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Unlimited Debt toward Father and Mother: State-Sponsored Generational Hierarchies in Late-Imperial China

ABSTRACT:

This essay analyzes ritual and legal texts, case records, and judicial writings and consequently challenges the conventional understanding that equates parental authority in late-imperial China with the authority of the father or “head of household” (*jia-zhang* 家長). It traces the gradual development of a child’s mourning obligations done equally toward father and mother from the Tang dynasty onward, and it shows how father’s and mother’s authority was symmetrically upheld in Qing judicial practice regardless of the biological mother’s position, or lack thereof, in the child’s father’s patriline. The logic underlying the late-imperial elevation of the mother’s status in both ritual and law was the increasing emphasis on the child’s obligation and natural desire to repay the “debt” (*en* 恩) that he/she naturally owed both parents. While the emotional bond between mother and child was important in social life, the source of legally-butressed maternal power was state sponsorship of the authority of father–mother (*fumu* 父母) – a bi-gendered concept lying at the heart of formal ritual-legal establishments of an empire that “ruled through the principle of filial piety.”

KEYWORDS:

state-sponsored filiality, paternal authority, maternal authority, mourning rites, generational relations, patriarchy

In the third month of the seventh year of Xianfeng (1857), the Ba county court received a report: Cheng Shousheng 程壽生 (age sixteen *sui*) was chained and strangled to death 捆縛身死 by his mother Guo *shi* 郭氏, who had remarried after Cheng’s father’s death. This incident was triggered by Cheng’s having stolen from his stepfather, and his failure to show deference to his mother when she scolded him. Cheng’s mother tied Cheng up by binding his arms to his torso. In his struggle to untie himself, Cheng strangled himself. After this sequence of events was confirmed by the mother, her husband, the victim’s brother, and the victim’s paternal uncle, the case was disposed 銷案 under the Ba county magistrate’s authority, without any penalty meted out.¹

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¹ Ba County Archives at the Sichuan Provincial Archives 巴縣檔案 (Chengdu, Sichuan; hereafter cited as BXDA), no. 006-018-01492.

This filicide case, one among large numbers of “trivial cases 細事” that warranted no obligatory review from the magistrate’s superiors, speaks to larger social and legal issues that go beyond this particular mother-son conflict and its immediate context.² As shown in the judicial handling of this case, the legal asymmetry between parent and child was tremendous; it would justify the killing of a child, regardless of the child’s gender or age, if filial disobedience somehow “caused 致” insuppressible anger from the parent that in turn led to the child’s demise in the context of the parent’s imposing discipline.³ But such legal asymmetry would not have called for new scholarly intervention if the authority figure concerned was a father. After all, father’s authority is well recognized by scholars of Chinese law, as reflected in the chapter title on parental authority – “Father’s Authority” – in T’ung-tsu Ch’ü’s classic *Law and Society in Traditional China*.⁴ The parent-child hierarchy in imperial China is routinely discussed within the framework of patriarchy, and state-sponsored parental authority is often compared to the ancient Roman institution of *patria potestas* of the *paterfamilias*.⁵

² Qing judicial officials often referred to felony cases as “major cases involving unnatural death or robbery” (*mingdao zhong’an* 命盜重案), and non-felony cases as “trivial matters concerning household, marriage, land, or field” (*hu hun tian tu xi shi* 戶婚田土細事). But the multi-layered obligatory review system of the Qing actually used the penalty meted out to determine whether endorsement from the emperor, from the Board of Punishments, or from provincial officials of different levels was required for the disposition of a particular case. Every case involving a capital punishment demanded imperial attention, while a case involving exile had to be approved by the Board. Cases calling for penal servitude and beating with the heavy bamboo stick must be reviewed by the provincial judicial commissioner and the governor. Cases involving merely beating with the light bamboo stick could be disposed under the county magistrate’s own authority. As a result, a filicide case, due to the light penalty designated for the offender, rarely received the judicial attention other homicide cases usually did. For the obligatory review system in the Qing, see Huang Yuan-sheng 黃源盛, *Zhongguo fashi daolun* 中國法史導論 (Guilin: Guangxi shifan daxue chubanshe, 2014), pp. 317–18.

³ For a general treatment of judicial handling of filicide cases in Qing China, see Yue Du, “Policies and Counterstrategies: State-Sponsored Filiality and False Accusation in Qing China,” *International Journal of Asian Studies* 16.2 (2019), pp. 79–97.

⁴ T’ung-Tsu Ch’ü, *Law and Society in Traditional China* (Paris: Mouton & Co., 1961), pp. 20–41.

⁵ Max Weber discusses imperial Chinese rulership as a type of “traditional rule,” which he theorizes mostly through “patrimonialism”; see Keith Tribe, trans., *Economy and Society: A New Translation* (Cambridge, Mass.: Harvard U.P., 2019), pp. 54–374. Gary Hamilton, “Patriarchy, Patrimonialism and Filial Piety: A Comparison of China and Western Europe,” *The British Journal of Sociology* 41.1 (1990), pp. 77–104. Also see the Society for the Study of Comparative Family History, ed., *Ie to kafuchōsei* 家と家父長制 (Tokyo: Waseda daigaku shuppanbu, 1992), esp. pp. 155–85, which discuss “family patriarchy” (*kafuchōsei* 家父長制) in premodern China within a comparative framework. For a detailed analysis of how the stereotypical *paterfamilias* influences scholarly understanding of the premodern Chinese family system even where the Roman *paterfamilias* was not explicitly referred to, see Yue Du, *State and Family in China: Filial Piety and Its Modern Reform* (New York: Cambridge U.P., 2022), esp. chap. 3, “Parenting All under Heaven on Behalf of Heaven: State-Sponsored Filiality and Imperial Rulership.”

In addition, “father’s authority” is used interchangeably with the authority of the “head of household” (*jiazhang*) over his junior collateral relatives, his household servants and hired laborers, or even his wife.⁶ Such authority is explicitly or implicitly analyzed as a mechanism for the state to protect “the patriarchic hierarchy within the confines of the household.”⁷

By contrast, mother-child relations were often studied within the context of intergenerational emotional attachments facilitated by birth and upbringing of the child by the mother. Margery Wolf’s theorization of the “uterine family,” based on her fieldwork in Taiwan in the 1960s, proposes a *de facto* unit consisting of a mother and her children connected to each other through enduring bonds of emotion and common interest. This influential theory as well as conceptual frameworks deriving from it are usually used to explain the social power wielded by senior women in the traditional Chinese kinship network that supposedly did not formally recognize mother’s authority.⁸

The above-cited case of Cheng Shousheng discloses the inadequacy of discussing fatherhood within the framework of state-sponsored patriarchy but motherhood as a largely informal, sentimental bond in late-imperial China. In Cheng’s case, the existence or nonexistence of a bond of emotion or common interest between the non-coresiding mother and son mattered little to the exercise of legally sanctioned maternal power. Furthermore, the power of life and death over an adult man was wielded by a woman, who, ritually and legally, belonged to a different household and lineage than that of the victim due to her

⁶ See, e.g., Ch’ü, *Law and Society*, p. 20. Sun Jiahong 孫家紅, *Guanyu zisun weifan jiaoling de lishi kaocha: Yige weiguan fashixue de changshi* 關於子孫違反教令的歷史考察, 一個微觀法史學的嘗試 (Beijing: Shehui kexue wenxian chubanshe, 2013), esp. pp. 210–11. Matthew H. Sommer, “Dangerous Males, Vulnerable Males, and Polluted Males: The Regulation of Masculinity in Qing Dynasty Law,” in Susan Brownell and Jeffrey Wasserstrom, eds., *Chinese Femininities/Chinese Masculinities: A Reader* (Berkeley and Los Angeles: U. California P., 2002), p. 83. Wang Yubo 王玉波, *Zhongguo jiazhang zhi jiating zhidu shi* 中國家長制家庭制度史 (Tianjin: Tianjin shehui kexueyuan chubanshe, 1989).

⁷ Klaus Mühlhahn, *Criminal Justice in China: A History* (Cambridge, Mass.: Harvard U.P., 2009), p. 53.

⁸ Margery Wolf, *Women and the Family in Rural Taiwan* (Stanford: Stanford U.P., 1972). Ping-chen Hsiung, “Constructed Emotions: The Bond Between Mothers and Sons in Late Imperial China,” *Late Imperial China* 15.1 (1994), pp. 87–117; also idem, “Female Gentility in Transition and Transmission: Mother-Daughter Ties in Ming/Qing China,” in Daria Berg and Chloe Starr, eds., *The Quest for Gentility in China: Negotiations Beyond Gender and Class* (London and New York: Routledge, 2007), pp. 97–116. Interpreting the mother-child bond as representing an alternative to the values encapsulated in “the primacy of the paternal, official, and the overly hierarchical” is not limited to scholarship on late-imperial China. For an example of such an approach on practice of mourning during the Western and Eastern Han periods, see Miranda Brown, *The Politics of Mourning in Early China* (Albany: SUNY Press, 2007), esp. pp. 65–84; citation at p. 66.

remarriage.⁹ But the mother's status as a "remarried mother" (*jiamu* 嫁母), which indeed reduced the mourning relationship between her and her son from her previous marriage, did not affect her maternal privileges as defined by the law.¹⁰ It was apparently an anomaly in the patriarchal and patrilineal framework that scholars of the premodern Chinese family are used to, and was a deviation from the principle of "determining the nature of the crime and designating punishments according to kinship as measured in the five degrees of mourning 準五服制罪," which served as the axis that connected ritual prescriptions to imperial law since the promulgation of the Tang Code in 651.

This essay traces the increasingly equal treatment of fathers and mothers in the rites and, to a greater extent, in the law, which started from the Tang dynasty (618–907), accelerated during the Ming (1368–1644), and culminated in the Qing (1644–1911). By presenting legal decisions and discourses where they not only differed from but also contradicted ritual prescriptions, this article shows the gap between ritually prescribed places occupied by mothers and their legally recognized authority over their children. An examination of the development of the state-sponsored hierarchy between parent and child from the lens of its gender equilibrium also allows this research to shed new light on the relationship between gender and generational ordering in an empire that claimed itself to "rule through the principle of filial piety."¹¹

⁹ Late-imperial Chinese law did not explicitly define "adulthood" or "legal majority." Rather, it defined anyone under fifteen *sui* as a youth who enjoyed special legal protection, and who would usually receive reduced punishments for crimes committed due to his/her inability to exercise full agency. Men of sixteen *sui* or older were in fact regarded as fully-grown men with full agency. See Derk Bodde, "Age, Youth, and Infirmary in the Law of Ch'ing China," in Jerome A. Cohen, R. Randle Edwards, and Fu-mei Chang Chen, eds., *Essays on China's Legal Tradition* (Princeton: Princeton U.P., 1980), pp. 137–69.

¹⁰ For the chart of "Mourning Degrees for Three Types of Fathers and Eight Types of Mothers," see Yonglin Jiang, trans., *The Great Ming Code* (Seattle: U. Washington P., 2012), p. 14. William Jones's translation of the Qing Code does not include the charts of mourning degrees. There was almost no change in the mourning charts from the Ming Code to the Qing Code. For a general introduction to the different types of legally defined mothers in late-imperial China, see Debby Chin-Yen Huang and Paul R. Goldin, "Polygyny and Its Discontents," in Howard Chiang, ed., *Sexuality in China: Histories of Power and Pleasure* (Seattle: U. Washington P., 2018), esp. p. 25.

¹¹ The late-imperial Chinese state often claimed that they ruled all under Heaven through the principle of filial piety, which was widely accepted by the educated elite. For an example, see William Milne, trans. and annot., *The Sacred Edict, Containing Sixteen Maxims of the Emperor Kang-he, Amplified by His Son, The Emperor Yoong-ching; Together with a Paraphrase on the Whole by a Mandarin* (London: Black, Kingsbury, and Parbury, and Allen, 1817), p. 29. Here, the Yongzheng emperor claimed that the design of his father was "nothing but to rule the empire with filial piety 無非孝治天下之意." For filial piety as a ruling ideology in Ming and Qing China, see Lu Miaw-fen 呂妙芬, *Xiao zhi tianxia: Xiaojing yu jinshi Zhongguo de zhengzhi yu wenhua* 孝治天下, 孝經與近世中國的政治與文化 (Taipei: Lianjing chuban gongsi, 2011).

The present article starts with a discussion of the evolution of equal treatment of fathers and mothers in the realm of prescribed ritual mourning. The degree of the prescribed mourning of a child for his/her mother had been lower, and the length shorter, than that for father until empress Wu Zetian (r. 690–704) extended the length of prescribed mourning for mother to three years regardless of whether the child's father survived the mother; the Ming founder Zhu Yuanzhang (aka Taizu, r. 1368–1398) further equalized prescribed mourning for father and mother in both length and degree. These changes, carried on by the Qing in ritual and law, were justified by the indebtedness a child owed his/her mother due to her contribution to the child's birth and upbringing. Even before significant changes were made to mourning relationships, however, law assigned father and mother to positions comparable to each other, revealing the discrepancy between ritual and law despite the close connection between the two in late-imperial times.

Following that comes a detailed analysis concerning Qing law and court cases involving the legal relationship between children and their biological mothers who had left the children's clans through remarriage. By looking at the Qing legal treatment of remarried mothers in three realms – upholding a remarried mother's authority, punishment of filial disobedience toward a remarried mother, and qualification of remarried mothers for legal privileges relating to parenthood – this section challenges the existing scholarly paradigm that equates parental authority in late-imperial China with authority of the father or that of the head of household. Qing law's focus on the “unlimited debt 深恩罔極” the child owed the mother, particularly due to her role in giving life to (*sheng* 生) the child, was deeply embedded in ritual and legal traditions of China that highlighted the inalienable nature of blood ties between birth parents and their children. In addition, the focus of ritual-legal discourse on children's obligation to repay filial debt, rather than on mother's position as matriarch in the patrilineal household, allowed law to enforce maternal authority across household lines.

The article moves on to legal protections afforded to patrilineality by analyzing the “Chart of Three Types of Fathers and Eight Types of Mothers 三父八母圖,” a mourning chart preceding the “General Principle” as arranged in official editions of the Ming and Qing codes. It shows that the difference between paternal authority and maternal authority manifested itself in the code and in judicial practice not so much as a father's holding more privileges than did a mother over their

child, but as father's ability to "bestow" motherhood to his spouse who was not the biological mother to his child and as a mother's inability to make her new spouse be father to her child born in her previous marriage. Such patrilineal arrangement around the categories of "fathers" and "mothers" maintained male prerogatives without undermining filial obligations toward mothers; this revealed the ways in which the late-imperial Chinese state formally incorporated the mother-child hierarchy into its male-centered sociopolitical order that did not necessarily disadvantage women no matter what type of familial position they held according to ritual and law.

FILIAL MOURNING IN LATE-IMPERIAL CHINESE LAW

From the Sui dynasty (581–618) on, through the end of the Qing, a group of crimes specially classified as "ten abominations 十惡" appeared near the head of the introductory chapter of every printed imperial code.¹² As Yonglin Jiang notes in his research on the Ming Code, this group of crimes is especially important because the weight that these crimes were given in imperial law was reflected not only by the harsh penalty designated for offenders but also by the exclusion of these offenders from all established legal procedures providing for possible mitigation of penalty.¹³ In other words, the "ten abominations" listed major targets of discipline in late-imperial law, revealing state conceptualization of the human order based upon which the empire was built and through which the empire was governed.

These ten crimes so abhorred by the imperial state were listed in Article 2 of the Qing Code. Among them, the fourth, "contumacy 惡逆," and the seventh, "lack of filial piety 不孝," mainly concerned parent-child relations, while the other eight categories listed crimes pertaining to the emperor, the dynasty, and the imperial state, except for the eighth and tenth that covered domestic discord and incest. "Contumacy" ranked fourth of the ten, defined as to strike or to plot to kill paternal grandparents, parents, or husband's paternal grandparents or parents; or to kill paternal uncles or their wives, paternal aunts, elder brothers or sisters, maternal grandparents, or husbands. "Lack of filial piety" ranked seventh, defined as to accuse 告 to the court, to cast a spell

¹² For how the scope and nature of the "ten abominations" changed over time, and how this group of most heinous crimes was finally crystallized during the Sui and Tang dynasties, see Geoffrey MacCormack, *Traditional Chinese Penal Law* (Edinburgh: Edinburgh U.P., 1990), pp. 178–209.

¹³ Jiang, trans. *Great Ming Code*, lxvi.

咒 on, or to curse 罵 paternal grandparents, parents, husband's paternal grandparents or parents; to establish, while paternal grandparents or parents are still alive, a separate household registration 別籍 or separate property 異財 or to fail to provide sufficiently for them; during the period of mourning for parents, to arrange for one's own marriage, to make music 作樂, or to take off mourning apparel and put on ordinary clothes 釋服從吉; on hearing of the death of paternal grandparents or parents, to conceal and not to mourn the death; or to state falsely that paternal grandparents or parents have died.¹⁴ While the obligation for children to revere and properly support parents featured prominently, the importance of mourning in the overall conceptualization of filial piety, or lack thereof, was conspicuous. A son (or an unmarried daughter) was supposed to mourn for a deceased parent, during which period it was inappropriate to live an ordinary life. Even continuing to sojourn in the service of the empire was considered improper for officials, unless under special orders from the emperor for urgent matters.¹⁵

How the law punished a child's failure to observe prescribed mourning for a deceased parent – listed under the “ten abominations” – gives us a glimpse of the important role ritual mourning played in late-imperial Chinese law. Considerable political meanings were vested in the ritual obligation to observe a specific period of mourning for a deceased relative. In the context of law, the degree of ritually-prescribed mourning defined the degree of kinship, which in turn was used in determining punishments in cases involving people related to one another. The principle of “determining the nature of the crime and designating punishments according to the kinship as measured in the five degrees of mourning” was introduced into law-making and judicial practice in the third century and was crystalized during the Tang dynasty. It remained in effect until the end of the Qing.¹⁶

¹⁴ Xue Yunsheng 薛允升, ed., *Du li cun yi 讀例存疑* (rpt.; Taipei: Chengwen chubanshe, 1970; hereafter cited as DLCY), article 002.00, p. 17. References to the Qing Code in this article are to this work. The Qing Code, first promulgated in 1647, was largely based on the Ming Code. It contained both statutes (*lü 律*), generally fixed by 1740, and substatutes (*li 例*), which continued to change. The final revision was promulgated in 1905. The statutes and substatutes are cited with editor Huang Tsing-chia's 黃靜嘉 numbering system. For an English translation, see William C. Jones, trans. *The Great Qing Code* (Oxford: Clarendon Press, 1994), pp. 35–36.

¹⁵ For the obligation for officials to leave their offices to mourn for their parents, which was called “arranging grief 丁憂,” or “observing regulations 守制,” in late-imperial China, see Norman Kutcher, *Mourning in Late Imperial China: Filial Piety and the State* (New York: Cambridge U.P., 2006).

¹⁶ Ch'ü, *Law and Society*, pp. 15–20. According to the principle of “determining the nature of the crime and designating punishments according to the kinship as measured in the five degrees of mourning system,” in cases involving family members, if the offender was a senior

Generally speaking, the closer the ritual-legal relationship was between the deceased and the living, the longer the living person was required to mourn for the deceased, and the rougher the mourning-garb materials should be. While the mourner was required to reduce food consumption and entertainment, the mourning degree between the living and the dead was officially named by the roughness of the cloth and the prescribed length of mourning. The prescribed mourning period varied from three years (usually twenty-seven months in observance) to three months, while the cloth varied from the roughest (*zhan-cui* 斬衰, “unhemmed sackcloth”) for first-degree relatives, the second roughest (*zicui* 齊衰, “hemmed sackcloth”) for second-degree relatives, to more refined (*dagong* 大功, “greater coarseness,” or *xiaogong* 小功, “lesser coarseness”) for third- and fourth-degree relatives, to the most refined (*sima* 緦麻, “coarse hemp”) for fifth-degree relatives.¹⁷

Considering the context of ritual mourning, the mother’s status was gradually elevated in the period roughly 600–1400, going from being her child’s second-degree relative to first-degree relative as juxtaposed with the child’s father. Prior to 647, a child was obliged to mourn three years for a deceased father wearing mourning apparel made of roughest cloth 斬衰三年. A child was obliged to mourn three years for a deceased mother by wearing mourning apparel made of second roughest cloth 齊衰三年 if the father had already been dead when the mother passed away; if the mother died while her husband was alive, the child was obliged to mourn only one year for the mother wearing mourning apparel made of second roughest cloth 齊衰期年, which was comparable to the mourning one owed his/her sibling.¹⁸ The rationale

relative, he/she would receive a punishment reduced from the original punishment, the extent of which depended on the closeness of mourning relationship between the offender and victim. If the offender was a junior relative, he/she would receive a punishment increased from the original punishment, the extent of which depended on the closeness of mourning relationship between the offender and victim. The adjustment of punishment paled by comparison if we take into consideration that the very nature of the criminal conduct was largely determined by the relationship between the offender and the victim. For instance, striking a senior relative was generally regarded as insubordination, while striking a junior relative was largely regarded as a form of discipline rightfully exercised by the senior relative unless serious injuries or death were incurred as a result of malice.

¹⁷ For general information on mourning circles in late-imperial China, see Han-yi Feng, *The Chinese Kinship System* (Cambridge, Mass.: Harvard U.P., 1967), diagram 4, p. 42. For the prescription of the Great Ming Code on mourning, see Jiang, trans., *Great Ming Code*, pp. 8–10.

¹⁸ Peng Lin 彭林, trans. and annot., *Yili* 儀禮 (Changsha: Yuelu shushe, 2001), pp. 279–90. Prior to 674, the prescribed mourning for both mother (if the father was alive) and siblings was “hemmed sackcloth for one year.” The major difference between mourning mothers and mourning siblings in early-medieval China was that those who mourned mothers were expected to carry mourning staffs (*zhang* 杖) to show that their grief prevented them from rising without support.

for determining a child's mourning period for his/her mother according to whether the child's father survived the mother was that a husband owed only one year of mourning toward his wife; a child would embarrass his/her father if the child continued to mourn after the father had taken off his mourning apparel.¹⁹

The first major revision of this rather asymmetrical treatment of father and mother in the context of mourning took place in 674, when empress Wu Zetian, on the occasion of her becoming coregent with her husband, recommended that a child should mourn for his/her mother for three years regardless of whether the father was alive at the time of the mother's passing. This change was written into law in 685, when the empress became *de facto* ruler of the Tang empire as empress-dowager; it was crystalized in the state-issued ritual manual *Rites of Kaiyuan* in 732, under empress Wu's grandson emperor Xuanzong.²⁰ While it would be an exaggeration to say that this revision of a child's mourning obligations toward his/her mother was a triumph of the parent-child hierarchy over the husband-wife hierarchy, it was otherwise true that such an elevation of the mother's status probably would not have happened in the seventh century if not for the ability of a female monarch to draw legitimacy from her status as royal mother to justify her marginalizing and eventually deposing her son the emperor Zhongzong 中宗 (r. 705–710).²¹

The total equalization of a child's mourning toward father vis-a-vis mother took place in 1374, when the Ming founder emperor Taizu misunderstood the prescribed mourning between mother and child and confronted his officials who cited Confucian texts to try to correct him. The emperor insisted on the equal indebtedness of a child toward his/her father and mother and hence the obligation of the child to mourn three years for mother wearing mourning apparel made of roughest materials (*zhancui sannian*).²² This reform, which basically put father and mother at parallel positions where filial mourning was concerned, directly contradicted how mourning obligations toward fathers and mothers were prescribed in the "Mourning Dress" 喪服 chapter of the classic *Ceremonies and Rites* 儀禮.²³ Setting aside the special circumstance

¹⁹ Peng, trans. and annot., *Yili*, p. 286.

²⁰ Hsiao Ch'i 蕭琪, *Fumu deng'en: Xiaoci lu yu Mingdai mufu de linian jiqi shijian* 父母等恩, 孝慈錄與明代母服的理念及其實踐 (Taipei: Xiuwei zixun, 2017), pp. 72–81.

²¹ Lee Jen-der 李貞德, *Gongzhu zhi si: ni suo bu zhidao de Zhongguo falü shi* 公主之死, 你所不知道的中國法律史 (Beijing: Sanlian shudian, 2008), pp. 98–102.

²² Hsiao, *Fumu deng'en*, pp. 100–12.

²³ Peng, *Yili*, pp. 284–86.

that facilitated this reform, which Hsiao Ch'i 蕭琪 has discussed in detail, the early-Ming prescription of filial mourning was carried forward in the Ming and Qing codes and state-issued ritual manuals, impacting how filial mourning was understood and practiced in Qing society.²⁴

The gradual establishment of a child's mourning obligations as being equally pointed toward father and mother was of tremendous importance, especially considering the critical role of prescribed mourning relationships between family members in determining the nature of their relations and the appropriate penalties in legal cases involving relatives. That said, there was a considerable discrepancy between ritual prescriptions and law codifications, despite the late-imperial rhetoric of "clarifying the law-codes as a means to sustain the Teaching 明刑以弼教." Regarding parent-child relations, even before the child's mourning obligations toward father and mother started to be equalized, there was strong parallelism between paternal and maternal authority as prescribed by law. The Tang Code, the earliest Chinese code to have been transmitted to the present in its complete form, was promulgated two decades before a child's mourning period toward his/her mother was extended by empress Wu. Subsequently, the Tang, Ming, and Qing codes seldom discriminated between parental authority as held by the father and that held by the mother, either in general principles (including the "ten abominations") or in specific provisions concerning conflicts between parents and children. For example, the bi-gendered term "father-mother" (*fumu* 父母) was used to refer to a parent in the chapter of the Tang Code on the abomination called "lack of filial piety"; this was similar to the statutes from the Qing Code cited above.²⁵ So too was the term "father-mother" used to describe "parent" in the statute that assigned decapitation for a child who beat a paternal grandparent or parent, and assigned strangulation to a child who cursed with bad language a paternal grandparent or parent.²⁶

There was a noticeable disparity between the punishment assigned by Tang law to beating one's mother – decapitation – and that assigned to beating one's elder brother/sister – two and a half years of penal servitude – despite the fact that the ritual mourning obligations one owed his/her mother and to his/her elder sibling was in the same category

²⁴ Jiang, *Great Ming Code*, p. 9. For Qing charts that followed the Ming prescriptions with very little change, see, e.g., Ma Jianshi 馬建石 and Yang Yutang 楊育棠, eds., *Da Qing Lüli tongkao jiaozhu* 大清律例通考校注 (Beijing: Zhongguo zhengfa daxue chubanshe, 1992), pp. 63–96.

²⁵ Wallace Johnson, trans., *The Tang Code* (Princeton: Princeton U.P., 1979–1997) 1, pp. 74–77; Jiang, *Great Ming Code*, p. 18.

²⁶ Johnson, *Tang Code* 2, pp. 366–67; Jiang, *Great Ming Code*, pp. 187–88, 192; DLCY, article 319.00, p. 949, article 329.00, p. 973.

– *zicui* (hemmed sackcloth).²⁷ Cursing an elder brother/sister was not even a punishable crime. At the same time, the treatment of a father and mother regarding their relationship to their child was for the most part symmetrical to one another, despite the difference between the mourning obligations that their child owed them. The hierarchy between parents and children, with filial piety (*xiao* 孝) as its underlying value, was upheld in a way clearly distinguishable from the hierarchy between elder and younger siblings, with brotherly submission 悌 as its underlying value.²⁸

The mourning charts used on almost all occasions to determine relationships among family members and to assign penalties if conflicts arose varied from dynasty to dynasty. Mothers were finally put on an equal footing with fathers in the context of ritual mourning only in the fourteenth century. But the law, curiously, from early on differentiated itself from prescribed ritual mourning by giving a much more equal treatment of father's and mother's authority. The reason for this gender equilibrium in the context of filial piety law had to be found in principles that ran through imperial Chinese rites and law but that did not always manifest themselves in prescribed mourning in early China.

INALIENABLE MATERNAL AUTHORITY EXERCISED ACROSS HOUSEHOLD BOUNDARIES

Qing China, and indeed imperial China as a whole, was a male-dominated, patrilineal society. In such a society, a father's words might indeed carry more weight than those of a mother. Nonetheless, the code obliged the child to follow instructions from both parents while refraining from addressing how the child should act when disagreements or conflicts arose between parents. Only in extraordinary circumstances, such as a child's mother killing his/her father, did the law demand that the child clarify his/her primary allegiance to be with the father by reporting the mother's crime to the authorities.²⁹ Nonetheless, common

²⁷ Johnson, *T'ang Code* 2, pp. 364–65.

²⁸ In the Qing, a younger sibling's killing of an elder sibling, which would call for death by slicing (*lingchi chusi* 凌遲處死) for the offender in normal circumstances, would be mitigated or commuted if the fratricide was driven by filial concerns or committed under parental instructions; see Yue Du, "Parenthood and the State in China: Law, Ritual, and State-Building," Ph.D. diss. (New York University, 2017), pp. 186–89.

²⁹ DLCY, article 032.01, pp. 131–32. Under Qing law, when a person's father killed his/her mother, the child was supposed to conceal the act to protect his/her father. If his/her mother killed his/her father, the child was supposed to report the situation to the authorities. The child would be beaten by 80 to 100 strokes of the heavy bamboo stick if he/she failed to report or refused to testify against his/her mother after the case was brought into the formal legal process.

scholarly assumptions about the gendered attributes of generational relations in late-imperial China often depart significantly from what was actually prescribed by late-imperial law. While recognizing that “generally speaking, a mother had the same authority over her children as had the father,” T’ung-tsu Ch’ü claimed that the mother’s authority was neither permanent nor absolute, deriving instead from her position as the father’s wife.³⁰ Klaus Mühlhahn, in his characterization of parental authority in imperial China, suggests that filial piety included both “the almost absolute duty of the child to cause no harm or distress to a parent whatsoever” and “the unquestioning obedience and submission of the child to the authority of the father.”³¹

Cheng Shousheng’s case, cited at the very beginning of this article, however, clearly shows that the equating of parental authority to the father’s power and treating mother’s authority as deriving from her position as the father’s wife misapprehended the legal conception of motherhood that existed during the Qing. Let us now return to a more detailed analysis of this case before introducing Qing cases concerning the status of a “remarried mother’s” authority over her child born in her previous marriage. A remarried mother occupied a special position as being a child’s mother without being either the wife of the child’s actual father or a chaste widow. As a result, cases involving remarried mothers provide a particular poignant lens through which the nature of legally-protected maternal authority in the Qing can be critically reassessed.

The mother Guo *shi*’s status as a remarried mother was indeed raised twice in the testimonies collected by the Ba county magistrate during his investigation of Cheng Shousheng’s unnatural death. The mother and the stepfather both reported that Guo *shi*’s anger was triggered by Cheng Shousheng’s disrespectful claim 頂撞 that Guo *shi*, who had remarried (the second husband being Ding Zaihong 丁載洪) and thus “descended from” Cheng’s own father’s household 改嫁下堂, was not entitled to discipline Cheng 不該/應向他管教. The mother’s enraged emotion was used to justify her violence toward her son.³² Cheng Shousheng’s assumption about his remarried mother’s lack of authority over him was not at all supported by the Ba county magistrate, who judged the case according to Qing stipulation that regulated parental discipline of disobedient children: a father or mother (*fumu*) was not to receive any punishment 勿論 if he/she accidentally killed 邂逅致死 his/

³⁰ Ch’ü, *Law and Society*, pp. 30–31.

³¹ Mühlhahn, *Criminal Justice in China*, p. 51.

³² BXDA, no. 006-018-01492.

her child in physical discipline of the child due to the child's failure to follow parental instruction 違反教令.³³

The magistrate did not bother questioning how a woman managed to tie up her sixteen-*sui* son seemingly without any assistance from others, as long as the mother confirmed that she did not murder her son intentionally 並非有心致死. In the disposition, the nature of Cheng Shousheng's filial disobedience was described as "disregard of fundamental human ethics 目無倫紀," which "caused his mother 致伊母" to "be exasperated 氣急" and to "strangle Cheng Shousheng to death 將程壽生被勒氣閉身死." The case, which involved inappropriate actions from no living party according to the law, was closed without any punishment meted out or the necessity for obligatory review from the magistrate's superiors.³⁴ The mother's status as a remarried mother who thus belonged to a different lineage simply did not matter when the "fundamental human ethics" embedded in the parent-child hierarchy were violated by the son, whose unfilial behavior brought about his own destruction.

A woman in late-imperial China joined her husband's household and clan upon marriage, and she left that husband's household and clan upon divorce or remarriage. A "remarried mother" became a mere second-degree senior relative to her child born in her previous marriage, according to the mourning charts that the Qing Code inherited from the Ming Code.³⁵ But Qing law upheld a remarried mother's authority, including the power of life and death, over her child born in her previous marriage, as shown in the above-discussed case, in deviation from ritual prescriptions and patrilineal norms. Similarly, Qing law required a child to submit him/herself to the authority of his/her remarried mother even when she tried to interfere with the disposition of the child's patrimony, as illustrated in the following case that took place in the fifth year of Daoguang (1825).

Wang Xinü 汪細女 felled trees from the woods he had inherited from his deceased father in order to support his family. His mother, Yang Shu *shi* 楊舒氏, scolded Wang to block his action 斥阻, which she saw as felling immature trees. Wang discarded his ax and left the scene to avoid conflict. Yang Shu *shi* was enraged, however, because she had previously instructed Wang on this matter and Wang failed to listen. She decided to go to the county seat to complain so that Wang

³³ DLCY, article 319.00, p. 950.

³⁴ BXDA, no. 006-018-01492.

³⁵ Jiang, *Great Ming Code*, p. 14.

could be disciplined by the authorities. On her way, an acquaintance persuaded her to turn back. Unexpectedly, Yang Shu *shi*'s irrepressible anger caused the relapse of a prior disease, leading to her death as a result of a stroke. Even though Yang Shu *shi* had remarried twice after the death of Wang's father, which reduced the mourning obligations Wang owed her, Wang, like other offenders in cases involving sons offending their remarried mothers, was legally treated as a son who offended his birth mother. Wang was sentenced to exile to 3,000 *li* plus 100 strokes of beating by the heavy bamboo stick, one degree reduced from the penalty designated for a son whose parent committed suicide as a result of his failure to follow parental instructions. The decrease was not due to Yang Shu *shi*'s status as a remarried mother, though, but to the fact that she died of the relapse of a prior disease rather than suicide *per se*.³⁶

This case reveals how the emphasis on children's obligation to obey maternal instructions, including instructions from remarried mothers, potentially undermined some of the restrictions that were designed to restrict women's property ownership and to strengthen patrilineal control over property in late-imperial China. Yang Shu *shi* belonged to a different household from Wang Xinü's. She was Wang Shu *shi* 汪舒氏 when she was married to Wang's father, Xu Shu *shi* 徐舒氏 after her second marriage, and Yang Shu *shi* after her third marriage. Yang Shu *shi* was not entitled to the custodial rights of property that gave a chaste widow the control over her deceased husband's estate.³⁷ Nevertheless, her remarriage did not reduce her parental authority over her son, as attested by the judicial handling of this case. Wang was supposed to follow his mother's instruction concerning his property without question, and he might have been punished for his failure to do so, probably by canguing or beating at the county court, if Yang Shu *shi* had proceeded with her complaint.³⁸ The punishment eventually materialized as life exile, after Yang Shu *shi*'s death, presumably exacerbated by Wang's rebellious behavior. In this case, the mother in theory had no say in the disposal of her deceased husband's estate after she left his lineage. But in reality she had access to, or even control over, the

³⁶ Routine Memorials of the Board of Punishments, no. 02-01-07-10510-015.

³⁷ For details on widows' custodial rights of property in late-imperial China, see Yue Du, "Concubinage and Motherhood in Qing China (1644-1911): Ritual, Law, and Custodial Rights of Property," *Journal of Family History* 42.2 (2017), pp. 162-83, esp., pp. 170-76.

³⁸ For a detailed treatment of the service that Qing county courts offered to fathers and mothers in their discipline of disobedient children, especially through beating and canguing grown-up sons at *yamen* halls, see Du, *State and Family in China*, chap. 1, "Parents Can Never Be Wrong: Punishing Rebellious Children as a Didactic Show."

estate due to her relationship with the heir of the estate. Such practical conflicts were caused by the law's simultaneous upholding of patrilineality and of inalienable maternal authority. They present a nuanced picture concerning the intertwining of gender and generational orders and complicate our understanding of the role played by widow chastity in determining women's property rights in late-imperial China.³⁹

In the Board of Punishments' response to a routine memorial submitted by the governor of Shandong province in the third year of Daoguang in consultation about the adjudication of a case involving a remarried mother who committed suicide as a result of her son's disobedience, the judicial officials on the Board summarized their position concerning the permanency of the mother-child bond regardless of whether the mother remained in the father's household 在堂:

By remarriage, a woman has severed her bond of propriety with her deceased husband. According to the mourning chart, a child is obliged to mourn only one year for his/her remarried mother, wearing hemmed sackcloth with staff, which is lighter than the three-year mourning that requires unhemmed sackcloth [that a child would owe a mother who is still married to the father or who has kept chastity as a widow]. However, a child is closely attached to and dependent upon the mother, and the debt [resulting from this natural bond] is limitless. While the mother can sever her bond with her husband, the child has no choice but to honor his/her bond with the mother. Even though the mourning obligations between them have decreased with the remarriage [of the mother], the bond of indebtedness and propriety between them has not slightly diminished due to the remarriage. [This natural bond] cannot be compared to the relationship between a child and his/her ritual-legal/step/caring/foster mother that is to be severed upon the remarriage [of the woman]. Any rebellion or disobedience [against one's remarried mother] is an act of lack of filial piety, [on which

³⁹ After the implementation of mandatory nephew adoption in the early Ming, a widow could no longer directly inherit her deceased husband's property. But she was entitled to select an heir for her husband from her husband's nephews, and she could maintain custodial rights over his estate as long as she remained chaste. This was supposed to keep a man's property within his patrilineal clan while promoting widow chastity; see Kathryn Bernhardt, *Women and Property in China, 960-1949* (Stanford: Stanford U.P., 1999), esp. pp. 47-72. But the Qing state's upholding of mothers' superior position over sons often led to the compromise of other established social institutions, such as the patriline's exclusive claim over property or the authority of the household heads who were simultaneously sons, as shown in Wang Xintu's case, discussed in the main text of the present article.

occasion the remarried mother] should always be treated the same as a mother who remains in the father's household.⁴⁰

查婦人夫亡改嫁固屬義絕於夫。按服制圖子爲嫁母服齊衰杖期，亦視斬衰三年之服輕重有差。惟子之於母，屬毛離裏，深恩罔極。母雖自絕於夫，子不得自絕於母。服制雖因改嫁而從殺，恩義則未嘗以改嫁以稍衰。非嫡繼慈養之母一經改嫁恩義並絕者可比。凡有觸忤違犯均屬不孝，自應與在堂之母一例同科。

To further clarify their position, the Board officials referred to several leading cases of the late-eighteenth and early-nineteenth centuries: in the fifty-ninth year of Qianlong, Yi Futian 易甫田 from Huguang 湖廣 beat a person to death in defense of his remarried mother. He received lenient treatment in consideration of his filial motivation. In the fifth year of Jiaqing, Yuan Wenyi 袁文義 from Shanxi, who was convicted of intentional killing, qualified for pardon and release so that he could care for his aged, remarried mother.⁴¹ In the twenty-first year of Jiaqing, Zeng Ruanliu 曾阮六 from Jiangxi disobeyed his remarried mother's instruction, which caused her suicide. Zeng was initially sentenced to strangulation after the autumn assizes (*jiao jianhou* 絞監候). But his case, when being reviewed during the autumn assizes, was moved by officials on the Board of Punishments to the group of severe cases that involved offenses of relatives within the five-degrees of mourning 服制冊內辦理. This recategorization was based on the rationale that “the bond of indebtedness remains between mother and child despite the reduced mourning degree between [the child and] the remarried mother 嫁母之服雖降，而恩義猶存.” The Board insisted that the governor of Shandong pay closer attention to whether the son had indeed offended 觸犯 the mother, or whether he merely disobeyed parental instructions, which would be used to determine the severity of the punishment for the son. Being obsessed about the marital status of the mother simply missed the point.⁴²

⁴⁰ Zhu Qingqi 祝慶祺, ed., *Xing'an huilan quanbian* 刑案彙覽全編 (Beijing: Falu chubanshe, 2008; hereafter cited as *Xing'an*), p. 1801.

⁴¹ *Xing'an*, p. 1801. For the institution of “commuting crimes to enable felons to remain at home to care for [aged or handicapped] parents 犯罪存留養親,” see Nakamura Masato 中村正人, “Shinritsu ‘hanzai sonryū yōshin’ jō hokō (2)” 清律“犯罪存留養親”条補考(二), *Kanazawa hōgaku* 金沢法学 46.2 (2004), pp. 135–56; idem, “Shinritsu ‘hanzai sonryū yōshin’ jō hokō (1)” 清律“犯罪存留養親”条補考(一), *ibid.* 45.2 (2003), pp. 337–63; idem, “Shinritsu ‘hanzai sonryū yōshin’ jō kō (2)” 清律“犯罪存留養親”条考(二), *ibid.* 43.3 (2001), pp. 137–64; and idem, “Shinritsu ‘hanzai sonryū yōshin’ jō kō (1)” 清律“犯罪存留養親”条考(一), *ibid.* 42.2 (2000), pp. 187–207. Also see Wu Jianfan 吳建璠, “Qingdai de fanzui cunliu yangqin” 清代的犯罪存留養親, *Faxue yanjiu* 法學研究 5 (2001), pp. 126–36.

⁴² *Xing'an*, pp. 1801–2.

Many cases involving conflict between remarried mothers and their sons, like Cheng Shousheng's case cited at the very beginning of this article, likely never reached the Board of Punishments for review. In the end, a remarried mother, who was legally treated as a birth parent, held the power of life and death over her child born in her previous marriage. But the official responses issued by the Board of Punishments concerning the cases involving remarried mothers that did reach the central judicial bureaucracy made plain that a mother's authority over her child was neither derivative nor secondary; it could be legally exercised regardless of her position in the child's patriline, sometimes even against the interest of the patriarchal household of which the fatherless son legally headed. It was the notion of "indebtedness" (*en* 恩), which the child owed both parents, that justified legal protection of maternal authority in spite of household boundaries or prescribed mourning relationships. The logic associated with "unlimited filial debt" also lay at the heart of the reforms of mourning obligation a child owed his/her mother taken during the Tang and Ming periods. The repayment of such debt, as will be discussed below, connected rites with law, both of which were gendered in a male-centered way that did not necessarily privilege individual men over individual women in all cases.

UNLIMITED FILIAL DEBT
TOWARD FATHERS AND MOTHERS

我勸吾民孝父母	I advise my people to be filial to your fathers and mothers.
父母之恩爾知否	Have you understood how much debt you owe your parents?
懷胎十月苦難言	In the ten months of pregnancy, [your mother] endured unspeakable torment;
乳哺三年何釋手	In the first three years of your life, [she] held you to her bosom and breastfed you.
每逢疾病更關情	When you were ill, [your parents] became much concerned;
讒及成人求配偶	When you approached adulthood, [your parents] sought a spouse [for you].
豈徒生我受勛勞	Did they just encounter such labors, having brought life to me?
終身為我忙奔走	They have been scurrying for my sake their entire life! ⁴³

⁴³ Kong Yanxi 孔延禧, "Xiangyue quanshu" 鄉約全書, in Wang Meitang 王堂梅, Huang

Half of the above description of the “debt” (*en*) a child owed his/her parent was on exclusively feminine parenting activities – child-carrying and breastfeeding. Even concerning the parenting activities that were not gender specific, the mother still shared at least half of the work in nursing and arranging a marriage. Here, the way in which the early-Qing prefect Kong Yanxi’s 孔延熹 verse mobilized the image of the sacrificing parent, especially the mother, in his didactic promotion of filiality strongly echoed the ways in which Qing judicial officials on the Board of Punishments cited certain lyrics on the dependence and attachment of children toward both parents from the classic *Odes* 詩經 to justify a mother’s authority over her son regardless of her status in his patrilineal household.⁴⁴

Confucius said: “Only when a child is three years old does it leave its parents’ arms. The three years’ mourning is the universal mourning everywhere under Heaven. 子生三年，然後免於父母之懷。夫三年之喪，天下之通喪也。”⁴⁵ The bigendered phrase “father–mother” was used here to describe “parent.” As detailed by Ping-chen Hsiung, in the first three years of a child’s development, the child probably remained at the mother’s bosom, rather than that of the father, due to the most common mode of domestic labor division in late-imperial China.⁴⁶ As the indispensable care a child received in his/her first three years of existence was the reason why a child was obliged to mourn three years for a passing parent, it was no wonder that Tang empress Wu resorted to the discourse of filial indebtedness in the memorial she submitted in 674: “Considering that mother’s benevolent care for a child is particularly deep, the debt the child owes her is extreme due to the hardship associated with the birth and upbringing [of the child]. 竊謂子之於母，慈養特深，生養勞瘁，恩斯極矣。”⁴⁷ The Ming founder was more explicit

Jianming 黃建明, and Lu Yumin 陸裕民, eds., *Qingdai wuding yizu nashi tusi dang’an shiliao jiaobian* 清代武定彝族那氏土司檔案史料校編 (Beijing: Zhongyang minzu xueyuan chubanshe, 1993), pp. 261–86; cit. at p. 269.

⁴⁴ “Nobody is to be looked up to if it is not the father; nobody is to be depended on if it is not the mother; but I am not attached to [the garment’s] outside, I am not attached to [the garment’s] lining. 靡瞻匪父，靡依匪母，不屬於毛，不離於裏”; Bernhard Karlgren, trans., *The Book of Odes* (Stockholm: Museum of Far Eastern Antiquities, 1950), “Siao p’an” 小弁, pp. 145–47.

⁴⁵ Arthur Waley, trans., *The Analects of Confucius* (New York: Vintage Books, 1989), p. 215.

⁴⁶ For the intimate connection a child established with his/her mother in the child’s early childhood, see Ping-chen Hsiung, *A Tender Voyage: Children and Childhood in Late Imperial China* (Stanford: Stanford U.P., 2005), esp. pp. 103–27. Also see her “To Nurse the Youth: Breastfeeding and Infant Feeding in Late Imperial China,” *Journal of Family History* 20.3 (1995), pp. 217–39.

⁴⁷ Wang Fu 王溥, ed., *Tang huiyao* 唐會要 (Shanghai: Shanghai guji chubanshe, 1991) 37, “Fuji shang” 服紀上, p. 789.

in pointing out the inconsistency in the differential treatment of father and mother: “The debt [a child owes his/her] father and mother is the same 夫父母之恩，一也。 But the degree of mourning [for the father] and the degree of mourning [for the mother] have a high vs. low [difference] in this way. 而喪服低昂若是 The distance [of rites] from human sentiment is extreme! 其不近於人情甚矣。”⁴⁸

Notably, even though parents’ “giving life to” (*sheng*, that is, the begetting and/or giving birth) and their “nourishing” (*yang* 養) of children were both described as contributing to the debt children owed parents, it was the inalienable birth bond, and the blood connection created by it, that served as the ultimate reason underlying unconditional maternal authority regardless of the mother’s marital bond, or lack thereof, with the father. In the same didactic text issued by prefect Kong Yanxi, part of which has been cited above, he articulated:

How to be filially obedient to your parents? Everyone in the world, regardless of his wealth or status, whose body is not his parents’? You who are attending this meeting today should reflect on yourselves: Before your parents gave life to you, where was your body? You were but a piece of meat from your parents’ bodies... Your parents are like Heaven. Heaven gave life to grass. In the spring, Heaven let the grass sprout out; in the autumn, Heaven let the grass be killed by frost. The body of yours was brought to the world by your parents. Your parents can let you live, or they can let you die. What would be right in your having a say in it?⁴⁹

如何是孝順父母? 人生世間，不論貧賤貴富，這個身子那一個不是父母的? 你們今日在會中眾人各各回頭思想，當日你父母未生你的時節，你的身子在何處? 可是在父母身上的一塊肉... 父母即如天。天生一莖草，春來發生也由得天，秋來霜殺也由得天。父母生出來的身，生也由得父母，死也由得父母。說得甚麼長短。

Notably, in literary Chinese, both Heaven’s creation of living things 天生萬物 and parents’ begetting or giving birth to children were described with the same verb – *sheng* 生; and it was in turn used to justify parents’ power of life and death over children. Immediately after he compared parental dominance to Heaven’s natural power over everything under Heaven, Kong cited an idiom widely accepted in late-imperial China: “parents can never be wrong 天下無不是的父母,”

⁴⁸ *Ming Taizu shilu* 明太祖實錄, vol. 4 of *Ming shilu* 明實錄 (Taipei: Zhongyang yanjiuyuan lishi yuyan yanjiusuo, 1961–1968), j. 94, p. 1631.

⁴⁹ Kong, “Xiangyue quanshu,” pp. 266–67.

literally, there are no parents in the world who can ever be wrong.⁵⁰ A parent's power of life and death over his/her child, as well as the parent's supposed infallibility in the context of parent-child relations, derived from the parent's role in "giving life to" the child who was essentially seen as an extension of the parent. The logical conclusion from this line of reasoning was that a mother such as Guo *shi* should not be punished for killing her son, who was merely "a piece of meat" from her body.

In fact, in the above-cited routine memorial submitted to the Board of Punishments in the third year of Daoguang, concerning the adjudication of a case of a remarried mother's suicide triggered by her son's disobedience, the governor of Shandong expressed the concern he shared with the Licheng county magistrate who conducted the initial trial of the case: would it be unfair to treat a mother who remained in the father's household 在堂之母 and educated and raised the child 教養兼施 the same as a remarried mother who had not brought her son into her second marriage 已嫁之母本未帶子同往, but who committed suicide as a result of her lack of disciplining the child 既不管教於平時 in the first place? The Board, however, insisted that this case should be adjudicated according to the statute that regulated a child's "causing" a parent's suicide by failing to follow parental instructions.⁵¹

In her study of the early-Ming reform of mourning for mothers, Hsiao Ch'i paid particular attention to the Ming founder Zhu Yuanzhang's emphasis, from his own experience in reburying his mother, on the resonance of blood and material essence 血氣相感 between a child and both parents. This focus on obligations deriving from biological ties 生身之恩 between mother and child made Zhu "feel great grievance over the prescribed mourning rites that recognized only the shared essence and identification between father and son within the patrilineal order."⁵² While Zhu Yuanzhang's own strong emotional connection with his deceased mother was certainly a factor that compelled him to make equal a child's mourning obligations toward his/her father and mother, it should be noted that there were expressions in canonical classics that highlighted the biological ties between mother and child

⁵⁰ This idiom first appeared in the Song dynasty. In late-imperial China, it became increasingly accepted in official and intellectual discourse. The original expression in the Song didactic text *Qintang yusu bian* 琴堂諭俗編 was, "Parents can never be wrong, and even when the father is unkind toward the child, the child has to be filial 蓋天下無不是底父母, 父有不慈而子不可以不孝." See Ying Jun 應俊, ed., *Qintang yusu bian*, in Shanghai guji chubanshe 上海古籍出版社, eds., *Laoxue'an biji (wai shiyi zhong)* 老學庵筆記 (外十一種) (Shanghai: Shanghai guji chubanshe, 1993), pp. 221-52; cit. p. 225.

⁵¹ *Xing'an*, pp. 1801-2.

⁵² Hsiao, *Fumu deng'en*, p. 110.

in spite of the higher priority that was assigned to the father's ancestral line over the mother's ancestral line. For example, the "Meaning of Sacrifice" 祭義 portion of the *Book of Rites* 禮記 prescribed that filial children were obliged to keep their bodies whole in life and death as a means to repay the debt they owed their parents: "His parents give birth to his person all complete, and to return it to them all complete may be called filial duty 父母全而生之, 子全而歸之, 可謂孝矣."⁵³ This filial requirement was further articulated in the opening chapter of the *Classic of Filial Piety* 孝經: "Your physical version with its hair and skin are received from your parents. Vigilance in not allowing anything to do injury to your person is where family reverence begins. 身體髮膚, 受之父母, 不敢毀傷, 孝之始也."⁵⁴ In both texts, the bi-gendered term "father-mother" (*fumu*) is used to describe the blood and flesh shared between parents and children.

The gendered imbalance concerning generational relations was even less pronounced in law than in ritual. The rationale for the law's deviation from ritual mourning in its treatment of maternal grandparents was the intimate blood ties that maternal grandparents and their grandchildren shared. The influential jurist Xue Yunsheng 薛允升 commented on Qing law's exaltation of maternal grandparents' position despite the light mourning obligations one owed his/her maternal grandparents, citing with approval classic comments on rites: "[Maternal grandparents] are how the mother has descended, and thus are how oneself has descended 爲母之所自出, 即己之所自出."⁵⁵ This recognition of the importance of consanguinity, despite priority given to the patriline over the matriline, had always been part of the ritual-legal prescription of family relations in Chinese tradition.

The officially-sanctioned *Commentary to the Tang Code* 唐律疏議 clarified that "maternal grandparents" as defined by the code were those "who gave birth to the body of the mother, regardless of whether there was any mourning obligation [between them and their grandchildren] 但生母身, 有服, 無服, 並同外祖父母."⁵⁶ This explication followed the

⁵³ James Legge, trans., "The Meaning of Sacrifices," in *The Sacred Books of China: Li Ki* (New Hyde Park, N.Y.: University Books) 2, pp. 210-35; see cit. p. 229.

⁵⁴ Henry Rosemont Jr. and Roger T. Ames, trans. and annot., *The Chinese Classic of Family Reverence: A Philosophical Translation of the Xiaojing* (Honolulu: U. Hawaii P., 2009), p. 105. Rosemont and Ames use "family reverence" to translate *xiao* 孝, a concept that is usually translated into English as filiality/filial piety.

⁵⁵ DLCY, article 317.00, p. 934.

⁵⁶ Zhangsun Wuji 長孫無忌, *Tang lü shuyi* 唐律疏議 (Beijing: Zhonghua shuju, 1983), pp. 8-9. I believe that Johnson's translation of this paragraph in *Tang Code* 1, p. 67, misinterprets the meaning of the original Chinese texts. The cited paragraph in this article is my own translation.

listing of killing one's maternal grandparents among the "contumacy" category of the ten abominations, which essentially legally treated maternal grandparents as comparable to paternal uncles and aunts despite the relatively light mourning obligations (fourth degree) between them and their grandchildren. Notably, the *Commentary* was published in 653, at a time before the reform of mourning toward mothers, taken under empress Wu, which indicates that the law assigned heavy weight to blood ties between one and one's maternal ancestors even when mourning rites didn't. Such a discrepancy, which predated the politically driven reform of mourning rites initiated by the female monarch Wu, revealed a general recognition in society of the importance of blood ties between mother and child in contradiction to ritual prescriptions. In fact, empress Wu's reform was continued by the Tang emperors that succeeded her thanks partially to her offspring's filial obligation to honor certain precedents set by her even after she established her own dynasty at the expense of her husband's.⁵⁷ The acknowledgment of unbreachable biological ties, in this case between empress Wu and the offspring descended from both her and her husband, enabled the first step toward a more equal treatment of father and mother in rites to be incorporated into the canonical tradition of imperial China.⁵⁸

Another factor that contributed to the equalization of father's and mother's positions in relation to their children was the discursive ways through which family hierarchies were legitimized and expressed in late-imperial China. Gary Hamilton, noting the difference between Roman emphasis on the father's power and Chinese stress on filial duties, suggests that Chinese patriarchy relied less on the father's

⁵⁷ For a general treatment of empress Wu's life and reign, as well as the succession struggle between her nephews, who were born with the surname Wu, and her sons, whose surnames were changed to Wu after the empress established her own dynasty, see R. W. L. Guisso, *Wu Tse-Tien and the Politics of Legitimation in T'ang China* (Bellingham, Wash.: Program in East Asian Studies, Western Washington U., 1978). Guisso asserts that Wu Zetian, by passing her throne to her son rather than to her nephew, was acting as the widow of her husband and thereby honoring her husband's patriline (p. 155). It should be noted that all of the empress's sons and daughters were by her husband. In this context, it is difficult to judge whether empress Wu, by setting her own child as her heir, was honoring her husband's patriline or maximizing the interest of her own offspring. Empress Wu's propaganda efforts in legitimating her power have been studied from the perspective of Buddhism; see Antonino Forte, *Political Propaganda and Ideology in China at the End of the Seventh Century* (Napoli: Universitario Orientale, 1976); N. Harry Rothschild, *Emperor Wu Zhao and the Pantheon of Devis, Divinities, and Dynastic Mothers* (New York City: Columbia U.P., 2015).

⁵⁸ In the first year of Shenlong (705), the year when empress Wu's son emperor Zhongzong restored the Tang dynasty after his mother fell gravely ill, mourning obligations a child owed his/her remarried mother was extended from one year to three years, which was reaffirmed in 747 under emperor Xuanzong, grandson of the empress (Wang, ed., *Tang Huiyao*, p. 794). This Tang extension of a child's mourning obligations toward a remarried mother was not carried on by subsequent dynasties.

ability to punish and more on a son's willingness to carry out the patriarch's orders in the interest of family harmony. Hamilton also uses this dichotomy between personal power in the West vs. relational duty in imperial China – defined by him as “institutional patterning” of Western–Chinese versions of patriarchy – to explain the longevity of Chinese patriarchy in contrast to the gradual decline of its European counterpart in the Middle Ages and the modern era. Hamilton argues that it was the increasing focus on positional duties to roles that made Chinese patriarchy stronger in the late-imperial era.⁵⁹

Hamilton's characterization of the “Chinese patriarchy” as duty-rather than power-oriented is overly rosy. But it perfectly catches the mode of discourse adopted by the state in late-imperial China regarding the parent-child hierarchy. The official vocabulary used in justifying and expressing the increasingly stringent parent-child hierarchy was not the state's support of parental dominance over children, but was children's obligation to always obey parental instructions and to endure parental discipline without question. In reality, requiring children to be unconditionally obedient toward parents led to extremely asymmetrical relationships between parents and children as defined by law. It would submit children who committed slight or unintentional offenses against parents to harsh punishments, while assigning little or no punishment for parents who killed, abused, or falsely accused their children.⁶⁰ That said, the logic of filial duty did allow the elevation of a mother's authority over children, which was impossible to be solely justified by the mother's position in the patriarchal household organized around the axis of father and son. The classic refutation of equal treatment of father and mother in rites was based on the notion of “no two equally honored [powers in any given circumstance] 無二尊.” The section “Four Principles Underlying Mourning Dress” 喪服四制 in the *Book of Rites* articulated:

The service due to a father is employed in serving a mother, and the love is the same for both. (But) in the sky there are not two suns, nor in a land two kings, nor in a state two rulers, nor in a family two equally honorable: one (principle) regulates all these

⁵⁹ Hamilton, “Patriarchy, Patrimonialism and Filial Piety.”

⁶⁰ For the increasingly harsh punishment of insanity-provoked parricide in the Qing at the expense of several theoretical foundations of traditional Chinese law, first and foremost the principle of criminal intent, see Luca Gabbiani, “Insanity and Parricide in Late Imperial China (Eighteenth–Twentieth Centuries),” *International Journal of Asian Studies* 10:2 (2013), pp. 115–41. For the increasingly light punishment parents received for unreasonably killing their children throughout medieval and late-imperial China, see Du, *State and Family in China*, esp. chap. 3.

conditions. Hence, while the father is alive, the sackcloth with even edges is worn (for a mother), (and only) for a year, showing that there are not (in the family) two equally honored [ones].⁶¹ 資於事父以事母，而愛同。天無二日，土無二王，國無二君，家無二尊，以一治也。故父在母齊衰期者，見無二尊也。

While it was difficult to counter this classic prescription about the father's sole supreme authority within the household, the focus on a child's obligation to repay the debt he/she owed both the father and mother allowed this principle to be circumvented and evaded without the necessity of confronting patrilineality or male prerogatives. Buddhism played a vital role in shifting public sentiment and elite discourse toward increasing emphasis on children's obligation to repay the debt they owed parents, especially mothers. Alan Cole has meticulously traced how medieval Buddhist discourse on the family borrowed and adapted the Confucian notion of filial piety, highlighting specifically the tie between mothers and sons and the need of the son to repay his mother, who not only suffered but also committed sins in bearing and raising children. For Cole, foregrounding maternal kindness and filial indebtedness enabled Buddhism to bind the family to the monastery and made economic support for Buddhism an essential part of debt repayment.⁶² The popularization of Buddhist apocryphal sutras featuring filial piety and vernacular stories such as Mulian rescuing his mother might also have contributed to the rise of the discourse of filial indebtedness, even though Confucian scholars who participated in debates over rites and law usually restrained from overtly citing Buddhist texts.

When empress Wu advocated the extension of the mourning period a child owed his/her mother even if the child's father survived the mother, she highlighted the debt (*en*) to the mother due to the deep care she provided. Empress Wu argued that the child's filial intention 人子之志 would be undermined if he/she was not allowed to complete three years of mourning for a deceased mother.⁶³ Similarly, centuries later emperor Taizu (founder of the Ming) used children's filial yearning and the equality of the debt owed their fathers and mothers to justify his equalization of children's mourning obligations toward their fathers and mothers. It should come as no surprise that both empress Wu and emperor Taizu had deep personal and political ties to Buddhism.

⁶¹ Legge, trans., "The Four Principles Underlying the Dress of Mourning," in *The Sacred Books of China: Li Ki* 2, pp. 465-70.

⁶² Alan Cole, *Mothers and Sons in Chinese Buddhism* (Stanford: Stanford U.P., 1998).

⁶³ Wang, *Tang Huiyao*, p. 789.

In the Qing, priority was given to the father's authority over that of the mother only when disagreements arose between them, in which case the child was supposed to follow the father's instruction without compromising his/her submission to the mother. But the law intentionally refrained from addressing the specificities 均無明文 regarding how a child should act when real conflicts came about between familial superiors of different statuses, given that "even sages and worthies would not have balanced way in handling such a trespass against normal human order 此倫常之變, 雖聖賢亦無兩全之法."⁶⁴ When the father was physically absent, for instance in cases involving remarried mothers, the mother was recognized by law as the sole parental authority over the son even if she belonged to a different household due to remarriage. The judicial officials based their adjudication on the notion that "there is no principle that enables a son to free himself from the bond he has with his mother 子無絕母之理."⁶⁵ The emphasis on children's obligation to obey parents rather than parents' entitlement to control and dominate children essentially made impotent the son's position as the head of his household.

The child had an inalienable bond with and owed unlimited debt to both the biological father and mother. But the mother benefited more than the father in the increasing emphasis on filiality, which first and foremost derived from parents' role in "giving life to (*sheng*)" children. Moreover, the mother's relationship with her child, particularly in the context of prescribed ritual mourning, was weaker than that enjoyed by the father due to his position as the "most honorable" in the household. And her ritual relationship with her child was conditional, depending on her marital status. She had little to lose but much to gain. The prominence of Heavenly-ordained filial duty that resulted from body-bound connections in medieval and late-imperial China eventually led to an almost absolute maternal authority that was comparable with paternal authority in both rites and law. A silent revolution took place regarding the mother's position. But the power she gained was not ceded from the father, but in relation to the child. The masculine and patrilineal authority of the father and his clan remained largely unchanged.⁶⁶

⁶⁴ See Xue Yunsheng's note on article 032.01, DLCY, pp. 131-32.

⁶⁵ Routine Memorials of the Board of Punishments, no. 02-01-07-10510-015.

⁶⁶ For how the language of filial obligation operated more or less as a pretext for the real power dynamics at work in the parent-child hierarchy, see Du, *State and Family in China*, esp. chap. 3.

PATRILINEALITY AND PLURAL MOTHERHOOD

While Qing law routinely absorbed daughter into son by using the neutral-masculine term *zi* 子 to refer to either son or daughter (or son alone), it almost always used the bi-gendered term father–mother (*fumu*) to refer to parent. As so far discussed in this article, a child’s mourning obligations were equal for the father and the mother during the Qing. Even the maternal authority of a remarried mother could be perfectly exercised over her son who belonged to a different patri-line and a different household from hers. This by no means suggests that there was no difference between legally defined fatherhood and motherhood. The difference between paternal authority and maternal authority manifested itself in the code and in judicial practice not so much as a father holding more privileges over his child than the child’s mother, but as the father being able to “bestow” motherhood to his spouse who was not a natural mother to his child and the mother’s inability of making her new spouse the father to her extant child. This difference is illustrated by the “Chart for Three Types of Fathers and Eight Types of Mothers” in the Ming and Qing codes.⁶⁷

Table. Mourning Degrees for Three Types of Fathers and Eight Types of Mothers

TYPE OF PARENT	DESCRIPTION OF PARENT–CHILD RELATIONSHIP	MOURNING OBLIGATION CHILD OWED PARENT
<i>tongju jifu</i> 同居繼父	stepfather who lives with stepchild	If neither stepfather nor stepchild has a close agnate male relative, then <i>zicui</i> 1 year; otherwise, <i>zicui</i> 3 months.
<i>cong jimu jia</i> 從繼母嫁	stepfather who raises stepchild who follows his/her stepmother into a second marriage	<i>zicui</i> 1 year, with staff
<i>bu tongju jifu</i> 不同居繼父	stepfather who does not live with stepchild	If stepchild once lived with stepfather, but does not live with him now, then <i>zicui</i> 3 months; if stepfather and stepchild never lived together, no mourning relationship.
<i>cimu</i> 慈母	childless concubine appointed by her husband-master to raise his motherless child born to another concubine	<i>zhancui</i> 3 years

⁶⁷ Jiang, *Great Ming Code*, p. 14. For the Qing version, which is almost the same as the Ming chart, see Ma and Yang, eds., *Da Qing Lüli tongkao jiaozhu*, pp. 93–94. I generally follow Jiang’s translation, with some minor modifications to better convey the original meanings of Chinese terms.

UNLIMITED DEBT TOWARD FATHER AND MOTHER

<i>jimu</i> 繼母	stepmother, father's wife he married after first wife's death or divorce	<i>zhancui</i> 3 years
<i>dimu</i> 嫡母	ritual-legal mother (for a concubine's child), i.e. father's wife	<i>zhancui</i> 3 years
<i>yangmu</i> 養母	foster mother	<i>zhancui</i> 3 years
<i>chumu</i> 出母	expelled mother, i.e. natural mother who was expelled from child's father's household by divorce or (re. a concubine) by sale	<i>zicui</i> 1 year, with staff
<i>jiamu</i> 嫁母	remarried mother	<i>zicui</i> 1 year, with staff
<i>rumu</i> 乳母	nursing mother, a concubine entrusted by her husband-master to nurse his child that is not born to her	<i>sima</i> 3 months
<i>shumu</i> 庶母	secondary mother, i.e. a concubine who has borne a child	For wife's children and other children, <i>zicui</i> 1 year, with staff; for her natural child, <i>zhancui</i> 3 years.

The three types of special fathers included in the Ming chart were 1. stepfathers who lived with a stepchild (*tongju jifu*; see col. 1); 2. stepfathers who did not live with a stepchild (*bu tongju jifu*; see same, as is the case for all the following); and 3. stepfathers who raised a wife's child from her previous marriage yet the child was not born to the mother but from her former husband's previous marriage (*cong jimu jia*). The mourning obligation between a stepfather and his stepchild varied from a one-year period to none. Regardless, in judicial practice, a stepfather was treated merely as a fifth-degree senior relative of his stepchild in almost all circumstances, unless the two never lived together which rendered them legally unrelated persons (*fanren* 凡人). In other words, even though a child was expected to call his mother's new spouse "stepfather" out of courtesy, especially if they lived together, step-fatherhood carried no legal weight of parenthood.

A birth mother was unable to render parental authority to her new husband who was not the child's birth father. By contrast, a father's legal wife was regarded by law as his child's mother even when she was not the birth mother. Two categories of mothers listed in this chart, ritual-legal mother (*dimu*) and stepmother (*jimu*), gained access to nearly full motherhood through marriage to the child's father. As Francesca Bray has noted, in late-imperial China, while multiple-fatherhood usually resulted from the adoption of a son, multiple-maternity was comfortably accommodated within the moral, legal, and ritual institutions of

an officially polygynous society, “unproblematic in principle if often very painful in practice.”⁶⁸ A man’s legal wife was his concubines’ children’s ritual-legal mother, while the successive wife he took after his first marriage was stepmother to all of his children. A child was required to mourn three years for both types of mothers.

There were three other categories of mother whose motherhood depended on her status as the child’s father’s concubine, though concubinage itself, unlike marriage, did not automatically grant a concubine legally recognized motherhood over her husband-master’s children. A caring mother (*cimu*) was a concubine who was assigned by a child’s father to raise the child after the child’s natural mother’s death.⁶⁹ The child owed three years of mourning to a caring mother. A secondary mother (*shumu*) was a concubine who had borne at least one son or daughter for a child’s father. The child owed one year of mourning to a secondary mother. A nursing mother (*rumu*) was a concubine assigned by the father to nurse a child. The child owed three months of mourning to a nursing mother.⁷⁰

In theory, the legal relationships between all these types of statutory mother, discussed above, and their children were defined by the mourning relationships: A ritual-legal mother (*dimu*), a stepmother (*jimu*), and a caring mother were considered by the law as possessing full motherhood, as indicated by the three years of mourning her statutory child owed her. A secondary mother (*shumu*) was a second-degree senior relative to her husband-master’s child, with a position comparable to the child’s elder sister. And a nursing mother (*rumu*) was a fifth-degree senior relative to the child she nursed. By contrast, a child’s mourning obligation toward his/her birth mother was reduced to one year if his/her mother was divorced or if she remarried after being widowed.⁷¹

⁶⁸ Francesca Bray, “Becoming a Mother in Late Imperial China: Maternal Doubles and the Ambiguities of Fertility,” in Susanne Brandtstädter and Gonçalo D. Santos, eds., *Chinese Kinship: Contemporary Anthropological Perspectives* (New York City: Routledge, 2008), pp. 181–203; cit p. 181.

⁶⁹ Yonglin Jiang uses “carrying mother” to translate *cimu* (Jiang, *Great Ming Code*, p. 14). I think “caring mother,” which I use in this article, better conveys the Chinese.

⁷⁰ Whether *rumu* refers to a father’s concubine who was trusted by the father to nurse the child or simply a wet nurse was a contested issue in late-imperial China. Here, I follow Yonglin Jiang’s understanding and translation.

⁷¹ A category of mothers listed in the chart of “Mourning Degrees for Three Types of Fathers and Eight Types of Mothers” but not addressed in this section is foster mother (*yangmu*), usually wife to a man who adopted a daughter or a son not from his own clan. A formal adoption, which took place between a married couple and the husband’s agnate male relative a generation younger than the husband, rendered full parenthood to the adoptive parents. But fostering only established a partial parent-child relationship.

Regardless of the legal principle of “determining the nature of the crime and designating punishments according to kinship as measured in the five degrees of mourning,” this preference of the artificially established mother-child bond between a ritual-legal/step/caring mother and her husband’s child over the blood tie between a divorced/re-married mother and her natural child did not fully correspond to the legal treatment of various holders of maternal authority in respect of parent-child relations. For example, Qing law allowed a parent to ask the county court to send a son into exile on the grounds of his lack of filial piety. There was no requirement for evidence besides the word of the parent. Notwithstanding, when the accuser was a stepmother, the magistrate was required to conduct a thorough investigation among the relatives and neighbors of the accuser to ensure the validity of the accusation before he proceeded with the exile.⁷² Furthermore, while a natural parent would never suffer a punishment more severe than penal servitude for filicide, it was possible for a ritual-legal/step mother to be sentenced to strangulation subject to review for unreasonably 非理 killing her husband’s child over whom she was supposed to hold full motherhood in normal circumstances.⁷³

Francesca Bray, in her critique of Margery Wolf’s “uterine family,” thinks that a woman’s natural fertility did not determine what bonds of relatedness she could build with her children. Bray asserts: “In imperial China, giving birth was the least important part of motherhood: the heart of the emotional bond between mother and son was the extended process of upbringing and education.”⁷⁴ While pointing out the conundrum involved in a father’s adoption of a male heir for the purpose of patrilineal succession “that could never be definitively resolved in legal terms,” Bray argues that “a mother’s most important contribution was educating the child,” which “was what forged the truest bonds of tenderness and respect.” Non-uterine children, especially those borne by concubines, could be raised and influenced culturally by elite women, leading to a full type of motherhood for them. This enabled elite women to capitalize on the reproductive capacities of their husbands’ concubines.⁷⁵

⁷² DLCY, article 319.01. p. 950.

⁷³ DLCY, article 319.05, pp. 954–55.

⁷⁴ Bray, “Becoming a Mother,” p. 197.

⁷⁵ *Ibid.*, p. 191. For a similar argument that highlights the priority late-imperial Chinese law assigned to social motherhood over biological motherhood, see chap. 9 of *idem*, *Technology and Gender: Fabrics of Power in Late Imperial China* (Berkeley and Los Angeles: U. California P., 1997), “Reproductive Hierarchies,” pp. 335–68.

It is true that late-imperial Chinese law analogized the maternal authority of statutory mothers to that of natural mothers and upheld both with the same vigor on most occasions. But law also recognized the distinction between bonds established through natural indebtedness 恩合 and those established through artificial relations 義合. In the above-mentioned case of Zeng Ruanliu, the judicial officials on the Board of Punishments reasoned: “The bond of indebtedness and righteousness remains between mother and child despite the reduced morning degree between them due to the mother’s remarriage. [Remarried mothers] are different from mothers by propriety whose bonds [with their children] are determined by status and relative positions but unrelated to human nature 與義母之但有名分而非關天性者不同.”⁷⁶ For these “mothers by propriety,” who were in the same document referred to as ritual-legal/step/caring/foster mother 嫡繼慈養之母, their bonds with their husbands’ children indeed “would be broken once they remarried 一經改嫁恩義並絕.”

It is clear that a mother’s parental authority did not derive from her position as the father’s wife, at least not exclusively. Neither can parental power be equated with a father’s authority. On the one hand, a ritual-legal/step/caring/foster mother gained her parental authority through her marriage with a child’s father; this established her position as matriarch in a patriarchal household. It was the type of social motherhood that Bray’s research focuses on – both derivative and conditional, as summarized by the Board officials. On the other hand, a birth mother’s parental authority over her natural child was permanent, a result of the unlimited debt the child owed her but independent from the artificially-established marital bond 夫婦義合 that she held with her husband.⁷⁷ A natural mother would not lose her maternal authority even if she left the father’s patriline by joining another household. Fatherhood was prioritized as compared with motherhood mainly in terms of a father’s privilege in “making” his spouse ritual-legal mother to his children and a birth mother’s lack of ability to “bestow” fatherhood over her natural child born in her previous marriage on her new

⁷⁶ *Xing’an*, p. 1801.

⁷⁷ For the nature of the husband-wife bond as an artificially-established bond of propriety (*yihé* 義合) that could be severed under certain circumstances, see Kao Ming-shih 高明士, “Yihé yu yijue: Jianlun Tangchao lüling de fei xueyuan fazhi zhixu” 義和與義絕, 兼論唐朝律令的非血緣法制秩序, in his *Zhongguo zhonggu lilü zongshu: fawenhua de dingxing* 中國中古禮律綜述, 法文化的定型 (Taipei: Yuanzhao chubanshe, 2014), pp. 161–80. The five types of human relations established through artificial bonds were those between ruler and subject, officials of higher and lower ranks, teacher and student, husband and wife, and friend and friend. *Yijue* – mandatory severance of artificially-established bonds – was most often applied to the husband-wife bond and all affinity as extension of the husband-wife bond.

husband. But ultimately, patrilineality had to be promoted without undermining the position of the mother. Filial piety from a child who owed unlimited debt to both father and mother was comparable to the loyalty and submission an imperial subject owed the emperor, who, historically, often described himself as “father–mother” to the people (民之父母, or 爲民父母).

CONCLUDING REMARKS

Recent research by such scholars as Weijing Lu and Maram Epstein has convincingly demonstrated that the emotional attachment between fathers and children in late-imperial China could be as deep as the same for mothers and children.⁷⁸ The evidence used in this article has shown that the mother-child relationship in late-imperial China was significantly hierarchical, and that maternal authority, even maternal authority of “remarried mothers,” was upheld by the state with a vigor comparable to the state’s legal buttressing of “patriarchal power.” In fact, the mourning obligations a child owed his/her father and mother witnessed increasing equalization since the Tang dynasty, which resulted in the same mourning relationship a child would have with both parents during the Ming and Qing periods much later. More importantly, imperial law endorsed paternal and maternal authority in almost the same way before and after the reform of mourning relationships between parents and children. In other words, both father-child and mother-child relations were about love and sensation; at the same time, both were expressed through a framework that highlighted legally enforced hierarchies.

This article raises a question that may provide food for thought and may lead to new lines of research. Why didn’t rulers combine generational authority with gender authority by identifying themselves as the people’s father? As just mentioned, in late-imperial China (and even much earlier), the emperor referred to himself as the people’s father–mother. Even the magistrate, the lowest level of formal imperial authority, was generally conceptualized as a father–mother official 父母官. It seems to me that the bi-gendered nature of state-sponsored

⁷⁸ See, e.g., Weijing Lu, “A Pearl in the Palm: A Forgotten Symbol of the Father-Daughter Bond,” *Late Imperial China* 31.1 (2010), pp. 62–97; Maram Epstein, *Orthodox Passions: Narrating Filial Love during the High Qing* (Cambridge, Mass.: Harvard University Asia Center, 2019), and idem, “Patrimonial Bonds: Daughters, Fathers, and Power in *Tianyuhua*,” *Late Imperial China* 32.2 (2011), pp. 1–33.

filiality had much to do with political discourse that compared imperial authority to both paternal and maternal authority.

Miranda Brown demonstrates that Eastern Han men emphasized mourning for their mothers more than that for their fathers. The special bond between mother and son provides the best explanation for such discrepancy in historical records.⁷⁹ Allan Cole draws particular attention to the romanticized image of the mother and the sensualized portrait of the mother-son relationship found in Buddhist apocryphal sutras: it made the son feel enormously indebted to his mother.⁸⁰ Maram Epstein's recent book on filial love in Qing China shows that there was a discursive difference between father-child relations and mother-child relations, as manifested in the common adage of "strict father and loving mother 嚴父慈母." This difference to some extent reflected the social reality of late-imperial China. But it also revealed a cultural expectation that children, particularly sons, should feel a deeper affective bond with their mothers.⁸¹ This expectation was deeply rooted in the special kind of attachment children might well develop to maternal care, which, as studied by Ping-chen Hsiung, led to the indebtedness most people felt toward their mothers concerning the care they had received during the quite vulnerable early part of childhood.

That said, human sentiment and state coercion were not antithetical. Law worked to shape society through persuasion rather than mere imposition. Force worked the best where it was in accord with various strictures already accepted by the ruled. Emotion, both real and "heavenly ordained," was employed to justify different kinds of superior/inferior power relations; these were readily at the imperial state's disposal for social governance and political legitimation. In this sense, law and emotion were intimately connected and mutually constructed. In the process of reinforcing hierarchies through love, children's indebtedness toward the mother played a role that overlapped with but was not identical to the role played by children's indebtedness toward the father. In the end, the social and political order of late-imperial China was "indebted" to the Father and Mother equally.

⁷⁹ Brown, *Politics of Mourning*, pp. 81–84.

⁸⁰ Cole, *Mothers and Sons in Chinese Buddhism*, esp. pp. 103–58.

⁸¹ Epstein, *Orthodox Passions*, pp. 31–37.

LIST OF ABBREVIATIONS

- BXDA Ba County Archives at the Sichuan Provincial Archives 巴縣
檔案
- DLCY Xue Yunsheng 薛允升, ed., *Du li cun yi* 讀例存疑
- Xing'an* Zhu Qingqi 祝慶祺, ed., *Xing'an huilan quanbian* 刑案彙覽全編