471–99), well-known for his efforts to sinicize the Xianbei elite.[113] From that it would seem that the reintroduction of punitive emasculation was another step towards sinicization. However, the Northern Wei adoption of emasculation was no mere revival of the exceptional acts of grace practiced under the Han, nor was it a resumption of the even earlier punishment for adultery. Two cases cited below also conspicuously fall into the regency of the Empress Dowager Wenming 文明太后 (neé Feng 馮, 442–90) during the Taihe 太和 era (477–500) of Emperor Wen the Filial.

The Sui Dynasty is often accredited with the abolition of punitive emasculation based on Kong Yingda's sub-commentary on the "Penal Laws of Lü."[114] However, it had already been

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[111] According to Mark Elliot, "Han" started to be used as a marker of ethnic "otherness" during the Northern Wei, see his "Hushuo: The Northern Other and the Naming of the Han Chinese," in *Critical Han Studies: The History, Representation, and Identity of China's Majority*, ed. Thomas S. Mullaney et al. (Berkeley: University of California Press, 2012), 173–90 (179–85). Ethnicity is a modern concept. For medieval China, one might envision it as a relational category comprising group relations (not limited to kinship) and a sense of cultural belonging.

[112] SSJZS, vol. 5: 401b and 403b.

[113] See David Honey, "Stripping off Felt and Fur: An Essay on Nomadic Sinification", *Papers on Inner Asia* 21 (1992): 1–39 (18–23). The sinicization under the Northern Wei stirred a backlash under its successor states, see Albert Dien, "The Bestowal of Surnames under the Western Wei–Northern Chou: A Case of Counter-Acculturation," *T'oung Pao* 63.2–3 (1977), 137–77.

[114] SSJZS, vol. 1: 302a–b, and Shen, *Lidai xingfa kao*, 126.

abolished earlier, under the Western Wei 西魏 (535–56) and Northern Qi 北齊 (550–77).[115] In 547, after roughly one century of use, Emperor Wen 文帝 (Yuan Baoju 元寶炬, r. 535–51) of the Western Wei, a puppet of Yuwen Tai 宇文泰 (507–56), abolished emasculation:

> 二月，詔自今應宮刑者，直沒官，勿刑。[116]
>
> In the second month, it was decreed that from now on, those who should be emasculated are to be directly transferred to the officials and not to be mutilated.

Yuwen Tai is well-known for pursuing a policy of de-sinizisation of the Xianbei people.[117] The stipulation is reiterated in the year 569 under the Northern Qi:

> 二月乙丑，詔應宮刑者，普免刑為官口。[118]
>
> Second month, day *yichou* [8 March], it was decreed that those who should be emasculated are universally spared mutilation and made government bondservants.

Thus, emasculation as a legal punishment disappeared after a century of resurgence under the Northern Wei. The succeeding Sui and Tang dynasties did not include it in their legal codes again.[119]

It is evident not only from the *Weishu* passage in its 'Treatise on Punishments' cited above but also from its biographies of eunuchs, that emasculation did not extend to members of the

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[115] In fact, the only reference to emasculation in the *History of the Sui* (*Suishu* 隋書) – "emasculation is not applied: (*bu jia gongxing* 不加宮刑) – refers to members of the ruling house under the Northern Qi. See Wei Zheng 魏徵 (580–643) and Linghu Defen 令狐德棻 (583–666), *Suishu* 隨書 (6 vols. Beijing, 1973), 25.706. The commentary emends *gong* 宮 for *hai* 害, so the original text may even have read 'punishments that are (bodily) harmful are not applied.'

[116] BS 5.180.

[117] See Dien, "Bestowal of Surnames."

[118] BS 8.291.

[119] See Shen, *Lidai xingfa kao*, 132, and Chen, *Jiu chao lü kao*, 433.

ruling Xianbei elite. The boys emasculated under the Wei were, much against later practice, employed as eunuchs in the palace, but their biographies also differ significantly from their counterparts in other standard histories, as is evidenced by the following example.

> 抱嶷，字道德，安定石唐人[……]。幼時，隴東人張乾王反叛，家染其逆。及乾王敗，父睹生逃逸得免，嶷獨與母沒內{入}京都，遂為宦人。[120]
>
> Bao Yi, courtesy name Daode, was a native of Shitang in Anding [Southern Ningxia/ Gansu] […]. When he was young, Zhang Qianwang, a man from Longdong [Gansu], rebelled and the [Bao] family was stained by his rebellion. Later, after Qianwang was defeated, [Yi's] father, Dusheng, took to his heels and managed to escape, only Yi and his mother were sacked and entered the capital city, where [Yi] subsequently became a eunuch.

Usually, the biographies of eunuchs in the standard histories, starting from *History of the Later Han*,[121] barely account for a eunuch's life before he entered the palace. Instead, they commence with his place of origin, followed by the way he was introduced to court after he was emasculated. The *Weishu* biographies of eunuchs, in contrast, contain information about the family background and the reasons for emasculation. From them we learn that most boys suffered emasculation at an early age as a consequence of a crime committed by their fathers. Normally, the father had held a provincial or military post, and had rebelled or simply chosen the wrong side during a dynastic crisis or transition, as in the following case.

> 段霸，雁門原平人。父乾，慕容垂廣武令。太祖初遣騎略地至雁門，霸年幼見執，因被宮刑。乾尋率鄉部歸化雲中。[122]
>
> Duan Ba was a man from Yuanping in Yanmen [Shanxi]. His father, Qian, served as magistrate of Guangwu [Henan] under Murong Chui [Emperor Chengwu of the Later Yan 後燕成武帝, r.

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[120] WS 94.2020.

[121] See HHS 78.2507–2543.

[122] WS 94.2014.

> 384–96]. When [Wei] Taizu [Tuoba Gui 拓跋珪, r. 386–409] began to send his horsemen on raids and they reached Yanmen, Ba was taken captive at a young age and because of that, he suffered emasculation. Shortly afterward, Qian led his district bailiffs to surrender at Yunzhong [Inner Mongolia].

Here, we see the son of an official, Duan Qian, who served the founding Emperor of the Later Yan Dynasty, being emasculated because his father resisted the Tuoba Xianbei attempt to overrun the Northern Yan. The ruler of the Northern Yan belonged to the Murong, another subgroup of the Xianbei. The passage also tells us that the message sent to Qian by his son's emasculation was received, as he submitted to the Tuoba shortly after. The sources do not tell much more about Duan Ba or Duan Qian, and we do not know whether the Duan 段 family considered itself Chinese or not, but Duan was also the family name of the first ruler of the Northern Liang 北涼 (397–439), Duan Ye 段業. Although the Northern Liang was later ruled by a clan of Xiongnu 匈奴 decent, Duan was not.[123]

That punitive emasculation did not prevent one from soaring high at court is evidenced by the next case, which also draws a connection between the dominance of the court by eunuchs and the regency of an empress dowager.

> 張祐，字安福，安定石唐人。父成，扶風太守。世祖末，坐事誅，祐充腐刑。時文明太后臨朝，中官用事。祐以左右供承合旨，寵幸冠諸閹官，特遷為尚書，加安南將軍，進爵隴東公。[124]
>
> Zhang You, courtesy name Anfu, was a native of Shitang in Anding. His father, Cheng, was Governor of Fufeng [ibid.]. At the end of Shizu's reign [423–52], [Cheng] was incarcerated and

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[123] E.g. JS 129.3190. The sources are silent on the question of Duan's ethnic belonging, but tell us that he was from Chang'an (or Jingzhao 京兆) and that he wrote a rhapsody (*fu* 賦) mocking the "barbarians" (*huren* 胡人), JS 122.3055 and 129.3192.

[124] WS 94.2020.

> executed, and the 'punishment of rotting' was inflicted on You. At that time, when Empress Dowager Wenming oversaw court [affairs], the inner servants were in power. As a retainer, You respectfully took the charge of sealing the imperial rescripts, being spoiled and favoured made him the first among the eunuchs, he was especially promoted to become minister, conferred the title of general of Annan [Vietnam] and ennobled as Duke of Longdong.

In the case of Zhang You, we are not told of crime which his father, Cheng, was accused. It shows, however, that emasculation was not granted as a special act of grace, but inflicted on the sons of felons whose crimes deserved execution. Apparently, this did not prevent You from rising high in the palace hierarchy after becoming a eunuch. Just as under the Eastern Han Empress Deng Sui above,[125] there is an implicit connection between the regency of an empress dowager and the rise of eunuch power at court, presumably because female regents had to rule from within the rear palace and relied heavily on the services of inner servants, who were the only non-family male persons allowed to have interactions with them. The terse account of Zhang You's emasculation can be contrasted with the more detailed one of Zhang Zongzhi, whose case bears out the observation that career opportunities for emasculated men under the Northern Wei were not dim at all:

> 張宗之，字益宗，河南鞏人，家世寒微。父孟舒，劉裕西征，假洛陽令。及宗之貴幸，高宗贈孟舒平南將軍、洛州刺史、鞏縣侯，諡曰貞。初緱氏宗文邕聚黨於伊闕謀反，逼脅孟舒等。文邕敗，孟舒走免，宗之被執入京，充腐刑。以忠厚謹慎，擢為侍御中散，賜爵鞏縣侯，遂歷右將軍，中常侍，儀曹、庫部二曹尚書，領中祕書，進爵彭城公。出為散騎常侍、寧西將軍、東雍州刺史。以在官有稱，入為內都大官。出除散騎常侍、鎮東將軍、冀州刺史。又例降為侯。太和二十年卒，年六十九，贈建節將軍、懷州刺史，諡曰敬。[126]

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[125] See HHS 78.2509.

[126] WS 94.2018–19.

> Zhang Zongzhi, courtesy name Yizong, was a native of Gong in Henan, his lineage was poor and insignificant. His father, Mengshu was, at the time when Liu Yu [Emperor Wu of the Liu-Song Dynasty 宋武帝, r. 420–422] pacified the West, acting magistrate of Luoyang. Later, when Zongzhi had won favors, Gaozong [Tuoba Jun 拓跋濬/ Emperor Wencheng 文成帝, r. 452–65] bestowed [the posthumous titles of] General of Pingnan, Prefect of Luozhou, Marquis of Gong County and the epithet 'Faithful' on Mengshu. Earlier, Zong Wenyong of Goushi had mustered his comrades in Yique [Henan] to plan a rebellion. He pressed Mengshu and others [to support him]. After Wenyong had been defeated, Mengshu fled to avoid [punishment]. Zongzhi was dragged into the capital, [where] the "punishment of rotting" was inflicted. Because of loyalty and prudence, he was selected as a Courtier Attendant and granted the noble rank of Marquis of Gong County, subsequently holding the offices of General to the Right, Palace-Attendant, Minister of the two Bureaus of Rites and Provisions, in charge of the Palace Library, promoted to Duke of Pengcheng. Sent out as Cavalier Attendant, General of Ningxi, Prefect of Dongyong. Being renowned for his conduct as an official, he became a great official of the inner court upon returning. [Again] sent out as Cavalier Attendant, General of Pacifying the East, Prefect of Yizhou; then demoted to the rank of Marquis. In the twentieth year of the Taihe era [496~97], he died at the age of sixty-nine. Posthumously awarded the titles General of Jianjie, Prefect of Huaizhou; posthumous name: Jing [Respectful].

This is a clear case in which emasculation was inflicted by guilt of association on the sons of rebels. It also shows that, even after having thus been punished, the emasculated offspring could go far in the imperial favor as a eunuch. As noted above, the rise of both Zhang You and Zhang Zongzhi fall into regency of Empress Dowager Wenming during reign of Emperor Wen the Filial.

In all cases above, emasculation might have been exercised as a form of extortion. In three further cases in *Weishu*,[127] the reason for emasculation is given as *yin shi* 因事, "because of an

[127] WS 94.2025 and 2026.

incident," usually indicating a crime, although it is uncertain whether the guilty party was the castrated man himself or a member of his family. Only one biography unambiguously states *qi jia zuoshi* 其家坐事, "his family had to pay for a crime." In another case we are told that the older brother of a eunuch had been castrated as well. The reasons behind the employment of the emasculated sons of former officials as palace eunuchs may have been twofold: on the one hand, in order to not appear cruel to their Chinese subject, the Tuoba Wei rulers complied with Han legal practice in not sentencing the underage sons of felons to death for the crimes of their father. On the other hand, fearing retribution by the descendants of disloyal Chinese officials, they saw emasculation as a means for showing mercy and, at the same time, keeping their potential enemies close at hand.

During the Northern Wei, emasculation was, in contrast to the following Tang period, a legal punishment. However, neither does it seem to have been applied very often, nor did it serve as a commutation for the death penalty as under Western Han Emperor Jing and the Eastern Han emperors. Instead, it was part of a system of kin liability (*lianzuo* 連坐). Most eunuchs presented in *Weishu* belonged to the lower levels of office holders, their fathers holding regional or local posts. When their fathers fell from grace or found themselves on the wrong side, their sons – and their wives and daughters – suffered the consequences.

In the last part of this paper, I will turn to the use of punitive emasculation under the Tang. This may seem surprising since, as we have seen, punitive emasculation disappeared from the law codes, and hence as a legal punishment, after the Northern Dynasties. Moreover, looking at both the traditional and epigraphic record for eunuchs under the Tang reveals that, just as for most period of history, the reasons for their emasculation (or even the very act itself) are rarely mentioned. That is true for the two dozen eunuchs who received biographies in the two standard histories as well as for the circa one hundred eunuchs for whom tomb epitaphs were

transmitted in anthologies of Chinese literature and/ or were excavated during recent decades. A full analysis of the number of Tang eunuchs has two wait until a later stage of research, but taking a look at one of the most prominent eunuchs of the Tang period will shed some light on the use of emasculation in the early Tang and suggests that, although it disappeared from the legal code, there were some geographical and legal grey areas in which it was still applied as a punishment.

How Gao Lishi Became a Eunuch: Emasculation in the Early Tang

Feng Yuanyi 馮元一 – better known by his adoptive name, Gao Lishi 高力士 (684–762) – without doubt is one of the most prominent eunuchs of the Tang Dynasty. He features in historical writings and literature, most famously in an episode in which the Tang poet Li Bai 李白 (701–62) humiliates him by forcing him to pull off the boots from Li's feet in front of the whole court.[128] His case is also rather exceptional, as it does not exhibit many of the features that later became characteristic for most high-ranking eunuchs of the Tang, most notably was he not from the North.[129] More important, however, in the present context is that

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[128] See JTS 190B.5053. Li Deyu 李德裕 (787 – 850) wrote a *Jottings of Tales Heard from the Lius* (*Ci Liu shi jiuwen* 次劉氏舊聞), in which Gao gives testimony as an eye-witness of events in the Kaiyuan 開元 and Tianbao 天寶 periods (713–56), see Manling Luo, "Remembering Kaiyuan and Tianbao: The Construction of Mosaic Memory in Medieval Historical Miscellanies," *T'oung Pao*, 97 (2011): 263–300 (272–79). Finally, there is an *Outer Tradition of Gao Lishi* (*Gao Lishi waizhuan* 高力士外傳) by Guo Shi 郭湜 in one chapter, see Wang Renyu 王仁裕 (880–956) and Ding Ruming 丁如明, *Kaiyuan Tianbao yishi shizhong* 開元天寶遺事十種 (Shanghai: Shanghai guji chubanshe, 1985), 115–23.

[129] The theory expounded by the eminent Qing 清 historian Zhao Yi 趙翼 (1727–1814) in his *Nian'er shi zhaji* 廿二史劄記 (Beijing, 1984), 20.429, that most eunuchs in the Tang came from Min 閩 (Fujian) and Ling 嶺 (Guangdong) has been disproven by Chen, "Tangdai Chang'an de huanguan shequn" and Du, "Tangdai huanguan de jiguan fenbu."

there is some indication that Feng Yuanyi suffered emasculation under the same conditions as those young boys below the age of 14 under the Northern Wei, that is, as the son of an insubordinate official.

Gao's life is one of the best documented of all Tang eunuchs. Apart from his official biographies in both standard histories, researchers also have access to his entombed epitaph and a spirit path stele,[130] which were both unearthed in the 20th century.[131] Gao was born in Panzhou 潘州 in the South, near modern-day Guangzhou 廣州. His original surname, Feng, derived from a clan of officials originally from the North, where they had founded the short-lived Northern Yan 北燕 Dynasty (407–436).[132] One of Gao's ancestors, Zhangfu 章甫, later migrated to the South, where his great-grandfather, Feng Ang 馮盎, brought Lingnan 嶺南, the area of present-day Guangdong, under the lash for the Sui and early Tang courts.[133] Ang

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[130] See JTS 184.4757–4759, XTS 207.5858–5860, and Wu Gang 吳鋼 (ed.), *Quan Tangwen buyi* 全唐文補遺 [hereafter: QTB] (9 vols. Xi'an: San Qin chubanshe, 1994–), vol. 1, 35b–37a and vol. 7, 59a–60b.

[131] According to Du Wenyu, "Gao Lishi jiazu ji qi yuanliu" 高力士家族及其源流, *Tang yanjiu* 唐研究, 4 (1997): 175–97 (175), Gao's shendaobei was broken in half early on. The text of the upper part is recorded in Wang Chang's 王昶 (1725–1806) *Jinshi cuibian* 金石萃編, but the physical remains were only discovered near Emperor Xuanzong's Tailing 泰陵 mausoleum in Shaanxi 陝西 province in the 20th century. The upper part was unearthed by workers of the Pucheng County Cultural Center 浦城縣文化館 in 1963, the lower part found in a production team stable at the same location in 1971. In 1992, archaeologists excavated Lishi's tomb, including his *muzhiming*, near Shanxi Village 山西村 in Baonan District 保南鄉, Pucheng. According to the excavation report, his tomb was the only satellite burial near Tailing See Shaanxi sheng kaogu yanjiu suo 陝西省考古研究所, "Tang Gao Lishi mu fajue jianbao" 唐高力士墓發掘簡報, *Kaogu yu wenwu* 考古與文物, 6 (2002): 21–32 (21).

[132] See Du, "Gao Lishi jiazu," 177.

[133] See Ang's biography in JTS 109.3287–3288, which compares him with the secessionist Qin general Zhao Tuo 趙佗, who established the Southern Yue 南越 kingdom in the years between the Qin and Han.

later split the area under his control among three of his sons, thereby making the hold of the Feng clan on Lingnan de facto hereditary, which probably accelerated their downfall.

> 耿公知而內舉，請以分憂。朝廷許之。(智)殘為高州刺史，(智)戴為恩州刺史，(智)玳為潘州刺史。聖曆中，潘州府君捐館舍，子君衡襲其位焉。父沒子繼，南州故事。[134]
>
> The Duke of Geng [Feng Ang] wanted to choose administrators from among his sons, so he petitioned to 'share the burden [of office]'. The court permitted it. Zhikui was installed as Prefect of Gaozhou, Dai[1] was installed as Prefect of Enzhou, and Dai[2] was installed as Prefect of Panzhou. In the Shengli reign era (698~700), the governor of Panzhou died and his son Junheng [Gao Lishi's father] succeeded him. That the father dies and the sons succeed him, that is traditional practice in the southern prefectures.

Dreading semi-independence of the Feng clan as a harbinger of insurrection, the Tang court sent a punitive expedition to Lingnan in the late seventh century, to end their hereditary succession. According to the standard histories, the Commissioner for Punitive Expeditions in Lingnan 嶺南討擊使, Li Qianli 李千里, presented Yuanyi to the palace as a castrated boy, together with another lad of the same family name (*tonglei* 同類) called Jingang 金剛. Upon arrival in Chang'an, the palace eunuch Gao Yanfu 高延福 took in Yuanyi as an adopted or foster-son (*yangzi* 養子 or *jiazi* 假子), whereupon Empress Wu conferred Gao's family name and the personal name Lishi on Yuanyi.[135]

One might argue that the punitive expedition that brought about the downfall of the Feng family and Lishi's emasculation bear no direct relation upon each other. However, there is corroborating evidence showing that this was more than just a coincidence. In 1954, another epitaph was excavated near Xi'an 西安, which belonged to the eunuch Gao Yuangui 高元珪.

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[134] 大唐故開府儀同三司兼內侍監上柱國齊國公贈楊州大都督高公〔力士〕墓誌銘并序, in Wu, *Tangwen buyi*, vol. 7, 59a.

[135] JTS 184.4757 and XTS 207.5858.

The epitaph does not state any relationship between the tomb occupant and Gao Lishi, what it does state, however, is that the original surname of the occupant likewise was Feng, and that his great-grandfather and father were Feng Ang and Feng Junheng 馮君衡 – in other words, that he was most likely Gao Lishi's brother.[136] It goes on:

> 垂拱中武太后臨朝，公時尚幼，屬奸臣擅權，誅滅豪族，避此禍，易姓高氏。[137]
>
> In the Chuigong reign period [685–89], when Empress Wu held court, his lordship [Yuangui] was still under age. Being attached to a family of treacherous officials who arrogated power, whose eminent clan was extinguished, he evaded this misfortune by changing his surname to Gao.

This strongly suggests that Yuangui, just as his brother Yuanyi, had been castrated before being sent to Chang'an, when the Feng clan was extinguished and as a warning to all other local elite families in Lingnan. The Tang thereby followed northern practice in quelling a looming insubordination by killing all adult males and castrating the infant boys of the Feng clan. That neither the biographies in the standard histories nor the epitaphs or stelae for Gao Lishi and Gao Yuangui mention the act of emasculation, let alone as a punitive measure, is not unusual, as commemorative inscriptions for Tang eunuchs usually do not give away the identity of the dedicatee as an emasculated man. Further research on tomb epitaphs for Tang

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[136] See He Hua 賀華, "Du 'Tang Gao Yuangui muzhi'" 讀《唐高元珪墓誌》, *Beilin jikan* 碑林集刊 n.v. (1995): 87–9. There is no indication, though, that Yuangui was the second boy Jingang mentioned in Lishi's biographies. Yuangui's identity as Lishi's second-eldest brother is confirmed by the spirit path stele and tomb epitaph written for Feng Junheng by Zhang Yue 張說 (667–731), see Dong Gao 董誥 (1740–1818) (ed.), *Quan Tangwen* 全唐文 (11 vols. Beijing: Zhonghua shuju, 1983), 230.2333b and 231.2341.

[137] He, "Gao Yuangui muzhi," 87.

eunuchs currently conducted by the author[138] may reveal whether the cases of Gao Lishi (or Yuanyi) and Gao Yuangui were exceptional "latecomers" at a time when the Tang had not yet firmly established their dominion over the southern Hinterland, or whether the practice of punitive castration continued beyond the early Tang.

Conclusion

There is no doubt that castration or emasculation – the removal of both penis and testicles – was a legal punishment for adultery in early China up to the reign of Han Emperor Wen, as evidenced by traditional sources and the *Statutes and Ordinances of the Second Year* from Zhangjiashan. More tenuous is the claim that the legal practice and the use of eunuchs for, following Carter Stent, keeping the females in the imperial palace pure, are interconnected. While the number of eunuchs seems to have climbed during the reigns of notorious empress dowagers of the Eastern Han and Northern Wei, evidence for a connection between the use of punitive emasculation and the number of palace eunuchs is only circumstantial. Likewise, although oracle bone inscriptions indicate that the Chinese emasculated foreign war captives, nothing testifies to the existence of a specialized and fully-fledged eunuch institution under the Shang or Zhou dynasties. On the contrary, the earliest references to court eunuchs in *Book of Odes*, *Zuo Tradition*, and *Ritual of Zhou* state that the offices that later became a monopoly of eunuchs were just as often filled with non-emasculated men in the beginning. While it is impossible to date the emergence of eunuchs, the diversity of the vocabulary for eunuchs and emasculation in early sources testifies to the old age as well as the unsystematic character of both practices at the time those sources were compiled in the late first millennium BC.

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[138] See Michael Hoeckelmann, 'Eunuch Marriages and Adoptions: Evidence from the Tang', *Tang Studies*, forthcoming.

As a punishment for adultery, emasculation only survived for about half a century into the early imperial period. Although it was not among the mutilating punishments Han Emperor Wen abolished in 167 BC, the testimony given by Chao Cuo and Emperor Jing shows that Wen probably had done away with emasculation a few years earlier. However, it remained in use as a commutation for the death penalty throughout the Han, and at least some of the earliest court eunuchs, whose numbers were still small, went under the knife as a punishment. By the mid-second century AD, many eunuchs may have entered the palace as adopted sons of older eunuchs, after the court had legalized such adoptions.

No Chinese dynasty after the Western Han used emasculation as a regular punishment; individuals who underwent punitive emasculation, such as the historian Sima Qian, did so as a commutation for a death sentence. It was the non-Han Tuoba Wei Emperor Xiaowen who reintroduced emasculation as a regular punishment, this time not for adultery, but as kinship liability inflicted on the sons of local officials who had committed severe crimes against the state (*dani budao*). As part of his strategy to sinicize the Xianbei, he most likely followed the precedence of the Eastern Han: as a punishment for *dani wudao*, emasculation first appears in the acts of grace of the early Eastern Han emperors recorded in *History of the Eastern Han*, which Fan Ye had finished in the south just a few decades before Xiaowen began his reforms.

Prior to this, the Xianbei may not have practiced human castration or emasculation. That is suggested by the consequent abolition of emasculation under the successors of the Northern Wei, who reversed the latter's sinicization policies. Hence, Tani's hypothesis that the use of eunuchs by pastoralist conquerors to control an indigenous population took its inspiration from the gelding of animals seems to be refuted by the Xianbei case. On the other hand, the preferred victims of emasculation under the Tuoba were to the sons of non-Tuoba local chiefs

who were too slow in their surrender to the Xianbei and whom the latter therefore perceived as a threat.

The Northern Wei was the last regime in medieval China that employed emasculation as a regular punishment. Remnants of the practice survived into the seventh century, as the Tang used it to subdue local leaders (or rather their sons) in the imperial hinterland, but it was no longer part of the legal system. References to voluntary emasculation, mainly in the form of prohibitions, only appear many centuries later. As historians, we are still groping in the dark with regard to the source of court eunuchs in the centuries in-between. On the one hand, the court must have found means to constantly supply the palace with eunuchs; on the other, the route of punitive emasculation was largely closed after the seventh century. More research on eunuchs, the role of adoptions in their reproduction, and on eunuch tomb epitaphs hopefully will shed more light on a practice that was a core part of the imperial institution in China for over two millennia.