

In: *Late Imperial China* 17.2 (1996), pp. 77-130.

**The Uses of Chastity:
Sex, Law, and the Property of Widows in Qing China ***

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For widows in late imperial China, sex and property were linked in multiple ways. This statement applies to both official discourse and social practice, which influenced each other to such a degree that it is difficult (and perhaps inappropriate) to separate them completely. Qing legal cases involving widows allow us to explore this zone of interplay: between interest and emotion, between official priorities and popular strategies, and between outward representations and closeted lives.

To imperial authorities, the widow constituted an ideologically vital point of intersection between property relations and sexual relations. The "chaste widow" played a signal role in propaganda that tied sexual loyalty (of wife to husband) to political loyalty (of subject to ruler). Ming-Qing law granted widows the strongest rights of any women with regard to property and independence--but these rights depended on chastity, a status violated by either remarriage or adultery: for this purpose, the two acts were simply variations on a theme.

This article begins with the official discourse of widow sexuality and property. But the basic question it tries to answer is what difference such discourse made for ordinary people. How were sex and property connected in their lives, and what relationship, if any, existed between the practical logic of ordinary life and the priorities and pretensions of the state?

One link between property and sexual norms is well-known: it took property to make chaste widowhood a viable option. Therefore, widow chastity served as a status symbol for the elite, while remarriage prevailed among the very poor.² The evidence in legal cases gets us further, revealing the logic of **[End Page 77]** sexual contract

that framed the survival strategies of impoverished widows. We begin to grasp what it meant, in practice, for official standards of virtue to lie beyond reach.

But most of the legal action in this area focussed on the young widow who had just enough property to get by, without resorting to remarriage, charity, or prostitution. As long as she maintained her claim to chastity, such a widow might enjoy a degree of independence unusual for women at any level of society. But two factors threatened that independence.

First, there was tension with in-laws. While imperial ideology demanded the preservation of every male line of descent, the surviving brothers of a dead man might have other priorities--especially if they were peasants with little surplus above subsistence. The equal shares brothers received in household division might be small indeed; while surviving brothers may not have begrudged the dead man his share, they might feel differently about his widow. We need not ascribe any great evil to in-laws who eyed a young widow's property; they simply wished she would begin a new life elsewhere, so that their brother's assets could improve their own standard of living, however marginally. ³ Some, perhaps, believed this best for the woman herself: young widows seem to have found new husbands easily (given the high male/female ratio), while a single woman might encounter difficulty.

Second, a widow with property was subject to a minimum of direct supervision: *she* was the patriarchal authority in her dead husband's household, backed by legal guarantees. This practical autonomy created a space for personal freedom that sometimes produced highly unorthodox results: the independence justified by chastity provided the opportunity for adultery--which, in turn, might jeopardize the very independence which had made it possible.

These factors interacted in various scenarios of conflict between widows and their in-laws. The sexual basis of a widow's rights to property and independence may have derived from official discourse, but it was well understood by the people (mostly peasants) who appear in legal cases. Whether ordinary people shared official values remains an open and complex question--surely, some did to some degree. But even if they did not, they knew perfectly well that power and property could be secured by *invoking* such values: usually, the authorities became involved because some party

to the dispute sought their intervention as a strategy of empowerment. Conflicts over the status of a widow were fought out in court in terms of the official discourse of chastity and property, with both sides mobilizing official categories and stereotypes in their own interest--facilitated, no doubt, by the "pettifoggers" (*song gun*) [End Page 78] who helped litigants package their stories in the form of persuasive written complaints (Karasawa 1993). Here, we see a practical process by which different levels of patriarchy legitimated and reinforced each other: the state's pretension as defender of family values was strengthened when humble people recited official standards of virtue in seeking judicial support; at the same time, those who could convincingly pose as defenders of those standards received the backing of state power.

One hazard of reading legal cases is that they may convey the impression that conflict and crisis were the norm. The crises they highlight did occur. But, more importantly, the lines of cleavage and the practical logic exposed by such crises shaped the lives of far more people than that small number found in court cases. In their unmobilized, potential form, these same forces exerted a practical influence in mundane, misrecognized ways--an influence reinforced by the occasional public crisis which provided the opportunity for explicit, overt enforcement of the sexual order. When we weigh the dramatic events recounted here, we must try to imagine how the forces they reveal framed the choices of the many people who were *not* unlucky or confrontational enough to end up in court.

The Official Measurement of Chastity

Chastity Heroes: The Ritual Dimension of Law

A woman's chastity--understood as absolute sexual loyalty to her husband--was measured by the Qing state according to her response to challenges: the death of her husband, a rape attempt, or a sexual proposition. How high a standard of chastity did she set for herself? How far was she willing to go to defend her husband's sexual monopoly? The Qing state measured chastity in two formal ways, representing the ritual (*li*) and penal (*fa*) dimensions of imperial law, respectively: the canonization (*jing biao*) of chastity heroes and martyrs by imperial edict,⁴ and the evaluation of crimes against chastity according to the conduct of the victim. The classic chastity hero was the chaste widow (literally, "chaste wife": *jie fu*)--i.e., the widow who neither

remarried nor engaged in sexual intercourse following the death of her husband. Honoring of chaste widows dated from at least the Han dynasty, which first institutionalized Confucian morality as imperial dogma. The Qing [End Page 79] system derived directly from precedents in the Yuan and Ming dynasties (Liu 1991; Elvin 1984). In 1304,⁵ the Yuan Board of Rites established qualifications for a chaste widow to receive official recognition: she should spend at least the twenty years from age thirty to fifty *sui* as a widow without remarrying or engaging in adultery, and her "purity" (*zhen*) should be well-known in her community. Upon nomination by neighbors, qualified widows were reported to the capital by local officials to receive imperial testimonials of merit (*jing biao*) (YD 33:17a).

In 1368, the new Ming regime confirmed these qualifications, and added the reward of forgiving the labor service owed by a chaste widow's household. Also, by 1511, the Ming began to honor "chaste martyred women who have avoided pollution by criminals" (*bu shou zei wu zhen lie funü*)--i.e., women who died by assault or suicide in the course of a rape attempt without being penetrated by the rapist's penis. Such women were to be commemorated with official monuments and their burial expenses paid by the state (MH 79:457).

Both the chaste widow and the chastely martyred rape victim were represented as going to extraordinary lengths to avoid being penetrated by any man other than their husbands, whether through remarriage, adultery, or rape. Remaining unmarried was assumed to involve both economic and emotional hardship (often referred to in legal documents as "*ku shou*"--"suffering hardship to maintain chastity"); choosing death over surrender of the husband's sexual monopoly was raised to the level of martyrdom (like the death of an official during loyal service to his ruler). In theory, each type of martyr consciously chose a supremely difficult but virtuous path over an easy but shameful alternative.

The Qing state awarded silver to the households of chastity heroes to finance memorial arches. It also greatly expanded the range of qualifications for official celebration, by elaborating the principle of absolute sexual loyalty which defined the original two paradigms. Chaste widowhood came to include a woman whose betrothed died prior to the consummation of marriage, but who moved in with her parents-in-law to serve them and refused to marry any other man. Also, over the

course of the mid-Qing, a sort of inflation gradually shortened the time required to qualify as a chaste widow.

Candidates for chaste martyrdom came to include: a widow who killed herself to follow her husband to the grave; a woman who committed suicide to follow her betrothed to the grave; and, "a widow who has resolved to raise her sons and preserve her chastity, but then hangs herself because relatives are forcing her to remarry" (QHS 403:503). These additions combined the two heroic paradigms of widowhood and martyrdom. In a further innovation, **[End Page 80]** women who committed suicide in response to sexual propositions were canonized as chastity martyrs (QHS 403:510-11). This measure extended the logic of avoiding pollution by adultery or rape, so that absolute sexual loyalty came to imply a mortal repugnance at even the suggestion of sex with a man other than one's husband.⁶

But not just any woman could qualify as a chastity martyr, even if she had performed these heroic deeds. As in the Ming, a dead rape victim was disqualified from canonization if she had been penetrated by her attacker.⁷ The same was true if she had a prior record of sex outside marriage. A remarried widow could not qualify either, even if she had *not* been penetrated by a rapist: by remarrying, she had already failed the most basic test of chastity (QH 30:254; QHS 403:513). Only one who held herself to the highest standard--death, without penetration by any man other than her husband--might be honored as a chastity martyr.

Crimes Against Chastity: The Penal Dimension of Law

Some challenges to chastity involved male acts defined by Qing law as crimes. But the definition of the crime and the fixing of penalties depended on the woman's reaction: the higher the woman's standard of chastity, the more severe the offender's penalty. The most dramatic example, perhaps, is the crime of "sexual proposition" (*tiao xi* or *tiao jian*). If a man proposed a sexual liaison to a woman and she simply complained, he might receive a beating and/or a term in the cangue (DC 366-13). But if she committed suicide, then she qualified as a chastity martyr, and the offender would be sentenced to strangulation after the assizes (DC 299-14 and 18). What defined the man's crime and fixed his penalty was how the woman reacted, rather than his act itself.

Suicide by the victim of a rape attempt would greatly increase the severity of her attacker's penalty. More fundamentally, an act of sexual intercourse counted as rape only if the woman could prove that she had resisted fiercely, but had been overpowered by violent coercion--the required evidence included witnesses, torn clothing, injury, etc. Acts that "begin with coercion **[End Page 81]** but end with consent" did not count; the man would receive the much lighter penalty for adultery. Moreover, the rape of a woman with a record of illicit sexual conduct was punished far more lightly, if at all, than that of a woman of unimpeachable chastity: if she had failed earlier tests, then little was left to be violated (Sommer 1994; Ng 1987).

A third example is the crime of forcing a widow to remarry. For this crime, an elaborate scale of penalties was keyed to the degree of kinship between offender and victim (see Appendices). For each degree, the severest penalties applied if the widow committed suicide to prevent the new marriage from being consummated. This martyrdom defined the coercion as a grave offense (even her own parents might receive a beating and penal servitude for this); the dead widow would be canonized. If the new marriage had been consummated, but the woman chose to stay alive, considerably lighter penalties applied. But penalties were lightest if the widow could eventually be induced to submit to the forced remarriage: as with rape, submission after the fact amounted to consent. In fact, during the Yongzheng and early Qianlong reigns, a widow whose forced remarriage was consummated but who failed to commit suicide did not even retain the option of separating from her new husband; he would not be punished at all. As a 1725 memorial opined, such a widow "has already lost her virtue ('lost her body': *shi shen*), and has no chastity left to maintain (*wu zhi ke shou*), so there is no need to recover her and return her" to her former husband's household (Wu 1992, 446). Finally, if a widow forfeited her chastity through adultery, then her in-laws gained the legal right to sell her in marriage, regardless of her wishes (DC 366-00). Clearly, the crime of forced remarriage applied only to chaste widows, and was based on their objective status as such, rather than on the violation of their wishes.

Each category of crime required a prior judgment of the victim that determined the weight of the penalty meted out to the offender. The highest standard of chastity was death without penetration, to be rewarded with both canonization for the martyr and the severest penalties for the offender.

The Widow as Sexual Being

Chastity and a Widow's Contingent Legal Rights

Qing legislators imagined the widow as a sexual being, either chaste or unchaste,⁸ with a series of legal consequences flowing from each alternative. **[End Page 82]** A widow who could claim chastity enjoyed legal rights unique among women; but if she remarried or committed adultery, her status in her husband's household and the rights contingent on that status would be forfeit.⁹

In both law and custom, the property rights of women in late imperial China depended on marital status (Shiga 1967; Wakefield 1992; Jing 1994). The fundamental factor underlying marital status was chastity. The property rights of widows (main wives--*qi*--not concubines--*qie*) were defined by a Ming edict later adopted as a statute in the Qing code:

If a wife without sons maintains her chastity (*shou zhi*) after her husband dies, then she should receive her husband's share of property, and lineage elders should select an appropriate male from the correct family branch and generation to be appointed as successor and heir (*ji si*) [to her husband]. If she remarries, then her first husband's family shall determine the disposition of both his household property and her original dowry (DC 078-02).

A chaste widow had the right to independent control of her husband's share of his father's household property; if her husband had no sons, then an heir should be appointed (to carry on her husband's line of descent and to care for her in old age). These mandated rights made a widow uniquely independent among women, so long as her husband had left enough property to secure her living. But if she remarried, she left her husband's lineage and lost all claim to property, including any dowry she had brought into the marriage. What goes without explicit statement in the law is the assumption that children remained within the patrilineal descent group: a widow who remarried lost her claim to them as well.

Both Ming and Qing codes prohibited a widow (wife or concubine) from remarrying during the official three-year mourning period, the penalty being 100 blows of the heavy bamboo and nullification of the new marriage. The widow of a senior official

(*ming fu*) could *never* remarry: one who did so would be stripped of any title or honor (*chi gao*) she had received through her dead husband's status, and would suffer the same penalties due a commoner widow who remarried during mourning (DC 105-00). The latter measure underscores the association between sexual and political virtue: loyalty of wife to husband gained in importance when the husband was an honored official of the imperial state. **[End Page 83]**

Apart from these conditions, widows could legally remarry, even if the practice was stigmatized. In fact, most remarriages probably occurred within three years (since they were motivated by poverty) and hence violated the law. Magistrates sometimes waived the ban on remarriage during the mourning period for poor widows who had no other means of support; in such cases, remarriage was treated as a lesser evil by a judiciary that sought to place every woman in a household, even as it promoted an absolute standard of chastity (MQ 57-121). In judicial practice, a remarried widow lost her rights *vis-à-vis* her first husband's household, but seems to have acquired the same rights *vis-à-vis* that of her new husband. In other words, if the *second* husband of a remarried widow died, then she had the right to manage his property and care for her children by him, as long as she refrained from remarrying again (or other unchaste conduct). This rule appears nowhere in the Ming or Qing codes, but can be inferred from the adjudication of various cases (SF 162/Daoguang 25.3.8; Wang 1970, 360-3).

The other form of unchaste behavior was adultery--"consensual illicit sex" (*he jian*). In addition to corporal penalties, the basic Ming-Qing statute on this crime provided that "A wife who engages in illicit sex (*jian fu*) may be sold in marriage by her husband (*cong fu jia mai*); if he is willing to keep her, then he shall be allowed to do so" (DC 366-00). Far from retaining any rights to property or children, an adulteress herself was an object to be sold. A wife who ran away from home, too, could be "sold in marriage by her husband" (DC 116-00). The Ming and Qing codes do not single out the adultery of widows, but in practice these same provisions applied (a widow being treated as a wife whose husband happened to be dead); her in-laws could sell her in marriage. For example, in a 1762 case from Fengjie County, Sichuan, the widow Zhou Cai Shi (31 *sui*)¹⁰ was convicted of adultery with a hired laborer; after she was beaten, the magistrate ordered her sold in marriage, and turned her over to her

father-in-law for that purpose. With a matchmaker, her father-in-law found a new husband, who paid a bride-price of sixty-five taels (XT 187, Qianlong 27.12.11).

It seems to have been common, however, for a magistrate simply to order an adulterous widow "returned to her natal lineage" (*gui zong*). She would become the responsibility of her natal family, to support or to marry off a second time.

Many cases show that widows expelled in either way retained no claim to property or children (though some in-laws showed mercy in this regard). In **[End Page 84]** 1831, when Wei Yang Shi of Ninghe County, Zhili, was expelled for adultery, she had to obtain the permission of her husband's appointed heir (*ji zi*) to keep even her own "coarse clothes"; he brought them to court to be handed over in the magistrate's presence (SF 169/Daoguang 11.3.?). In 1799, when the magistrate of Ba County, Sichuan, ordered Gong Li Shi expelled, she was forcibly separated from her children, in spite of repeated pleas for mercy (BX 6-2-4148, 4152, 4154).

A widow convicted of adultery would not necessarily be expelled, but a reprieve depended on the attitude of her husband's relatives, in an extension of the provision that "if her husband is willing to keep her, then he shall be allowed to do so" (DC 366-00). We find an example of such leniency in a 1762 case from Poyang County, Jiangxi. Wu Shi (thirty-six *sui*), the widow of Wang Guangman, confessed to adultery with a distant relative of her dead husband, but added this plea: "I beg only the mercy that I not be sold in marriage. I am willing to reform and devote myself to raising my son. I will be so grateful for the mercy of the court, if only my son and I are not separated." Her in-laws supported her plea:

Our uncle Wang Guangman left behind only this one son, and he really cannot be taken away from Wu Shi and cared for separately. Now, since Wu Shi is willing to reform, we beg that she be released into the custody of the lineage so that she can return and care for our young cousin.

Wu Shi was beaten and ordered "released into the custody of her lineage elders, so that she may raise her son into adulthood, in order to continue Wang Guangman's line of descent."

Here, the support of in-laws played a crucial role: leniency was justified by Wu Shi's promise to serve her dead husband, caring for his son so as to secure his line of descent. It may be significant that Wu Shi's husband had no brothers and his parents were dead, so she had no immediate in-laws to interfere or to covet her property. Her husband's cousins knew of her illicit affair, and while they had not exactly tolerated it--her lover had been warned off--neither had they taken legal action. Her conduct came to official attention only after her lover was killed in the night by her hired laborer, who mistook him for a thief (XT 185, Qianlong 27.4.20).

With regard to property and children, the legal status of an adulterous widow was the same as that of one who remarried. A widow's status in her husband's household--including the rights to manage his property and to reside with and raise her own children--depended entirely on maintaining her claim to chastity. **[End Page 85]**

The Right Not to Remarry

A chaste widow enjoyed the unique legal right *not* to marry. Anyone who forced her to do so, including her own parents or parents-in-law, risked serious penalties. No other woman had the right to refuse to marry--certainly no unmarried daughter could go to court to defy her parents on this matter (or on any other!). Also, as we have seen, once a widow committed adultery, her in-laws could sell her off in marriage, regardless of her wishes.

The basic Qing statute banning the "marrying out by coercion" (*qiang jia*) of a widow "willing to maintain her chastity" (*zi yuan shou zhi*) reached final form in 1801, but its essential features were in place by 1740 (see Appendix 1). The premise of this law was that the widow in question was chaste and wished to remain so; therefore, as we have seen, the crime was defined as an offense against her chastity. It was understood as being committed by the widow's own relatives. Outsiders (e.g., matchmakers and prospective husband) were considered secondary to the ringleaders related to the widow; the crime, therefore, also violated the moral bond between family members. The statute posits a hierarchy of levels of seriousness for the crime, determined by what was done to the widow and the standard of chastity she upheld in her reaction. Then, at each level, a scale of penalties is mandated for offenders, depending on their relation to the widow. Specific penalties are determined

in the same manner as for violent crimes between relatives: if the offender is a senior relative, then the closer his relation to the widow, the lighter his penalty; if he is a junior relative, then the closer his relation, the heavier his penalty. This system reflects the principle that close senior relatives have legitimate authority over their juniors, who owe them deference and obedience (seniority being measured in terms of relative age and generation). For a close senior relative to coerce a widow was *less* of an offense, and for a close junior relative to coerce a widow *more* of an offense, than for distant relatives or unrelated persons to do so. The penalties of prospective husband and matchmakers were lower than those of the ringleaders.

A complementary statute singled out the motive of *pecuniary gain* for forcing a widow to remarry (see Appendix 2). The culprits envisioned by this measure are relatives of the second or more distant degrees--i.e., anyone but the widow's own parents or parents-in-law. The penalties are far more severe than those in the basic statute on forced remarriage: a junior relative who committed the offense could be sentenced to strangulation or beheading after the assizes, if the marriage was consummated or the widow committed suicide.

The statute cites two ways to gain by forcing remarriage: "plotting to usurp property" (*mou zhan zicai*) and "scheming for bride-price" (*tan tu [End Page 86] pinli*). In the first, the culprits are imagined forcing the widow to remarry so that she forfeits her claim to her husband's property--which then becomes vulnerable to seizure. The second is more straightforward: selling the woman for profit. Case records show that this scenario occurred among the very poor, for whom the bride-price would exceed the value of any possessions the widow left behind.

The intended purpose of these legal guarantees was not to empower the widow for her own sake, but rather to secure her husband's household unit and line of descent, of which she became the chief guardian. Lawmakers imagined the chaste widow as vulnerable to abuse by her closest relatives, particularly her in-laws, who were stereotyped as seeking to thwart her sacred resolve out of greed: the means to their profit was the pollution of her chastity and the dismemberment of her husband's household. In the final analysis, however, a truly chaste widow held the trump card, since she would choose death rather than submit to such base schemes.

If the widow were unchaste, however, roles reversed: she lost all claim to property and children, which would be entrusted to her in-laws, now cast as the guardians of family values. Since the whole rationale for a widow's veto over remarriage was to remain chaste, adultery eliminated that veto, and expelling or selling off an adulteress became a legitimate act of patriarchal self-defense.

Forced Remarriage, Suicide, and Standards of Chastity

One Widow's Suicide: Chastity Martyr or Slut?

The legal secretary Wang Huizu recounts an excellent example of how the judiciary evaluated widows based on the alternate premises that they were chaste or unchaste. The case concerned the suicide of the widow Ye Shi, which took place in Zhejiang in 1782. Ye Shi's first husband had died after a seventeen-year marriage; soon thereafter, she had remarried to a man named Sun, who in turn died after less than one year, leaving her at age thirty-four *sui* a widow for the second time. Her household included Sun's son (four *sui*) by a previous wife, and a hired laborer named Qin, who helped work Sun's twenty-plus *mu* of land.

After a short time, an in-law named Sun Lejia tried to persuade Ye Shi to dismiss Qin so as to avoid gossip. She agreed, but never acted on the promise--so Sun Lejia confronted Qin, who claimed he could not quit because his mistress owed him back wages. After this, Sun Lejia and other family members began to pressure the widow to remarry. Ye Shi put them off by claiming that it would take time to find an appropriate match; then, **[End Page 87]** when they found her a prospective husband in a neighboring village, she filed charges accusing the Suns of trying to force her to remarry. Her laborer acted as the male guarantor for her plaint (required, since she was female). In response, the lineage head and Sun Lejia searched for Qin to reprimand him for supporting the lawsuit, but he ran away; then they scolded Ye Shi, who hanged herself later the same night.

The magistrate and his superiors agreed that this suicide had been provoked by the in-laws' pressure on the widow to remarry, but controversy ensued over which law should apply. If the Suns had been trying to seize her husband's land, they should suffer the more severe penalties mandated by the law on pecuniary gain. The sub-prefect of Huzhou asked Wang Huizu for his opinion.

The version of events accepted by the judiciary up to this point assumed that the widow had been chaste; her reluctance to remarry, then, had stemmed from devotion to her dead husband Sun, which had motivated her delaying tactics, her lawsuit, and finally her suicide. But in reviewing the case record, Wang Huizu learned that at the time of suicide,

Ye Shi's face was smeared with make-up; on her upper body were a red outer garment and colorful underclothes; on her lower body were a green skirt, red underclothes, brightly patterned leggings, and red embroidered shoes. Her sleeping quarters consisted of a single room, the inner part of which was Ye Shi's bedroom; the room was divided by planks but no door, and in the outer part was Qin's bed.

To Wang, these details strongly implied that Ye Shi had been illicitly involved with her hired laborer. Anyway, since the widow had remarried after the death of her *first* husband, it made no sense to credit her now with a high standard of chastity:

Ye Shi's death occurred less than a year after that of [her husband] Sun, but she was made-up and dressed in fancy clothes. Could these possibly be the circumstances of a widow guarding her chastity (*ci qi shou gua qingxing*)? Having discarded her gratitude toward her first husband of 17 years, would she then remain faithful to a second husband of only 11 months? Such a scenario simply could not occur! Her supposedly chaste death represents nothing more than her reluctance to lose Qin . . . Ye Shi's suicidal impulse was caused by Qin running away, and Qin alone should be punished for it.

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The laborer was tracked down and, as expected, he confessed to adultery. The final judgment declared that no criminal attempt at forced remarriage had taken place.

The case hinged on whether Ye Shi was chaste or unchaste; each premise produced a chain of legal and symbolic consequences. If she were chaste, her death became a paradigmatic gesture of wifely virtue; the in-laws who had provoked it, perhaps to seize her husband's land, should be severely punished. But if she were not chaste, then her death was just the end result of wanton lust, and only the lover complicit in that lust would be culpable--indeed, her in-laws' conduct could be seen as an effort to

secure the integrity of their lineage. By failing to uncover Ye Shi's adultery, Wang Huizu observed, "the earlier investigations had all overlooked the root of the matter" (Wang 1970, 360-3).¹¹

The Representation of Heroic Martyrdom

A 1739 case from Xuancheng County, Anhui, provides a classic example of the morality play of covetous in-laws versus the chaste widow. Such cases represent the most direct interaction between the ritual and penal aspects of imperial chastity policy. As the judicial summary explains:

In 1728, [Wu Shi's husband] Chen Lai died of illness. [Her parents-in-law] wanted to make Wu Shi remarry, but she cut off her hair to make clear her resolve to remain chaste. Later, after [her parents-in-law] had died, poverty forced the widow to take her son out begging. Her son was still a small child, and became lost and disappeared. So [by the time she was martyred], she had already endured the hardship of maintaining her chastity for ten years, alone.

Chen Zhiwan was Wu Shi's closest surviving in-law. He had "often urged her to remarry, but she refused. Finally, he decided to wrest her chastity from her by force (*qiang duo qi jie*)"--i.e., force her to remarry--to relieve his family of her constant begging for support; he also coveted the bride-price he could get for her. But when the widow was abducted and delivered to her new husband, Miao Zitong,

she wept and cursed and refused to consummate the marriage. Zitong . . . learned that she had been coerced into remarriage, so he did not dare force her to submit; he had his son Miao Zhaoer, **[End Page 89]** still a small child, spend the night with her, and he absolutely did not consummate the marriage (*cheng hun*). The next day, Zitong went searching for [the matchmakers] to demand that they refund the bride-price, but they evaded him and he did not find them. Finally, on the 14th, he told his son to accompany Wu Shi back [to Chen Zhiwan's] home. [She begged to be allowed to live with Chen and maintain her chastity] but he cursed and scolded her. Angry, and unwilling to accept this insult, she hanged herself and died that very night inside Chen Zhiwan's house.

After sentencing her abusers, the magistrate ordered the widow's meager possessions recovered (from in-laws who had divided them) and entrusted to her brother, who was charged with finding her long-lost son. As to the widow herself,

Wu Shi . . . cut off her hair to make clear her resolve, remaining chaste for ten years, and then, when Chen Zhiwan and the others forcibly remarried her, she refused to submit, and was provoked into the martyrdom of hanging herself (*ji lie zi yi*). Such chastity, maintained through such suffering, is truly worthy of praise! It is meet to request that she be canonized, so as to promote the public morality (XT 75, Qianlong 4.5.30).

To prove a martyr's chastity beyond doubt, judges would scrutinize what had happened once she had been delivered to her new husband, extracting a detailed account from that man. The following confession (from Liuan Department, Anhui, memorialized in 1817) highlights the heroic struggle against coercion: elicited in the form of answers to discrete questions, the confession appears as a monologue recording the widow's reactions to a series of challenges. The voice is that of Lin Dairong (thirty-nine *su*), prospective husband of the widow Yu Shi (thirty-four *su*); Lin did not realize the widow was being coerced until he arrived to pick her up, but he accepted the deal all the same ("I just assumed that once I had taken her home in marriage, I could persuade her to submit"):

By the time we reached my home, it was already the middle of the night. Yu Shi cried and made a fuss and refused to consummate the marriage (*cheng qin*), so my mother spent the night with her and calmed her down.

On the afternoon of the 15th, I urged Yu Shi to eat, but she smashed the dishes and cut off her hair, and cursed and insulted **[End Page 90]** me. I got angry, and punched her . . . Yu Shi made a shrewish fuss (*po nao*), so I grabbed hold of her, picked up a piece of kindling, and beat her . . . Yu Shi rolled around violently on the floor, and never stopped cursing me, so I struck her again . . . My father rushed in and shouted to stop, and he scolded me and told me to find the matchmakers and make them help take Yu Shi home, so as to avoid trouble. That night, he told my mother to spend the night with Yu Shi again.

On the morning of the 16th, I went to look for [the matchmakers] to make them return the bride-price so Yu Shi could be sent home. But unexpectedly, Yu Shi waited until

my mother was in the kitchen . . . and then hanged herself . . . In truth, I beat her out of anger, because she made such a scene and cursed and insulted me. I absolutely did not beat her into consummating the marriage . . .

As in the previous case, we find female defiance in its proper place, defending chastity. After being forcibly delivered to her new "husband's" home, the widow refused to eat: eating might have implied willingness to join the new household.¹² Moreover, like the widow in the previous case, she cut off her hair: a classic gesture to renounce sexual life, specifically associated with becoming a nun. When beaten, she cursed and fought, and finally hanged herself, to avoid further contact with the usurper of her husband's place (XT 138, Jiaqing 22.6.26).

A crucial point of the interrogation of the prospective husband was to establish whether he had "consummated" the marriage. If he had sexually polluted the widow, then he might deserve harsher penalties. But also, if the widow had "allowed" herself to be penetrated, then she would not be eligible for canonization as a chastity martyr. The issue was important enough that provincial officials singled it out in their orders to magistrates on how to handle such cases:

Sternly interrogate the witnesses and accurately establish all the facts about the initiation of the plot to seize the [widow's] property, the recruitment of the gang, and the forced remarriage which caused [the widow] to hang herself; furthermore, verify *whether or not she was sexually polluted (you wu jian wu)* [emphasis added].

[End Page 91]

This passage comes from the 1762 case of the widow Xie Shi (30 *sui*), from Sui Department, Hubei, who committed suicide after being forcibly remarried out by a cousin-in-law who coveted her property. Upon receiving these instructions, the magistrate pressed the "groom" (Wang Huazhang--thirty *sui*) specifically on the question of consummation, resulting in the following confession:

Xie Shi refused to consummate the marriage; she said she had been married out by force . . . and told me to take her back to her home . . . I asked the neighbor woman Zhang Shi to keep Xie Shi company and calm her down; but Xie Shi told her that if she were not taken home, she would kill herself.

When my father heard what she had said, he got scared, and told me to go quickly and find the matchmakers to clear this up so we could send Xie Shi back. I went looking for [the matchmakers], but they avoided me, and I couldn't find them, so in the evening I came back home. My father said, "It's already late, today, so go again tomorrow to look for them." Then father told Zhang Shi and Xie Shi and her daughter to sleep together in the south room; father also told me to sleep in the same bed with him.

But then, early the [next] morning, Zhang Shi screamed that Xie Shi had hanged herself and was dead. I hurried with my father to their room and undid Xie Shi from the bed frame and brought her down, but it was already too late . . . I did not sexually pollute Xie Shi by forcing her to consummate the marriage (*qiang bi cheng hun jian wu*)--Zhang Shi is here, you can ask her.

The neighbor woman Zhang Shi and Wang's father both confirmed that Wang had spent the night in a separate room, with no opportunity to force himself on the widow. In fact, Wang's father had been so nervous about the situation that he had purposely slept in the same bed as Wang to make sure that no "consummation" would take place (XT 182, Qianlong 27.7.29).

The next priority was to secure the interests of the dead husband, for whom the widow had ostensibly sacrificed her life. In the first case cited in this section, the magistrate ordered that the widow's possessions, however humble, be restored as a unit and entrusted to her brother until her son could be found to inherit them (XT 75, Qianlong 4.5.30). In the last case cited, Xie Shi's husband had had more property, but no sons. His land, cows, and daughter were turned over to the widow's brother, pending the adoption of an appropriate male as her husband's son and heir. That heir **[End Page 92]** would receive the property and become responsible for raising the widow's daughter and arranging her marriage; he would also take on the ritual duties of a son towards his deceased adoptive parents (XT 182, Qianlong 27.7.29). In each case, the magistrate attempted to reconstitute the material and human components of the dead husband's household as an independent unit, so that the widow would not have died in vain.

Such memorials conclude with a request for an edict of canonization, couched in language heavy with political overtones. We saw one example in the first case cited; a second follows, from the case of the widow Xie Shi:

Huang Zhengji and his cohort forced Xie Shi to remarry, but she maintained her rectitude and was not polluted, sacrificing her life to prove her chaste resolve. This was truly a chaste martyrdom worthy of praise! It is meet, therefore, to request that she be canonized, so as to promote public morals and solace her lonely soul (*yi wei fenghua, yi wei you hun*).

In such passages, the logographs "*jing biao*" (to canonize) are raised two spaces into the margin above the rest of the text, an honor reserved for direct references to the emperor: with canonization, the emperor personally recognized the martyr's heroism. The cliché used for "sacrifice her life"--*juan qu*--(literally, "to sacrifice/contribute one's body") was most often employed to describe the heroic death of a soldier on behalf of some righteous cause; the definition given by *Mathew's* is "to die for the State" (228). Such wording--as well as references to "rectitude" (*zheng*), "martyrdom" (*lie*), and "public morals"--epitomize the analogy drawn between chastity and political loyalty (XT 182, Qianlong 27.7.29; XT 176, Qianlong 27.10.14).

In these memorials, the chastity martyr is portrayed as self-conscious and assertive, but all her energy goes into self-abnegation, ending in the logical extreme of suicide. To the state, self-abnegation epitomized appropriate female assertiveness; such virtuous subjecthood found ultimate expression in the woman's erasure of herself from the scene, leaving a blank to be filled in by judges with paeans to her righteousness. The chastity martyr is presented as a subject with choices, but what ennobled her in official discourse was the assumption that she was an actor more in her husband's life than in her own--the only point of her own life (and death) being absolute commitment to him.

The women elevated as chastity martyrs are perhaps the most inaccessible figures in legal case records. Judicial summaries of their cases recall the formulaic language of gazetteer hagiography,¹³ and the widows' own motives **[End Page 93]** remain obscure. It seems plausible that their defiance and despair did not necessarily derive from the official agenda; some may have valued independence for its own sake.

Martyrdom's Opposite: "Pretending to Submit"

A 1769 case from Ba County, Sichuan, offers a more down-to-earth look at a widow who resisted forced remarriage. Instead of achieving heroic martyrdom, this woman escaped to complain about the experience. He Liu Shi (thirty-six *sui*) was the widow of He Ruixiang, who had left her the means to live independently with their young son and adopted daughter-in-law. According to her petition,

I encountered the misfortune of being constantly pressured to remarry by my husband's younger brother, He Ruilin, who plotted to usurp the property left by my husband On the 26th day of the 3rd [lunar] month of this year, Ruilin and his gang swarmed into my home, seized me, bound my hands and feet, and took me by force . . . to marry me to a man from Hunan named Huang. I wanted to kill myself, but I could not bear to leave behind my son, who is only nine *sui*, as an orphan, so I preserved my life by the ignoble means of pretending to submit (*tou sheng jia shun*) to Huang. Then, on the 8th of this month, I was finally able to escape . . . Weeping, I sought sanctuary with my neighbors . . . and we discovered that my husband's silver from land sales and even my clothes, grain, and furniture had all been stolen by Ruilin . . .

Her story was backed by an affidavit from eight neighbors, but the magistrate's cynical reaction focussed on the widow's own conduct:

This woman was abducted on the 26th day of the 3rd month, and she returned home finally on the 8th day of the 4th month. That means her marriage with Huang had been consummated for nearly half a month--can she still call this "pretending to submit"? (*shang de wei zhi jia shun hu*)

Even so, he found her abductors guilty and ordered them to return her property. He canceled the marriage, and authorized the widow's brother to report any future abuse by her in-laws. But the culprits got off remarkably lightly, considering the severity of penalties mandated for relatives who forced a widow to remarry so as to seize her property. He Ruilin and the others **[End Page 94]** were beaten and released on pledge of good behavior; as a junior relative of the fourth degree whose motive had been gain, He Ruilin could conceivably have been beheaded (see Appendix 2). It

appears that the "groom" was not punished at all, but treated, rather, as a victim of fraud.

Clearly, the magistrate found this widow's reaction to the challenge of forced remarriage far from ideal. She tried to justify herself: naturally, she would have *preferred* to die, but her primary duty was her son--the surrogate for her husband--so she did what was necessary to stay alive. But the magistrate thought little of her idea of sacrifice--hence, his leniency towards her abusers (BX 6-1-1673, 1674, 1677).

Widows Without Property

Poverty and the Limits of Official Virtue

The chastity so celebrated by the Qing state was literally unaffordable for many widows. It is not unusual to learn from case records that a widow remarried quickly in order to raise enough money to liquidate the debts of her first husband, or even to finance his burial. In effect, she sold herself to her new husband, using the bride-price to settle outstanding debts before joining him in marriage.¹⁴ We find a concise summary of the issues in a contract from Ba County, Sichuan:

Mrs. Sun nee Yu Shi (Sun *men* Yu *shi*) establishes this contract authorizing her own marriage out [of the Sun lineage]: Now that her husband has died, leaving a son, Sun Wenbang, who is still only a small child, and since she is poor and has no means of support, it is difficult for her to endure the suffering of maintaining a chaste widowhood (*nan yi ku shou*). In the city, there is the trader Wang Zhao, who has invited mediators to arrange with those surnamed Sun and Yu that Yu Shi shall promise herself (*zi xing zhu xu*) to Wang Zhao as wife. The son Wenbang and daughter Ergu left [by her first husband] shall follow their mother and be taken to the Wang household to be educated, raised, and married; he of the Sun surname (i.e., Wenbang) upon reaching adulthood shall return to his own lineage, and [the Wangs] may not hinder him. On this day, relatives, friends, and neighbors have been invited to discuss the bride-price and have settled on exactly **[End Page 95]** 26,000 cash, which shall be used to repay the funeral (*chu ling*) and coffin expenses [of her first husband]; today that amount has been handed over in full and used to repay these various debts. Wang may choose a date for her to join him in marriage (*wanju*). From this day on, no brother-in-law or other relative from the Sun lineage may say anything

to the contrary, this being the voluntary decision of both families, and there being absolutely no coercion involved; fearing that there will otherwise be no evidence of this, [Yu Shi] hereby establishes this marriage contract as proof.

TO SERVE AS PROOF FOREVER

(yongyuan wei zhao)

Mediators: Brothers-in-law (*qinshu*) Sun Fangju, writing for [Yu Shi] (*daibi*), and Sun Guofu, presiding over the marriage (*zhuhun*)

Done, on the 22nd day of the 3rd month of Qianlong 25 (1760), by the person establishing this marriage contract, Mrs. Sun *nee* Yu Shi.

This text places great emphasis on the widow's active, voluntary consent, in particular by representing her as the party "establishing" (*li*) the contract. In this respect, it differs from ordinary marriage contracts of the period, which are never written in the voice of the bride. This feature of the contract implies an awareness that widows had the customary and legally-protected right not to remarry. (The rest of the case record indicates that she did agree to remarry, though she seems to have had no real alternative.)

It seems to have been common for propertyless widows to take children into a second marriage, as stipulated here, because in-laws were too poor to feed extra mouths. In examples I have seen, widows sought guarantees that sons of a first husband would not be forced to take the second husband's surname.

One purpose of the contract is to record the terms so they could be enforced in court if necessary; another, perhaps, is to justify the widow's decision to remarry. The contract depicts her abandonment of chaste widowhood as reluctant but necessary, given her poverty and the youth of her son. But an effort has been made to portray the widow as loyal to her dead husband: she is using the bride-price from the second marriage to pay the debts incurred by his funeral, and though she herself leaves his lineage, she has ensured that his son will not, thereby securing his line of descent. In other words, this woman has done her best to be a chaste widow, given her material circumstances. There is no way to know how much this document represents her own feelings--at most, it may record her "voice" filtered through several intervening

[End Page 96] layers (conventional written style, contractual format, male scribe, etc.). Even so, it reminds us that people often feel guilt over hegemonic values they cannot hope to realize in their own lives (BX 6-1-1623).

The hollowness of official virtue stands out in a 1733 case from Zunyi County, Guizhou. After Zheng Shi's husband, the peasant Yuan Yu, died late in 1732, she and her four young sons were able to survive only on loans from a maternal aunt. Her brothers-in-law tried to help, but they could hardly feed their own families. The widow was able to secure a coffin for her husband only by promising to pay for it with the bride-price she would receive by remarrying.

Having resigned herself to remarriage, however, Zheng Shi found herself sought after because of her prolificacy in bearing sons. For this reason (and because her in-laws, who handled the negotiations, took her interests into account), she was able to hold out for a good deal. One offer came from a cousin, Lei Dong (thirty-five *sui*), whose wife "had not been able to have children, and seeing that Zheng Shi could bear many sons, he wanted to take her as his concubine." Through an intermediary, Lei offered two taels of silver for the widow. But Zheng Shi did not want to be a concubine, and it was not clear what would become of her children if she married Lei. A more attractive offer came from Zhou Dengchao (thirty-seven *sui*), whose wife had died, leaving him without a son; so if Zheng Shi married him, she would have the full status of wife. Zhou offered *five* taels, enough to pay her debts; he also agreed to raise her sons, while letting them keep their father's name. Zheng Shi accepted, and became Zhou's wife some six months after her first husband had died.

The timing of Zheng Shi's second marriage came to the attention of the magistrate when Zhou was later prosecuted for homicide (the frustrated suitor Lei Dong attacked Zhou, who killed him in self-defense). As we know, the code prohibited a widow from remarrying for three years; when the magistrate confronted Zheng Shi with that fact, she attempted to justify herself:

My husband left behind four sons who are all still very small. They were so hungry, and were crying day and night. I was starting to feel hunger, too, but even if I starved to death, I couldn't really be pitied (*shuo bu de ke lian*). But if these four sons starved to death, that would completely cut off my husband's line of descent (*ba zhangfu de*

hou dai dou jue le). So I had no choice but to remarry in order to preserve these four sons.

She seems to have been referring to the famous Neo-Confucian polemic against widow remarriage: "It is a small matter to starve to death, but a large matter **[End Page 97]** to lose one's chastity" (*e si shi xiao shi jie shi da*) (Liu 1991, 526; Ebrey 1993, 199). Like the widow who "pretended to submit," Zheng Shi had denied herself escape for the sake of her husband's long term interests. In the end, the magistrate acted leniently:

Zheng Shi was poor and had no means of support, but she still should have completed the mourning period . . . But since she was motivated by a desire to preserve her sons in order to continue her husband's line of descent, her situation can be forgiven . . . Under the circumstances, it seems appropriate to request that she be pardoned and not ordered punished or divorced.

Both widow and magistrate felt compelled to rationalize her early remarriage in terms of a profound level of devotion to her first husband; one cannot avoid the sense, though, that the magistrate simply bowed to the economic reality that made remarriage nearly universal among propertyless widows. In fact, I have seen no other case in which the ban on early remarriage is even mentioned, let alone enforced (MQ A57-121).

During the nineteenth century, a measure of lenience in such cases gained central endorsement. In 1816 the Board of Punishment mandated that widows remarried during mourning remain with their new husbands after punishment unless adultery had preceded remarriage (HT 9: 5b). A commentary in an 1878 edition of the code states that a widow who remarried in order to finance her first husband's burial should receive only the lighter penalty (80 blows, vs. 100, of the heavy bamboo) for "doing inappropriate things," and should be left with her new husband; by that time, wives sold because of poverty were being treated the same way (ZX 10: 14b). Behind such lenience lay a growing sense of the futility of imposing chastity on the poor (Sommer 1994, 387-390).

Voiding the Sexual Contract

Not every poor widow had in-laws who protected her interests when they negotiated her remarriage; as a result, some widows suffered a rude shock upon realizing, too late, what circumstances they had been contracted into. Widows seem to have felt especially dismayed if the new husband turned out to be very poor: they had decided to remarry above all to escape poverty, and were horrified to realize they had married back into it. Some tried to get out of such marriages by refusing to consummate them.

In a 1739 case from Laifeng County, Hubei, the widow Zhang Shi (forty-five *sui*) was killed by her new second husband, Jiang Changyi (forty-three *sui*), when she refused to consummate her marriage with him. Zhang Shi [End Page 98] was Miao; the other protagonists were all Han Chinese. Jiang Changyi's confession reads as follows:

I'm a poor man. I struggled with blood and sweat to save up 20 some taels of silver, and spent it all on the 14 taels of bride-price, plus sedan chair, wine, and so on, in order to marry Zhang Shi. At first, I hoped she would be of the same mind, and would devote herself to helping me set up a household (*tong xin xie li bang xiaode zuo ren jia*). I didn't expect her to be so unhappy when she saw that I was poor and learned that I had no land.

The first night, she slept until dawn with her clothes on. The second night . . . after her relatives had been sent off and our guests had gone to sleep, I told her to come to bed. But she just sat by the stove and ignored me. So I [tried to] pull her into the bedroom. She said that her only reason to remarry at her age was to secure food and warmth. "Now I've come to your home and you turn out to be this poor--what should I marry you for? But you still dare to come and harass me!" (*dao le ni jia ni zheyang qiongnu wo jia ni zuo shenme ni hai lai chan wo*) So I picked up a knife that was on the stove and threatened her. She pulled open her blouse and stuck out her stomach, saying "If you want to kill me, go ahead! I'd rather die than let you have your way!" (*ni yao sha jiu sha ning si ye bu cong de*)

Then he stabbed her to death.

In the adjudication of this homicide, we again see the prior weighing of alternate premises of chaste and unchaste, here necessary to evaluate the man's sexual advance, the widow's defiance, and the homicide. If the widow had consented to the marriage, then her new husband was justified in demanding sexual intercourse, and

in becoming angry and to some extent violent when it was refused. But if she had not, then he might be a rapist and she a chastity martyr.

The judicial summary documents in detail the legality of the widow's remarriage to Jiang Changyi:

In 1739, Changyi had, through the go-between Ran Wenmei, taken [Zhang Shi] as his wife . . . Her father-in-law, Liang Wu, had authorized the marriage, receiving a bride-price of 14 taels of silver. On the first day of the fourth month, the go-between, together with the woman's cousin Zhang Xiangrong, her former husband's cousin Liang Wenchen, her former husband's younger **[End Page 99]** brothers Liang Er, Liang Yaozi, and Liang Shibao, and her son-in-law Zhang Tiande, had escorted her to the Jiang household to join [Changyi] in marriage.

Proper form had been observed in the use of a go-between, the payment of bride-price, and the transfer of the woman by relatives in a procession; an appropriate authority had authorized the marriage; and, since her own parents were dead and she had no siblings, her natal family had been represented by a cousin. In addition, a valid marriage contract was presented as evidence.

Moreover, all witnesses testified that the widow had agreed to remarry. Jiang's neighbors affirmed that "Zhang Shi came properly (*shi hao hao lai de*), and we have heard nothing about her being forced to remarry." Her brothers-in-law (by her first husband) testified:

Our sister-in-law was willing to remarry in order to repay the debts which our brother incurred while he was alive, so as to avoid causing problems for her son in the future . . . Ran Wenmei acted as go-between on behalf of the Jiang household and agreed to a bride-price of 14 taels; we received this money and gave it to our father, who repaid our brother's debts.

This account was confirmed by the woman's cousin, Zhang Xiangrong:

First, she married Liang Junzheng, and gave birth to a son and a daughter. In 1736, Junzheng died. Zhang Shi gave her daughter to me as daughter-in-law, and then followed her to stay in my home. Since her first husband had owed people money,

Zhang Shi decided to remarry in order to pay off his debts, and also to secure her own clothing and food.

Since she had entered the new marriage voluntarily, her defiance was entirely inappropriate, stemming as it did from resentment of her new husband's poverty and (according to the magistrate) from her violent "Miao temper" (*Miao qi*).¹⁵ Jiang was sentenced to strangulation after the assizes--but his wife's defiance guaranteed a commutation of that sentence.¹⁶ Indeed, the **[End Page 100]** memorial on the case is written to stress both the legality of the widow's remarriage and the degree to which she had provoked her husband.

For evidence on the survival strategies of poor widows, the case is equally rich. Zhang Shi's in-laws had agreed to care for her son, but to provide for her daughter she had to pledge her in marriage to her cousin's son; as part of the deal, Zhang Shi received temporary shelter from this cousin. But her husband's debts remained, and she herself had no long term means of support; to solve both problems, she saw no choice but remarriage. The bride-price cleared her debts, but she seems to have known nothing concrete about Jiang Changyi until she arrived at his home and saw that she had exchanged one life of insecurity for another.

Zhang Shi's refusal to sleep with Jiang underscores the degree to which she considered this marriage a "sexual contract," in which she exchanged sexual and other gender-defined labor for economic security from a man she had never seen before. Upon arriving at his home, she decided that she had been cheated, and if she could not expect economic security from the man, then she would not sleep with him. She may have hoped that he would send her back and demand a refund, as sometimes happened when a bride refused to consummate her marriage. Zhang Shi was not the only one who saw the marriage in such starkly contractual terms: Jiang's complaint of how hard he had worked to save enough money to get married makes it clear that *he* felt cheated, too, when Zhang Shi refused to consummate the marriage (XT 68, Qianlong 4.9.28).

Zhang Shi's predicament was not unique. An 1861 case from Baodi County, Zhili, involved the widow Zhang Zheng Shi, who "would not maintain her chastity as a widow because her husband had died and her household was poor." Her brother-in-

law, Zhang Xiong, arranged for her to marry Feng Zhongli, who paid a "body price" (*shen jia*) of 200 strings of cash. But when she arrived at Feng's home,

Zhang Zheng Shi saw that the Feng household was bitterly poor, and so she refused to consummate the marriage with Feng Zhongli. She wept, caused a scene, and threatened suicide, and the Fengs did not dare force her to stay.

The next morning, Feng Zhongli and his brothers returned the widow to her brother-in-law and demanded a refund. Zhang Xiong refused, and a fight broke out, in which one of the Fengs was killed (SF 166/Xianfeng 11.3.6).

For these widows, economic security was the minimum qualification for an acceptable second husband; both they and their new husbands understood sexual submission to be a minimum requirement for a wife. The fact that **[End Page 101]** these women (and other unhappy brides) refused sex suggests a widespread understanding that this was a woman's best (and perhaps only) strategy to annul a marriage she did not want.

The strategy of refusing consummation underscores the limits on a widow's control over her decision to remarry. Once she had agreed in principle to remarry, the judiciary washed its hands of the matter. She had no right, apparently, to back out if her wishes had not been taken into account by the matchmakers; once she had arrived at the man's house, she was his wife, and thenceforth *that* legal status defined her duties and his rights. The only way to get out of the deal was to provoke him into sending her back.

Widows with Property, and Their In-Laws

Autonomy and Adultery

Chaste widowhood required property. In rich lineages, poorer widows might be supported by charitable estates, so they would not feel compelled to remarry. In this way, a lineage bought symbolic capital, enhancing its ability to recruit the daughters of other elite families in marriage (Dennerline 1986).

Here, we focus not on the rich, but rather on young widows with just enough to get by without remarrying. In most cases I have seen, the widow's husband had already

divided his parents' property with his brothers and established his own household; upon his death, the widow became the head of this independent household. As cases of forced remarriage show, the very property which enabled that autonomy could be a source of vulnerability, if it provoked the envy of in-laws.

The legal discourse of chastity had little practical relevance for a propertyless widow, but for one living on her husband's estate the claim to chastity was the vital prerequisite for independence and livelihood. A widow could not legally be deprived of these as long as she maintained that claim. But unscrupulous in-laws understood that if she could be induced to remarry, then she could be eliminated as an obstacle to their control of property (Spence 1978, 70-72). The same was true if she could be branded an adulteress. We see this logic in the confession of an in-law who forced a widow to remarry:

I wanted to get her property, so I got the idea to sell her in marriage . . . I went to Xie Shi's home and urged her to remarry, but, as expected, she refused, and we had a big quarrel. But I was still determined to marry her off [so] I decided to marry her off by force . . . I forced her to remarry so I could occupy her land. **[End Page 102]** I planned to wait until she had arrived at the Wang household and had consummated the marriage with Wang Huazhang--only then would I have dared to take her property (XT 182, Qianlong 27.7.29).

When such disputes ended up in court, both widow and in-laws would be judged in terms of her chastity: the law would back whichever side could convincingly claim to be defending the interests of the dead husband.

Many of these widows were quite young--in their twenties or early thirties--and not a few had small children. Such women needed help working their land, so they would hire a laborer, often some poor shirttail relative of the dead husband. It was not uncommon for this man to move in with the widow and her children, especially during the busy seasons, trading his labor for the simplest forms of compensation: board and room, clothes, or a bit of the harvest. The widow would wash and mend his clothes; he would eat at her table, play with her children, and might become her confidant, especially if she felt at odds with her more immediate in-laws. In this way,

the basic elements of a nuclear family fell into place, albeit in decidedly unorthodox fashion.

Some widows became sexually involved with their laborers. There is no way to know how often this happened, but the pattern I describe appears repeatedly in legal cases (as seen in examples cited above). In many cases, it was the widow who initiated sexual relations with her laborer--who was probably too poor to risk offending his mistress and losing his job. There were exceptions, but the inversion of the accepted power relations of the household--with the "man of the house" subordinate to the woman and dependent on her for his livelihood--meant that such women enjoyed a possibly unparalleled degree of control over their relationships with their male companions.

In this way, the need to remain chaste (to claim independence, property, and children) contradicted other needs. Such a relationship was a gamble: even a false accusation might jeopardize a widow's status. The main action with regard to chastity took place not on the rarefied level of official hero worship, but on this mundane level, where widows of modest means struggled to protect their autonomy from in-laws bent on expelling them, whether out of indignation, avarice, or some more complex mix of motives. Each side posed as defender of patriarchal values, arguing in terms of the legal paradigm of widow sexuality. The rest of this article explores that struggle and the strategies that went into it. **[End Page 103]**

Modi Vivendi

Not every widow was always at odds with in-laws. Some widows achieved practical accommodations that may not have fit neatly into official categories, but balanced their own needs with those of their husbands' families.

A 1762 case from Zhaocheng County, Shanxi, shows one situation in which in-laws might tolerate adultery. Zhang Shi (thirty-three *su*) was the widow of Yan Siqi, who had died eight years before without a son. In 1758, the widow's nephew Yan Lagen--the second son of her husband's older brother--was appointed her husband's heir and successor. But, as she later recounted:

Since Lagen was still too young to look after our household affairs, in 1759, I hired lineage nephew Yan Guofu to do our farm work. He didn't ask for any wages from me, and instead I made clothes, shoes, and socks for him.

According to Yan Guofu (thirty-seven *sui*), "I saw that Zhang Shi was a young widow, so I often flirted (*tiao xi*) with her. In 1760, Zhang Shi and I started having illicit sex, and after that we had illicit sex whenever we got the chance." The judicial summary reports that the widow's affair was "found out by her husband's nephew, Yan Miwa, but since it would make the family look bad, no-one was willing to make the information public"; so the affair continued unhindered for well over a year. Then Zhang Shi decided to sell a piece of land to settle a debt, but before she could act, her in-laws found out. Yan Nianwa--older brother of the widow's adopted heir--sought out her lover for a confrontation. As Yan Guofu recalled,

As soon as he caught sight of me, he stripped off his clothing so that his [upper] body was naked (i.e., indicating his readiness to fight), and started cursing me, saying that I had violated his aunt and now I was selling his family's land (*jian le ta shenmu yo mai ta jia de changdi*), and he threw himself at me.

In the fight that followed, Nianwa suffered mortal injury.

In Nianwa's accusation, sexual encroachment on the woman parallels economic encroachment on the land, and he seems to see both as violations of *his* family's assets. The widow's in-laws had tolerated her affair as long as it did not threaten the household property--which, after all, would be inherited by one of their own. When word spread that the widow was planning to sell land, suspicion immediately fell on the hired laborer: he must be using his illicit connection to milk the household of its property. A similar crisis might have been provoked if she had become pregnant (XT 188, Qianlong 27.9.20). **[End Page 104]**

A strategy open to some widows was uxorilocal marriage: a widow with enough property to get by could marry a poor man, but by not taking his surname could remain in her dead husband's household. But this option seems to have been possible only if in-laws did not object.

Then again, some widows had no immediate in-laws to interfere in their lives. An 1876 case from Pengze County, Jiangxi, shows that a widow not under the scrutiny of in-laws might carry on an affair and marry uxorilocally with relative impunity. The widow Wu Luo Shi lived alone with her son, Wu Leixia; in 1872, she hired a landless immigrant, Zhang Chunxing, to help with the farm. After a few months, the widow and her laborer became sexually involved, and began sleeping together in the widow's bedroom. When Wu Leixia--already in his twenties--tried to intervene, she kicked him out of the house. In spite of this treatment, Leixia's fear of Zhang Chunxing and reluctance to face the consequences of exposing his mother's adultery prevented him from taking action. Rumors spread, however, and Zhang began to fear that the village head might expel him from the village, so he proposed that the widow take him as her uxorilocal husband. When she demurred, he threatened to expose their affair, and she gave in. Again, her son--the only member of her husband's family both on the scene and qualified to object--did not interfere.

Several years passed before the matter attracted official attention. That happened only when Zhang Chunxing tried to sell off the Wu family's land, and the widow's son acted, finally, to protect his inheritance. (He and several friends killed Zhang; he received a relatively light sentence, and his claim to his father's estate was enforced.) Here, too, the threat to property was what provoked intervention (Sweeten 1978, 52-58).

What gave this couple such leeway was the absence of anyone from the dead husband's lineage willing or able to intervene. The Qing code specified that only a woman's husband or close relatives could "seize adulterers" (*zhuo jian*) and turn them in for punishment (DC 285-25). In all cases I know of adultery being used against a widow, the accuser is an in-law, a step-son, or adopted heir: only such persons were qualified to act and stood to gain from an unchaste widow's exposure.

A 1762 case from Suiping County, Henan, shows the power of in-laws to veto a uxorilocal match, and the possible consequences of defiance. The peasant Xiao Song died in 1759, leaving behind his widow, Xiao Chen Shi, and their three small sons. A year later, just after the New Year, Xiao Song's older brother Xiao Fengchun and younger brother Xiao Si divided their father's property between themselves and the widow, evidently awarding her the full third that was her husband's rightful share.

Fengchun also arranged **[End Page 105]** for a hired laborer, Wang Hu, to handle the widow's farm work, and with Wang's help Xiao Chen Shi maintained an independent household, although she continued to live in her deceased father-in-law's dwelling (in the division, she had received the central rooms, and her brothers-in-law the front and rear, respectively). The judicial summary reports what happened next:

Wang Hu and Chen Shi never avoided encountering each other, and Chen Shi . . . told Wang Hu that she wanted to take him as her uxori-local husband. Wang Hu agreed, urging Chen Shi to discuss the matter with Xiao Fengchun. But Xiao Fengchun refused. That night, however, Chen Shi secretly went to the barn where Wang Hu was sleeping and engaged in adultery with him. After that, they often spent the night together . . .

But then . . . Chen Shi became pregnant and gave illegitimate birth to a girl, who immediately died. Wang Hu feared [what would happen] when Xiao Fengchun found out and wanted to flee, but Chen Shi told him to wait. That evening, Xiao Fengchun came home and heard what had happened, and he and Xiao Si interrogated Chen Shi. She openly acknowledged her adultery with Wang Hu, and again asked to take Wang Hu as her uxori-local husband.

When Xiao Fengchun heard this, he became enraged and scolded and insulted her; he decided to summon her father, Chen Zhixiang, so that together they could deliver her to the authorities for punishment. But since it was evening, it was too late to summon him. The next day, Xiao Fengchun . . . sent Xiao Si twice to fetch Chen Zhixiang, but he did not come. [Two days later], since Chen Zhixiang still had not arrived, Xiao Fengchun became even angrier, and scolded and cursed his nephew Xiao La, telling him to tell Chen Shi that the next day they would go into town together to turn her in to the authorities. Xiao La told this to his mother Chen Shi.

That night, she drowned herself and her three sons in a nearby river. The final judgment blamed the deaths on the widow's lover, sentencing him to beheading after the assizes for causing the disaster with his "lechery." Fengchun was beaten for failing to kick out the laborer in time to prevent the affair.

Chen Shi initiated her sexual affair with Wang the very night Xiao Fengchun had refused her permission to marry him uxori-locally. This defiant act may have been part of a conscious strategy to force her in-laws' acquiescence **[End Page 106]** to her

wishes: hence, when she was exposed, her open admission of the affair and her renewed proposal to take Wang as uxori-local husband. Many in-laws might have accepted the *fait accompli*.

Chen Shi's brothers-in-law had behaved perfectly decently, by contemporary standards: when their brother died, they made an honest settlement regarding his widow and did their best to help set up her household. Fengchun's outrage at his sister-in-law's affair seems genuine enough--he was not grasping after her property, and may well have preserved it for his nephews even after expelling their mother. But her expulsion was imminent, as shown by the priority placed on summoning her father--who would help deliver her to the authorities, and then take her back to her natal home. The widow understood: rather than lose her children, she took them with her into death (XT 188, Qianlong 27.8.6).

The picture of widow chastity seen in Qing legal cases differs markedly from that drawn by Wolf and Huang (1980), who argue that adultery and uxori-local marriage were common for widows in a Taiwan community in the late nineteenth and early twentieth centuries, implying that widows were free to engage in such practices with impunity.¹⁷ Legal cases may exaggerate the importance of state power--after all, they are government records. But Wolf and Huang's image of widows may be colored by the political peculiarities of Taiwan, and should not be automatically generalized to other regions or historical periods. What is entirely missing from their account, and what stands out in my sources, is the enforcement of orthodox values by the Qing judiciary--which, after all, played no role in Taiwan after Japanese annexation in 1895. It is not clear how the change in regime affected the enforcement of moral standards and property rights.

In all the cases I cite, the actors evinced a clear awareness that the force of law might be brought to bear on one side or the other in a dispute. In most cases, magistrates became involved only because some party to a dispute chose to involve them. To be sure, not every unchaste widow was hunted down by the authorities or expelled by her in-laws. But the discourse of chastity and property could be invoked to empower either a widow who could claim to be chaste, or in-laws who could show she was not. Adultery and uxori-local marriage were tolerated sometimes, but not

always--and people knew that the force of law would back in-laws who rejected such behavior.¹⁸ [End Page 107]

Scenarios of Struggle

"Seizing Adulterers"

A time-honored strategy for expelling a widow was "to seize adulterers" (*zhuo jian*), in bed if possible, and take them as found to the yamen. The act had a ritual quality: there seems to have been a well-known, established way of doing things. In-laws who suspected a widow of adultery might lie in wait to catch her in *flagrante delicto*; often a large group would be organized for the seizure, so that there would be plenty of witnesses to the widow's disgrace. Sometimes, in-laws staged the event to frame a widow, their goal being the same as that of forced remarriage; magistrates were well aware of the possibility, and often gave a widow the benefit of the doubt, unless there was strong evidence against her.

In 1821, Xu Shi, the widowed concubine of Wang Huixian, was caught in bed with her husband's maternal cousin. The widow was living in Chongqing with her brother-in-law, Wang Rongxian, who had suspected her for some time; finally, he burst into the widow's room one night and caught the couple naked. Next morning he filed charges, but he had made the mistake of acting alone; the widow and her lover managed to organize ten friends and neighbors to testify that her brother-in-law was trying to "frame her for adultery" (*wu jian*) so he could expel her and seize her husband's assets. The magistrate believed the widow, and ordered Rongxian beaten and confined in the cangue for a month (it later came out that Xu Shi hosted a victory party for her witnesses). Some months later, however, the widow suddenly remarried, and word spread that she had done so to legitimize a pregnancy; shortly thereafter, she gave birth to a son. Rongxian's mother appealed to the prefect, and the widow and her partisans were punished (BX 6-3-8633).

An 1831 case from Ninghe County, Zhili, gives an example of *zhuo jian* that succeeded. In this case, the principal contradiction opposed a widowed concubine and her dead husband's adopted heir, whose conflict went through several stages over a number of years, even as they continued to live together. As a concubine, this woman's authority in her dead husband's household was far less absolute than that

of a widowed main wife; still, chastity guaranteed her respect and support. (The only other concubine in this article is Xu Shi in the previous example; all other widows were main wives.)

Wei Yang Shi (forty-one *sui*) was the widowed concubine of shopkeeper Wei Jingwen, **[End Page 108]** who had purchased her because his first wife, Zhang Shi, bore no children. The concubine produced only a daughter, so her husband adopted a nephew, Wei Shiyi, who moved into his uncle's home. When Wei Jingwen and Zhang Shi died in 1827, Wei Shiyi presided over the funerals, formalizing his status as son and heir.¹⁹ From then on, the widowed concubine and the heir lived together as the household of the deceased Wei Jingwen; but trouble began almost immediately. In a lawsuit, Wei Yang Shi tried to reject Shiyi as heir on the grounds that he was still too young to manage the household (he was about seventeen *sui* at the time). But the lineage elders backed him; after a court hearing, the magistrate confirmed Shiyi as Wei Jingwen's heir, and ordered that a list of the household property be prepared to secure his inheritance.

Some time later, however, Wei Shiyi visited his mother, taking money and grain with him from his adoptive home. This incensed the widow, but the young man's uncles took his side, so she finally sued both heir and in-laws, accusing them of stealing her property, abusing her, and pressuring her to remarry. The magistrate rejected her charges, but declined to punish her, "in light of the ignorance of women" (*gu nian funü wuzhi*); in conclusion, he tried to impose peace by clarifying the statuses and duties of all parties:

Wei Yang Shi is the concubine of Wei Jingwen. Since her husband and master died, she has resolved to maintain her chastity, in spite of her youth, and so truly deserves praise. Wei Shiyi is the adopted heir of Wei Jingwen, and therefore should carefully serve and nurture her; but also, she should not presume upon her status as his father's concubine to bully him. In addition, the elders of the lineage . . . should take care to see that this widow and young son do not lose their household property.

The widow's chastity guaranteed her support and respect; but Wei Shiyi's status as heir was also to be honored. It was the duty of Wei Yang Shi's brothers-in-law to guard the integrity of this troubled household within their lineage.

A few years later, however, Wei Yang Shi became sexually involved with a distant relative of her husband, Wei Hongzheng (thirty-seven *sui*). Although they tried to keep the affair secret, rumors abounded, and finally heir Wei Shiyi and four of his relatives decided to trap them. As Shiyi later testified,

I waited until two strokes of the watch, heard that they were sound asleep, and then opened the street door to let the others in. I grabbed two handfuls of quicklime, and pushed open the bedroom door . . . Wei Hongzheng and Auntie heard us and got up, but I threw quicklime into their eyes . . . My brother got on the *kang* [End Page 109] and grabbed hold of Wei Hongzheng, and I also climbed onto the *kang* and grabbed hold of Auntie. Wei Hongzheng and Auntie struggled and cursed, but Wei Shixiong and the others picked up wooden clubs . . . and beat them more than ten strokes, until Bai Yufeng stopped them . . . Then everyone helped tie them up . . . We picked the two of them up stark naked, and together with their clothes hauled them in a cart to the yamen to turn them in . . .

The forensic examiner recorded that both of Wei Hongzheng's and one of the widow's eyes were swollen shut by the caustic quicklime; both were covered with bruises, and part of the woman's hair had been torn out.

Upon her arrest, the widow filed a petition depicting herself as the classic victimized widow:

My husband lacked an heir; there are three other branches in his family, and they struggled with each other for control of this branch's household property. Finally, there was a lawsuit, and I received the merciful judgment of Magistrate Tang that Wei Shiyi, a son of the fourth branch, should become my husband's heir; the magistrate also ordered him to treat me as his main-wife mother (*dimu*--i.e., as his father's main wife). Our relative status (*mingfen*) was established in this manner . . .

Later on, though, Wei Shiyi did not submit to my authority, indulging in gambling without restraint. [Also,] since the property of my household is somewhat plentiful, there were many in the lineage who borrowed money without repaying it, and when I asked for payment they bore a grudge.

On the 3rd of this month, I told Wei Shiyi to invite his lineage uncle Wei Hongzheng over to discuss the planting of the fields with me . . . But then Wei Shiyi demanded

two thousand cash in order to play at dice, but I did not give it to him. Who would think that Wei Shiyi would lead . . . a gang of some 25 men, all carrying fearsome weapons, to force their way into my room . . .

She concluded by accusing her attackers of looting her home: "If they charge that they caught me in the act of adultery, then why were . . . money, grain, and other things stolen? Obviously, this is a scheme to steal my household property." Of particular note is the widow's (false) claim that the previous magistrate had ordered Wei Shiyi to treat her as his "*dimu*"--"main-wife mother"--a formal term used by a son for his father's main wife, even if his **[End Page 110]** own birth mother had been a concubine; the corresponding term for one's father's concubine was "*shumu*"--"concubine mother." Such an order would have represented a major promotion in status, bolstering her proprietary claim over her dead husband's property.

But Wei Shiyi again received the support of his lineage, whose representatives asserted that "Yang Shi has never peacefully kept to her station (*an fen*)," that her adultery with Wei Hongzheng was a public scandal, and that Shiyi's actions had been "provoked by righteous anger." When the case came to trial, Hongzheng confessed to adultery, and the widow finally did so as well. The last documents in the file are damaged, but the basic outcome is clear: the widow's expulsion. Her confession ends with: "I am willing to leave the Wei household. I only beg the court to show mercy by having Wei Shiyi give me back my coarse clothes (*cu chuan yifu*)." When Shiyi agreed, the magistrate approved the arrangement: "We find that since Wei Shiyi is willing to give Yang Shi the clothing she has requested, he shall bring it to court to be delivered to her, and an affidavit of receipt shall be taken from her." (Neither lineage elders nor magistrate referred to her any longer by her married surname.) Once the widow had been expelled, even her own clothing was no longer her property: she needed Shiyi's permission to remove even that from her dead husband's household (SF 169/Daoguang 11.3.?).

The case is an excellent example of kinship as "strategic practice," rather than the automatic result of bloodlines (Bourdieu 1976). It centers on a household missing all of its "natural" elements: there remained only the purchased concubine and the adopted heir foisted on her by in-laws and court order. These two loathed each other, yet they endured the unpleasant ritual of co-residence in order to secure the

respective statuses (chaste widow vs. filial son) from which their rival claims derived. After the widow failed in two attempts to expel him, the tables were turned by her husband's heir, whose resentment found outlet in the violence of his attack. The Wei lineage's outrage at the widow was no doubt genuine, but their mutual hostility long predated her affair. If Wei Yang Shi had not created a scandal, she probably would have remained secure. Sincerely or not, the battle had to be fought in terms of the legally-sanctioned chastity/property discourse: as the magistrate had made clear in the earlier lawsuit, as long as Wei Yang Shi remained chaste, her interests would be protected. That is why she clung so desperately to her claim of chastity, even after being seized naked in bed with her lover. **[End Page 111]**

Pregnancy and Desperate Measures

Pregnancy might expose the most clandestine liaisons, and fear of the consequences sometimes pushed pregnant widows to desperate extremes. One scenario found in legal records is the amateur abortion: in a 1739 example from Haining County, Zhejiang, the widow Xu Zhu Shi died of hemorrhage after taking a drug called "lady-bird musk" (*hong niangzi she xiang shan*). She had discovered that she was pregnant, and had asked her lover, a monk, to procure an abortifacient (XT 74, Qianlong 4.2.18). This sort of disaster was common enough to prompt the following 1740 law:

If a woman becomes pregnant because of illicit sex and, fearing discovery, discusses this with the man with whom she has had illicit sex, and then uses a drug to induce abortion, with the result that she miscarries and dies, then the man shall be sentenced to 100 blows of the heavy bamboo and life exile at 3000 *li*, in analogy to the statute on "knowingly selling poison to another for the purpose of committing homicide" (DC 299-11).

A 1762 case from Renqiu County, Zhili, gives more dramatic testimony to the desperation of some widows. Ma Shi (twenty-seven *su*) maintained an independent household with her small children--she had some land and rooms of her own, since her husband had divided his parents' household with his brother prior to his own death in 1755. She lived in the front part of a larger complex which had belonged to her parents-in-law; her brother-in-law, Gao Wei, lived with his wife Wang Shi in the

rear. Ma Shi and her in-laws did not get along; a signal point of tension was her possession of her husband's full half of the property that had been divided.

Ma Shi also rented a room to an immigrant laborer, Li An (twenty-five *su*), who did farm work for her and for other families nearby. As Li later confessed:

[One day in] 1761, I saw Ma Shi was alone in her room twisting wheat straw to make brooms; she asked me to do it for her, but I said, "I don't know how to twist them." A few days before, I had left a worn-out pair of pants in her wash basin for her to wash for me; she held them up and asked, "What's this stuff on these pants I washed for you?" So, since these words were obviously meant as a proposition (*ming shi you yi gouyin*), I made a pass at her (*tiao xi*), and then we had illicit sex there on top of the wheat straw. After that, we had sex whenever there was a chance . . .

One morning [late in 1761], after breakfast, I went into Ma Shi's room, and she said, "We're in trouble--I'm pregnant. Now don't **[End Page 112]** worry about me, just come quickly and step on my stomach." Then she lay down on her back on the *kang*, and I got on top and stepped on her two or three times--but just then Gao Wei's wife Wang Shi walked in and saw us. She asked, "What are you two doing? This doesn't look quite honest to me!" I answered, "She said there's something wrong with her and she told me to step on her," and Ma Shi also said, "I told him to step on me." Wang Shi said, "On top of this, you want to tell lies? (*hai yao nong chou zui ma*) Just wait till I tell your brother-in-law!" So Ma Shi got down on her knees, and I kowtowed in front of Wang Shi too, begging her not to tell, but Wang Shi just ignored us . . .

[Later,] Ma Shi said, "What can I do? She's going to tell my brother-in-law, and make it impossible for me to face people. I'm better off dead! (*jiào wǒ zěnme jiàn rén bù rú sǐ le ba*)" I said, "If you die, then I'll die too." She said, "Do it for me quickly, OK? It looks like Wang Shi won't [keep our secret] for us, and I'll bet it's because if I'm dead, they can get my rooms and land! After I'm dead, you take revenge for me. And also let my daughter follow me, so that she won't be left behind to be tormented by these people." I said, "All right, that's enough. Go call the bitch in here, and I'll take care of her! (*qù jiào tā niangrmen lái wǒ gēi tā yí gè gānjīng ba*)"

I went out to a wine shop and drank four ounces of wine. When I came back, I saw Wang Shi and her two daughters were sitting on the *kang* in Ma Shi's room. So Ma Shi and I begged her again, but all Wang Shi would say was, "I don't know." I hated

her so much--I saw there was a hay-chopper in Ma Shi's outer room, so I took it down . . . and aimed a blow at Wang Shi's neck: I cut her head right off . . .

Then, Li An killed his lover and the three young daughters of the two women. After that, he tried to kill himself, but failed--surviving to confess, and to be executed by slicing, for the crime of "murdering three or more persons of a single household" (XT 177, Qianlong 27.3.26).

Li An's retelling of Ma Shi's comments provides further evidence of the close linkage between chastity and property, in popular perception as well as in formal legal discourse. Fear of stigma was perhaps the primary motive for the couple's death wish--but for a widow, the property issue seems always to have lurked in the background. As soon as she realized that her sister-in-law intended to expose her pregnancy, Ma Shi attributed this intent to a desire **[End Page 113]** to seize her property. This linkage makes sense, since the widow would likely be expelled if she did not commit suicide: one way or another, she would be removed from the scene, and her property would become vulnerable. She feared humiliation, but at the same time immediately thought of the more material loss that was imminent.

Chaste Widows Who Became Pregnant

Not every pregnant widow met such a ghastly end. As long as a widow maintained her claim to chastity, she could not be deprived of her rights--even in the most unlikely circumstances. An example is Hu Shi, the widowed second wife (*ji qi*--not a concubine) of the prosperous peasant Zhang Yu, of Baodi County, Zhili. Zhang's first wife had given birth to two sons before she died; he had then married Hu Shi, who gave birth to three more sons. Therefore, when Zhang Yu died in 1842, Hu Shi was left a widow at age forty-three *sui* with two step-sons, both married adults, and three natural sons, the oldest of whom was in his mid-teens. When the events in the case occurred, Zhang Yu's household had not yet been divided, so Hu Shi retained considerable authority over both property and all five sons.

The crisis was precipitated in 1845, when Hu Shi gave birth to a baby girl. She had denied being pregnant, so her step-sons and brother-in-law, Zhang Mo, waited until they actually saw the infant before acting. Hu Shi killed the infant immediately, but Zhang Mo had already summoned her brother and ordered him to take her home and

"marry her off." She was allowed to take nothing with her; her sons were put in the care of their step-sisters-in-law.

Some women might have yielded to fate--but not Hu Shi. A few months after being expelled, she returned to the Zhang household and demanded to move back in: her pregnancy was a mystery, she insisted, because *she had never engaged in adultery*. Since she was a chaste widow, the Zhangs had no right to kick her out.

Her step-sons and Zhang Mo refused to let her move back in, so she threatened to commit suicide in front of the house. At this point, the neighbors stepped in to mediate. Given Hu Shi's absolute denial of adultery, and the fact that the Zhangs had no idea who had gotten her pregnant, the mediators suggested setting aside the question of chastity. As they saw it, the essential problem was that the step-sons and Hu Shi could no longer get along (the tension between them seems to have predated Hu Shi's pregnancy; one can guess how the older step-sons felt, watching their own shares of the estate shrink as she gave birth to one son after another). The solution was to divide Zhang Yu's property into six equal shares, one for each son and one for Hu Shi; that way, the step-sons could establish separate households, while **[End Page 114]** Hu Shi retained her own means of support. She agreed, but her step-sons and brother-in-law refused, insisting that her obvious adultery disqualified her from receiving her husband's property or enjoying access to his children. Instead, she should be expelled--and prosecuted, if necessary. If the property was divided, there should be only five shares, one for each son.

The village authorities feared trouble, so they reported the dispute to the county magistrate. But when there was a delay, Zhang Mo went over the magistrate's head, petitioning the prefect that the widow had been impregnated by Tian Youkui, a neighbor who had provoked Zhang's ire by attempting to mediate. Zhang also accused Tian of bribing a yamen clerk to influence the case on his behalf. The prefect delegated the case to the Donglu sub-prefect, who held a hearing. Hu Shi stuck to her story:

I started to feel my belly gradually getting bigger, and it seemed like I was pregnant, but since I hadn't engaged in adultery, I paid no attention. Then, on the third day of

the first month of this year, my belly started to hurt, and after that I gave birth to a baby girl . . . I really can't say how I got pregnant.

The sub-prefect's skepticism at this story was offset by his anger at Zhang Mo, who had lied about Tian Youkui and had failed to cooperate with the county magistrate. The sub-prefect also seems to have shared the judicial preference for solving family disputes when possible by community mediation instead of litigation and prosecution. To persuade Zhang Mo and the step-sons to settle, he gave them an ultimatum: if they refused the original mediated settlement, then Zhang Mo would be punished along with Hu Shi. Zhang Mo backed down: "Hu Shi cannot say how she got pregnant, and I do not dare persist in my false accusations. I request that she be spared prosecution." The sub-prefect reported to the prefect:

The mediators' suggestion that the property be divided and each party live separately is designed to end the dispute and seems appropriate enough. Therefore, I have ordered that the property left by Zhang Yu be divided into six equal shares, the five brothers each receiving one share, and Hu Shi receiving one share to pay for her support and for her burial expenses after death. She shall be allowed to live separately with her own sons . . . Both sides have submitted to this settlement and have no more to say on the matter . . .

As to the question of Hu Shi giving birth out of wedlock, she absolutely insists under strict interrogation that she has never **[End Page 115]** engaged in adultery with anyone, and that she does not know how she became pregnant. This is hard to believe . . . Nevertheless, the event occurred before an Edict of Grace to reduce penalties, and her accuser is willing to drop all charges. Therefore, it is appropriate to request that the matter not be pursued, so as to avoid further complication.

Hu Shi retained her property and children only through the stubborn assertion that she remained chaste in spite of the pregnancy. Her boldness induced first the mediators, and then the sub-prefect, to drop the question of chastity and opt for compromise. The sub-prefect could have pressed the widow further, but he probably would have had to resort to torture--an unappealing option, given Hu Shi's strength of personality. Successful prosecution required confession; if a judge used torture but failed to obtain one, he risked trouble (SF 162/Daoguang 25.3.8). ²⁰

It was not unheard of for chaste widows to give birth, as an 1803 legal handbook cautions. It cites a 1749 case from Zhejiang, in which the widow Ma Shi gave birth four years after her husband's death; her father-in-law accused her of adultery, but she denied it, and there was no evidence apart from the pregnancy itself. Stymied, the presiding officials consulted medical texts and learned that extreme emotional disturbance could cause a fetus to "dry up," delaying its birth for three or four years; on this basis, they decided that the timing of the birth must have been caused by Ma Shi's inordinate grief over the death of her husband. The child was proclaimed legitimate and the widow's reputation for chastity even *enhanced*, since it had been devotion to her husband, rather than betrayal, which caused the unusual timing of the birth (Lü 1893, *xia*: 10b-11a). Even here, the widow had to be defined in terms of moral absolutes: if a decision were necessary, there was no room for ambiguity between chaste and unchaste.

Both of these pregnant widows escaped punishment and expulsion. But they won their cases *not*, for example, by claiming the right to sleep with whomever they chose. Instead, they insisted that they had not slept with anyone. In other words, even widows who did fairly well within the constraints of the legally-sanctioned sexual regime could not escape or defy that regime outright. Not every widow was a tragic victim of chastity; nevertheless, chastity defined the legal status of all widows, and even those who asserted themselves had to do so on its terms. **[End Page 116]**

Conclusion

The intent of chastity law was to guard the interests of husbands, defending each patriarchal unit against encroachment by avaricious relatives and subversion by unchaste wives and widows. Legal policy complemented the propaganda effort on behalf of chastity, and formed a vital part of the sanctification of family relationships that legitimated imperial authority.

The evidence in legal cases gets us beyond the top-down, functionalist perspective of imperial ideologues, showing how ordinary people incorporated the courts and official discourse into their own strategies. People involved the authorities and invoked official standards of virtue for their own purposes, to shore up their own positions within particular families and communities. The result was a process of

mutual reinforcement. Magistrates empowered litigants who could convincingly claim to be defenders of patriarchal values. Usurpers were disciplined, and in this way, legitimate gender and sexual relations were enforced on the most intimate level. At the same time, the fact that humble people went to court and invoked official discourse to protect their own positions in the local patriarchal scheme reinforced the state's pretension as defender and embodiment of patriarchal values writ large. In this way, the authority of fathers, husbands, and chaste widows achieved concrete linkage with political authority, and the defense of legitimate hierarchy in the most personal contexts helped underpin the imperial order as a whole. Widows and their rivals may have gone to court in fact for reasons having little to do with imperial priorities, but one likely effect of their engagement with the law was to reinforce state claims and state power.

Some women used the discourse of chastity to their own advantage, to defend their independence and property. When accused of impropriety, a widow's best defense was that her accusers were simply trying to usurp her husband's property--a defense taken seriously by magistrates, and if persuasive, backed by their full authority. Occasionally, a widow could even persuade a magistrate to order in-laws to provide financial support, as long as she remained chaste (BX 6-1-1638). Some women used chastity discourse to attack other women--for example, when a widowed main wife sued her husband's concubine (BX 6-3-8764). Ideally, such widows would live together, joined in devotion to their husband's memory. In fact, conflicts between such women centered on the control of property and the efforts of concubines to gain independence--a familiar scenario. The best way for a wife to undermine a concubine's status was to impugn her chastity.

Official standards of female virtue could empower individual women--to the extent that they could claim to uphold patriarchal values dear to the state. The empowerment of chaste widows promoted a value integral to imperial [End Page 117] legitimacy and elite pride. Ironically, though, the contingent rights of widows created the space for some to achieve unparalleled freedom in their personal lives. The closeted lives of these women had to be shielded by representations of chaste self-denial, of dedication to their dead husbands; in a sense, then, the exigencies of a double life reinforced official values, by making their public performance the condition for these women's private freedom. At the same time, though, the double life must

have provoked a continual demystification, an exposure of misrecognized contradictions, by confronting hegemonic values with lived experience ("I am chaste!" insists the pregnant widow). The logic of sexual contract that framed the choices of impoverished widows may have provoked a similar process.

We can discern a continual dissemination and reinforcement of official values, in which litigation played a vital role. But, also, we begin to detect an irritant, a subversive force acting against the internalization of these values among people for whom they contradicted lived experience--even if those same people found it necessary to mouth those values as part of the daily game of getting by. This mundane, everyday subversion appears to have been an inherent byproduct of the enforcement of official virtue, and was one reason why a sexual order represented as fixed and natural had to be defended as contested ground.

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Glossary

APPENDIX 1

The Basic Qing Substatute on Forced Remarriage of Chaste Widows

If a widow is willing to maintain her chastity (*shou zhi*), but her natal family or husband's family abduct her and coercively marry her off (*qiang duo qiang jia*), so that she ends up being polluted, then, if the offender is:

- (a) her paternal grandparent or parent, or her husband's paternal grandparent or parent, the penalty shall be 80 blows of the heavy bamboo;
- (b) her senior relative of the second degree, the penalty shall be 70 blows of the heavy bamboo and one and one-half years of penal servitude;
- (c) her senior relative of the third or more distant degrees, the penalty shall be 80 blows of the heavy bamboo and two years of penal servitude;

(d) her junior relative of the second degree, the penalty shall be 100 blows of the heavy bamboo and three years of penal servitude;

(e) a junior relative of the third or more distant degrees, the penalty shall be 90 blows of the heavy bamboo and two and one-half years of penal servitude.

Furthermore, if the party taking the widow in marriage does not know of the situation, then he shall not be punished; if he knows of the situation and participates in the abduction, then he shall receive 80 blows of the heavy bamboo, in a three degree increase of the penalty of 50 blows of the light bamboo prescribed by the statute on "taking in marriage by coercion" (*qiang qu*).

If the woman does not end up being polluted, then the penalties for offenders--whether parent, parent-in-law, [more distant] relative, or the party taking the widow in marriage--shall be reduced by one degree.

The widow shall in every case be allowed to return home and maintain her chastity. If she is voluntarily willing to remain married to the new husband, then they shall be allowed to remain married according to statute, the bride price shall be confiscated, and the offending relative(s) shall be sentenced to the heavy bamboo as appropriate according to statute.

If the widow is unwilling to lose her chastity (*bu gan shi jie*), and therefore commits suicide, then--regardless of whether or not she has already been polluted--if the offender is:

(a) her paternal grandparent or parent, or her husband's paternal grandparent or parent, the penalty shall be 100 blows of the heavy bamboo and three years of penal servitude;

(b) her senior relative of the second degree, the penalty shall be 100 blows of the heavy bamboo and life exile at a distance of 2000 *li*;

(c) her senior relative of the third or fourth degrees, the penalty shall be 100 blows of the heavy bamboo and life exile at a distance of 2500 *li*;

(d) her senior relative of the fifth degree, the penalty shall be 100 blows of the heavy bamboo and life exile at a distance of 3000 *li*;

(e) her junior relative of the fifth degree, the penalty shall be military exile at a distant frontier;

(f) her junior relative of the third or fourth degrees, the penalty shall be military exile at the farthest frontier;

(g) her junior relative of the second degree, the penalty shall be strangulation after the assizes.

Furthermore, if the party taking her in marriage knows of the situation and participates in the abduction, with the result that she is caused to commit suicide, then he shall be treated as an accomplice and shall receive a penalty one degree lower than that of the relative [who was the ringleader], [according] in each instance [to the above schedule of penalties].

If the woman is willing to remain married to the new husband, but for some other reason commits suicide, then the penalties shall be determined with reference to the mourning system according to the statute on "marrying off [a widow] by coercion" (*qiang jia*), and not according to this substatute.

If a widow is willing to maintain her chastity, but someone uses coercion--without any [relative of the woman's] presiding over the marriage (*zhu hun*)--to seek her in marriage, forcing acceptance of the bride-price, and for this reason she is caused to commit suicide, then he shall receive military exile at a nearby frontier, and in addition shall be forced to pay burial expenses; anyone who receives payment or commits homicide or battery because of such coercive abduction shall be punished according to the more severe provisions of the relevant basic statutes.

Background: This substatute (DC 105-01) was created in 1801 by combining and elaborating a Ming measure and a 1740 substatute (QHS 756: 335-336).

APPENDIX 2

Ming-Qing Legislation on Forced Remarriage for Gain

A. If a woman's husband dies and she is willing to maintain her chastity (*shou zhi*), but someone uses coercion (*qiang*) to seek her in marriage and forces [her family] to receive the bride-price, without any [authorized] person presiding over the marriage, with the result that she ends up dying [by suicide], then he shall be sentenced to military exile on the frontier, in application of the statute [on "pressuring someone into suicide" (*wei bi ren zhi si*)], and he shall pay her burial expenses (ML 19: 37b).

Background: Until 1741, this Ming substature, preserved in the Qing code, was applied by analogy to punish family members who provoked a widow's suicide by forcing her to remarry for pecuniary gain (e.g., XT 75, Qianlong 4.5.30).

B. If a distant relative schemes for profit and therefore forcibly sells a woman (*tu cai qiang mai*), then the sentence of strangulation [after the assizes] shall be requested by memorial, in application of the substature [on "using coercion to abduct a male or female of good character and to sell him/her to someone else as wife or concubine" (*qiang duo liang ren nan n mai yu ta ren wei qi qie*)]. If [the offender] is a junior relative of the second, third, or fourth degrees, who plots to seize property (*mou zhan zi cai*) or greedily schemes for bride-price (*tan tu pinli*), and therefore uses coercion to abduct and sell a paternal aunt or other senior relative, then he shall be beheaded after the assizes.

Background: This substature was added to the code in 1741 (QHS 756: 339).

C. If any junior relative of the second, third, or fourth degrees plots to seize property, or greedily schemes for bride-price, and therefore uses coercion to abduct and sell (*yong qiang qiang mai*) a paternal aunt or other senior relative, then he shall be beheaded after the assizes. If any junior relative of the second, third, or fourth degrees abducts and sells the wife of an older brother, [the wife of an older male cousin,] or his own older sister, or if any junior relative of the fifth degree uses coercion to abduct a senior relative, or if any distant lineage relative outside the mourning system abducts and sells a senior or junior relative, then in each case the offender shall be sentenced to strangulation after the assizes.

If a senior relative schemes for material gain (*tu cai*) by coercively selling (*qiang mai*) a junior relative, then if of the second, third, or fourth degrees, he shall receive 100

blows of the heavy bamboo and life exile at a distance of 3000 *li*; if of the fifth degree, he shall be sent into military exile in a very near region.

If the marriage has not yet been consummated (*wei cheng hun*), then the penalties shall be decreased by one degree over those for offenders when the marriage is already consummated (*yi cheng hun*). If, *en route*, the woman is seized and taken back [before she arrives at the prospective husband's home], or if the party taking her in marriage voluntarily sends the woman back, and she has not yet been sexually polluted (*jian wu*), then all such cases shall be judged in the manner of a marriage not yet consummated.

If the woman is unwilling to lose her chastity, and therefore commits suicide, then if the offender is a junior relative of the second or more distant degree, or is a distant lineage relative, he shall still be beheaded or strangled after the assizes according to the basic [provision of this] statute; if the offender is a senior relative of the fifth degree, he too shall be sentenced to strangulation after the assizes; if the offender is a senior relative of the second, third, or fourth degrees, he shall be sent into military exile at a nearby frontier. If the marriage is already consummated, and the woman commits suicide for some other reason, then the offender shall still be sentenced according to the [basic] provision on marrying [a widow] off by coercion in order to get property (*tu cai qiang jia*), and not according to this provision.

If the party taking the widow in marriage knows of the situation and participates in the abduction, or uses money in a scheme to buy the widow then in each case he shall receive a penalty one degree lower than that of the primary offender; if he is unaware of the situation, then he shall not be punished.

If a relative pressures a widow to remarry because the family is poor and cannot support her, or because of concern that she cannot maintain her chastity to the end, and there is truly no motive of greed for either property or bride-price, then all such cases shall be judged according to the statute on "marrying [a widow] off by coercion" [DC 105-01]; the present statute should not be cited in such cases, a mistake which would result in excessive penalties.

Background: This statute (DC 112-04) was promulgated in 1801 to expand and replace the 1741 measure.

Notes

* The research for this paper was funded by the Committee for Scholarly Communication with China. I presented drafts at the Center for Chinese Studies, University of California, Berkeley, in 1994, and in a history faculty seminar at The Johns Hopkins University in 1995. My thanks to Susan Mann, William Rowe, Wenshin Yeh, and other participants. Thanks also to Kathryn Bernhardt, Philip Huang, Yashuhiko Karawawa, Eugenia Lean, Jennifer McFarlane, Paola Paderni, Bradly Reed, and David Wakefield for their comments.

1. See Fuma 1993, Holmgren 1985, Mann 1987, Waltner 1981, and Wolf and Huang 1980.

2. Cf. Fuma 1993; on the vulnerability of Song dynasty widows, see Ebrey 1993:190-94.

3. For the Song origins of late imperial chastity discourse, see Ebrey 1993; for overviews of canonization, see Liu 1991, Otake 1936, and Zeng 1991; for Qing rules, see QH 30:254-55; for successive edicts which developed the Qing system, see QHS 403-404; for the celebration of widows who did not remarry or who committed suicide to follow husbands in death, see Elvin 1984.

4. Each date is converted to the likely equivalent year according to the Western calendar.

5. See Meijer 1981.

6. This rule was relaxed in 1803, so that a woman might qualify for martyr status even if she had been penetrated, as long as she had been attacked by two or more men; in exceptional circumstances, even a woman raped by only one attacker might qualify for *reduced* honors, but only if she had been overpowered and tied up prior to the "accomplishment" of rape (QHS 404:516). The memorialist who advocated this change argued that an official captured by rebels might be forced to kneel, but that would prove no disloyalty on his part; so too, a wife overpowered and penetrated by a gang of rapists should not be considered unchaste for that reason alone (HC

92:33a-b; Ng 1987). The change in policy indicates a shift from chastity as objective status to chastity as purity of intent (Sommer 1994:415-19).

7. For the alternate stereotypes in non-legal discourse, see Mann 1987. An example in Ming fiction is Feng Menglong's "Magistrate T'eng and the Case of Inheritance" (trans. in Ma and Lau, ed. 1991).

8. For this purpose, chastity could be lost only through what was seen as willful misconduct on the part of a widow. E.g., being penetrated by a rapist would disqualify a dead woman from chastity martyr status, but would not deprive a surviving widow of her rights.

9. Legal texts identify women by the surnames of husband and father (in that order), or just father, followed by "shi" (see Appendix 3). In this instance, the widow's father's surname was Cai and her husband's surname was Zhou. Where possible, I give the ages of protagonists in cited cases.

10. I am indebted to Zhou Guangyuan for this citation; cf. Zhou 1993.

11. E.g., refusing meals played a key symbolic role in delayed transfer marriage (Stockard 1989, 20).

12. Cf. Ebrey, ed. 1993:253-55; Mann 1987; Spence 1978, chapters three and five.

13. An alternative for some was prostitution-e.g. BX 6-3-8768 and 6-4-4881. In some regions, local gentry and governments set up charitable widow homes (from the 1770s on) to make chastity an option for at least some of the poor (Leung 1993; Mann 1987).

14. His focus on her ethnicity may have been informed by anxiety about the supposed assertiveness and sexual power of Miao women (Diamond 1988); attributing her defiance to a specifically Miao "temper" implied that it was part of a "barbarian" refusal to conform to "civilized" norms of human relations (*li*). But the evidence suggests that she was assimilated to Han culture: both her husbands were Han, she had a Chinese name, and her marriage was arranged according to Chinese custom

15. At the Autumn Assizes, mitigating circumstances were weighed in reconsidering most death sentences. If a husband killed his wife who had been "defiant" (*bu shun*) or "unfilial" (*bu xiao*), his sentence would be commuted either immediately or after a year's delay (Gang 1889, 2:58a-61b; Lin 1872, 4:6a-25a; DC 411-17, commentary; Bodde and Morris 1967, 138).

16. Wolf and Huang note that in the same community, a "common image of the widow is that of the young woman who is forced to remarry by her husband's brothers, who want control of her share of the estate"; they do not explain why the threat of forced remarriage would be a problem, if adultery and uxori-local marriage were not (1980, 227-28).

17. There is evidence that the same had been true in Taiwan-e.g., an 1881 case from Xinzhu County, in which Lin Hong had his widowed daughter-in-law prosecuted for adultery (DX 35401).

18. For inheritance by adopted sons, see Wakefield 1992, 110-14.

19. Cf. Huang Liu-hung (1984, 278-79). Philip Huang cites Hu Shi's case as an unusual example of "magistrate as arbitrator" (1994, 173).

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Abbreviations used in citations:

BX--Ba County Archive, held at the Sichuan Provincial Archives in Chengdu; each case is cited by serial number.

DC--Xue Yunsheng. 1970 (1905). *Du li cun yi* (Lingering doubts after reading the statutes). Edited and punctuated by Huang Jingjia. Taipei: Chinese Materials and Research Aids Service Center. Each statute, statute, or passage from Xue's commentary is cited by serial number.

DX--Dan-Xin Archive, available on microfilm at UCLA East Asian Library (and elsewhere); each case is cited by serial number.

HC--*Huang chao jing shi wen bian* (Collected essays on statecraft). 1963 (Qing).
Taipei: Guofeng Publishing Co.

HT--Yao Yuxiang et al., ed. 1987 (1873). *Da Qing lü li hui tong xin zuan*
(Comprehensive new edition of the Qing code). Taipei: Wenhai chubanshe.

MH--*Ming hui dian* (Collected statutes of the Ming). 1988 (1587). Beijing: Zhonghua
Shuju.

MQ--Chang We-jen (Zhang Weiren), ed. 1986. *Zhongyang Yanjiuyuan Lishi Yuyan
Yanjiusuo xian cun Qing dai Neige Daku yuan cang Ming-Qing dang'an* (Ming-Qing
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History and Language Research Institute, Academia Sinica). Taipei: Academia Sinica.

QH--*Qing hui dian* (Collected statutes of the Qing). 1991 (1899). Beijing: Zhonghua
Shuju.

QHS--*Qing hui dian shi li* (Collected statutes of the Qing, with substututes based on
precedent). 1991 (1899). Beijing: Zhonghua Shuju.

SF--Shuntian Prefecture Archive, held at the First Historical Archives, Beijing; all
cases cited are from the archival category "marriage, sex offenses, and family
disputes." Each citation gives the number of document bundle and the date, in
Chinese fashion, of the first dated document in the case file.

XT--Grand Secretariat memorials on criminal matters (*Neige xingke tiben*), held at
the First Historical Archives, Beijing; all cases cited are from the archival category
"marriage, sex offenses, and family disputes." Each citation gives the number of
document bundle followed by the memorial's date in Chinese fashion.

YD--*Yuan dian zhang* (The Yuan administrative code). 1990 (1920). Beijing:
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ZX--Yao Run et al., ed. 1878. *Da Qing lü li zeng xiu tong zuan ji cheng* (Revised
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