



Universiteit  
Leiden  
The Netherlands

## Women, family, and litigation in nineteenth-century Chongqing

Xin, J.

### Citation

Xin, J. (2024, September 17). *Women, family, and litigation in nineteenth-century Chongqing*. Retrieved from <https://hdl.handle.net/1887/4083625>

Version: Publisher's Version

License: [Licence agreement concerning inclusion of doctoral thesis in the Institutional Repository of the University of Leiden](#)

Downloaded from: <https://hdl.handle.net/1887/4083625>

**Note:** To cite this publication please use the final published version (if applicable).

# Chapter 3. Abduction and Marriage: Conflicts Between Natal Family and Marital Family

The role of the family in the court cases involving women is the focus of this dissertation, and this chapter will discuss the disputes between the natal families and marital families of women, compare the lawsuits brought forward by natal family and marital family members, and show how the family relationships between the plaintiffs, defendants, and women shaped the presence of women in archives. Previous research has not identified any specific correlation between two factors, the relationship between the plaintiffs and defendants in the lawsuits, and the accusations the plaintiffs used in the legal actions in Qing local archives; this dissertation will partly fill that gap.

According to Table 3.1, around half of the conflicts occurred between people within the Inner Tier. Abduction and *jia mai* (嫁賣, sell women off in marriage) were the two most frequently used accusations. There were 221 litigations that took place between the natal and marital families of women, accounting for 34% of all cases I have collected. Table 3.3 shows that these lawsuits were mainly abduction cases (referring to behaviors that forced or lured women to run away from their households) and matrimonial cases (conflicts over the validity of marriages).

As discussed in Chapter Two, there are often specific strategies in drafting legal complaints. Unsurprisingly, some writing patterns were particularly prevalent in “marriage” and “abduction” accusations. Looking at the techniques and strategies used in drafting complaints, this chapter will argue that there was generally no fundamental difference between marital disputes and abduction. Both, in nature, can reflect the competition for control over women.

In addition to discussing the tensions between women’s marital and natal families, this chapter will also analyze the relationship between women and their natal families. Most commonly, natal family members would support women by acting on their behalf in court. However, to a certain extent, having the natal family act on behalf of females in court against the husbands and in-laws had cut off the women’s own channels of voice.

Table 3.1 Relationship between Plaintiffs and Defendants by Tiers

Type of Relationship		Number of Cases	
<b>Inner Tier*</b>	Marital family (including husbands) vs. Natal family	221	34.0%
	Women vs. Marital family (including husbands)	58	8.9%
	Women vs natal family	2	0.3%
	Former husband vs. Current husband	51	7.8%
	Adoptive parents vs natural parents	15	2.3%
	Total	347	
<b>Outer Tier</b>	Marital family (including husbands) vs. Outsiders (mainly neighbors, distant relatives, strangers)	97	14.9%
	Different members of the marital family	19	2.9%
	Natal family vs. Outsiders (mainly neighbors, distant relatives, and strangers)	19	2.9%
	Women vs outsiders (mainly neighbors, distant relatives, strangers)	8	1.2%
	Marital family (including husbands) vs. Strangers	85	13.1%
	Natal family vs strangers	21	3.2%
	Women vs strangers	5	0.8%
	Total	254	
<b>Unclear/ unknown relation</b>		49	7.5%
<b>Total</b>		650	**

Source: BXA, "Women," 1803 - 1873.

\* The distinctions of "tiers" are based on Figure 1.

\*\* Sometimes, I have to use two kinds of relationships to describe one case, so the number is more than 617.

Table 3.2 Cases by Category and Relations Between Two Parties

Category of Accusation		Inner Tier		Outer Tier	
拐逃	Abduction and runaway	97	28.0%	105	41.3%
人口買賣	Human (women) trafficking	3	0.9%	5	2.0%
霸佔	Forcibly taking possession (of a woman)	14	4.0%	20	7.9%
強姦	Coerced sexual intercourse	7	2.0%	44	17.3%
通姦	Adultery	25	7.2%	34	13.4%
調戲	Noncoercive sexual proposition	3	0.9%	11	4.3%
拆嫁	Break up marriage	12	3.5%	2	0.8%
嫁賣	Sell her off in marriage, mainly a husband selling his wife	60	17.3%	5	2.0%
套娶	Marriage by deception	9	2.6%	1	0.4%
婚姻	Breaking off an engagement and forced marriage	32	9.2%	5	2.0%
家庭糾紛	Family conflicts, mainly internal violence, and the conflict between parents and kids, wife and concubine, and so on.	37	10.7%	5	2.0%
賣娼, 嫖娼	Prostitution	38	11.0%	8	3.1%
其他	Others	10	2.9%	9	3.5%
	Total	347		254	

Source: BXA, "Women," 1803 - 1873.

Table 3.3 Lawsuits between Natal Family and Marital Family

	Type of Accusations		
	Abduction and runaway	61	27.6%
	Human (women) trafficking	1	0.5%
	Family conflicts (mainly internal violence) and the conflict between parents and children, wife and concubine, and so on	28	12.7%
	Prostitution	23	10.4%
	Others	5	2.3%
<b>Sexual Offenses</b>	Forcibly taking possession (of a woman)	6	2.7%
	Coerced sexual intercourse	5	2.3%
	Adultery	16	7.2%
	Noncoercive sexual proposition	2	0.9%
	Total	29	
<b>Marriage</b>	Break up marriage, usually parents making their daughter leave her husband and marry someone else	10	4.5%
	Selling a married woman off in marriage, mainly a husband selling his wife	38	17.2%
	(A man) marrying several women and keeping them as wives	4	1.8%
	Breaking off an engagement and forced marriage	22	10.0%
	Total	74	
	Total	221	

Source: BXA, "Women," 1803 - 1873.

Table 3.4 Relationships between Women and Main Plaintiffs

	Number	percentage
Women	38	6.2%
Marital family members and husbands*	393	63.7%
Natal family members	117	19.0%
Unclear or non-family	69	11.2%
	617	

Source: BXA, "Women," 1803 - 1873.

\* Here the family members also include female relatives, like a mother-in-law.

Meanwhile, there were exceptions to this allyship since the interests of the natal family and the women themselves did not always coincide; a few cases in this chapter, show us a glimpse of women in dispute with their natal families.

## The Definition of Abduction

In this chapter, the definition of abduction is based on the first plaintiff of a case; if the document stressed the terms abduction or runaway, especially the phrases in Table 3.4, then the case would be defined as “abduction.” This term, “*guai tao* 拐逃,” translates to “abduction and runaway.” This phrase was used in “pearl words” 24 times in the archives I have collected, literally meaning to “lure (women) to escape.” In general, it includes two types of accusations, (1) where abduction means that another person lured the woman, and (2) where runaway refers to when a woman escaped from home by herself, even though there was no sharp distinction between the two situations.

I do not translate this term into “human trafficking;” rather, in Table 3.2 “abduction and runaway” and “human trafficking” were listed separately. The first character of the word “*guai tao*,” “*guai*” (拐) in the modern Chinese language generally refers to “human trafficking,” but in the archives made in the nineteenth century, “abduction” can be distinguished from “human trafficking.” The following table displays some other terms that might stress one accusation. Litigants usually use *tou mai* (透賣, steal and sell) or *chuan mai* (串賣, conspire together to sell) in so-called human trafficking cases. In short, “trafficking” places more emphasis on the transactional element of selling, while “abduction” stresses the behavior and act of luring and abducting women.<sup>1</sup>

Table 3.5 Regularly Used Phrases Referring to Abduction and Runaway Cases

<i>diao guai</i>	刁拐	abducting slyly
<i>juan tao</i>	捲逃	absconding with property
<i>chuan guai</i>	串拐	colluding and abducting
<i>juan guai</i>	捲拐	abducting and absconding with property
<i>guai mai</i>	拐賣	abducting and selling

Source: BXA, “Women,” 1803 - 1873.

Furthermore, both “abduction” and “selling off in marriage” in this dissertation belong to “human trafficking” by the current definition. According to the United Nations, “human trafficking” shall mean “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of

---

<sup>1</sup> Another reason is, in today’s contexts, “human trafficking” usually is committed by crime syndicates, while in Ba County archives, the abduction more often was used to charge natal family members and adulterers.

abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.”<sup>2</sup> From today’s perspective, abduction and human trafficking in this dissertation could fit the above definition, by acts, means, or purpose. However, almost nobody showed self-consciousness of exploitation or being exploited in the context of the nineteenth-century legal archives. Although people sometimes emphasized acts of buying and selling women in their complaints, it did not mean that these behaviors were unjust, let alone that they considered it a violation of women’s personal rights. Instead, the evil of trafficking in women was based on the infringement of a man’s rightful ownership of a woman.<sup>3</sup>

Today trafficking of women remains a critical social issue in China.<sup>4</sup> As was also the case one hundred years ago, most slaves or sold people in China today seem not to take on agricultural or other economic production. In the 1970s, anthropologist James Watson studied chattel slaves in the elite lineages in Hong Kong’s New Territories, claiming that before 1949, China had “one of the largest and most comprehensive markets for the exchange of human beings in the world.”<sup>5</sup> More importantly, he argues that people who were sold as slaves to wealthy families were regarded as luxury items that constituted an economic burden on the household rather than an effective instrument of production.<sup>6</sup>

This opinion has been inherited and extended by Johanna S. Ransmeier, who argues that the practice of selling people was not for agricultural production, but “a response to a shortage of domestic help, decreasing numbers of women for the marriage market, and resulting anxieties about male offspring.”<sup>7</sup> Furthermore, Ransmeier concludes that “Chinese families were transactional families,” and except for childbirth, the process of

---

<sup>2</sup> “United Nations Convention against Transnational Organized Crime,” United Nations: Office on Drugs and Crime, accessed March 14, 2022, //www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html.

<sup>3</sup> Mio Kishimoto, “Selling Land, Selling People: The Concept of Ownership in Comparative Perspective,” *Japan Association for Middle East Studies (JAMES)* 19, no. 1 (2003): 3–26; Sommer, *Polyandry and Wife-Selling in Qing Dynasty China*, 193–96.

<sup>4</sup> “Xuzhou Chained Woman Incident,” in *Wikipedia*, May 17, 2022, [https://en.wikipedia.org/w/index.php?title=Xuzhou\\_chained\\_woman\\_incident&oldid=1088413079](https://en.wikipedia.org/w/index.php?title=Xuzhou_chained_woman_incident&oldid=1088413079).

<sup>5</sup> James L. Watson, “The Chinese Market in Slaves, Servants, and Heirs,” in *Asian and African Systems of Slavery*, ed. James L. Watson (Berkeley [etc.]: University of California Press, 1980), 223.

<sup>6</sup> James L. Watson, “Chattel Slavery in Chinese Peasant Society: A Comparative Analysis,” *Ethnology* 15, no. 4 (1976): 361–75.

<sup>7</sup> Ransmeier, *Sold People*, 12.

members joining a household always “involved the exchange of money (or goods).”<sup>8</sup> Sommer shares a similar opinion and casts doubt on the authenticity of a binary distinction between marriage and trafficking women from the perspective of the rural poor since both were financial transactions with women as the product.<sup>9</sup> This chapter builds upon this argument; the transactional nature of marriage determined how the wife was treated in her marital family, as valuable family property, and the lawsuits about marriage and abduction aimed at taking the women back to the husbands and marital families.

Sommer also concludes that selling women had become a widespread practice because the skewed sex ratio led to a shortage of wives and a pervasive market for women, together with overall downward mobility and a heavy financial burden on poor families, which made the practice of wife-sale widespread in China.<sup>10</sup> This chapter will demonstrate that the conjunction of the three factors led to the frequent conflicts over the ownership of women between the natal and marital families of the same woman.

The second character of *guai tao* – *tao* – is translated to “runaway” as Ma Zhao, who studied “runaway wives” in Beijing from 1937 to 1949, did in his works. The revolutionary history framework generally viewed “escaping women” as independent and emancipated.<sup>11</sup> While Ma argues that for women of the lower classes, the runaway was mostly “a survival tactic” or “an individual and spontaneous reaction to both opportunities and threats.”<sup>12</sup> These women used economic hardship to justify themselves, rather than revolutionary discourses.<sup>13</sup> Therefore, his study provides a new perspective on lower-class women’s transgressive behavior beyond the grand narrative of revolution. This chapter also studies people from the bottom of society but focuses on how ordinary people, both men and women, made use of abduction and running away in legal actions.

---

<sup>8</sup> Ransmeier, 2.

<sup>9</sup> Sommer, *Polyandry and Wife-Selling in Qing Dynasty China*, 376. Ransmeier revises and broadens the point, explaining that human trafficking and family extended by a monetary transaction between persons was not limited to people in poverty from the Qing to the Republican period. Ransmeier, *Sold People*, 2–18.

<sup>10</sup> Sommer, “Making Sex Work,” 32–34.

<sup>11</sup> Zheng Wang, *Women in the Chinese Enlightenment: Oral and Textual Histories* (Berkeley [etc.]: University of California Press, 1999), 332–42; Zhao Ma, *Runaway Wives, Urban Crimes, and Survival Tactics in Wartime Beijing, 1937–1949* (Cambridge, Ma.: Harvard University Asia Center, 2015), 319–20; Jiaqiong Lei, “Jiannan de Kangzheng: Wusi Hou Shinianjian Taohun Nüxing de Shengcun Kunjing 艰难的抗争：五四后十年间逃婚女性的生存困境,” *Social Science Front*, no. 12 (2011): 101–7.

<sup>12</sup> Ma, *Runaway Wives*, 12, 321.

<sup>13</sup> Ma, 17, 320.

Research by Lai Huimin provides general information on legal cases of female abduction during the Qing Dynasty. She used the central judicial archives to analyze the family structure and social status of male criminals in around 100 abduction cases. Huimin finds that although most cases happened in areas with high mobility, the single men who committed these crimes had already established some ties with the community, rather than being strangers to the women they lured and the family the women used to belong to. The cause for female desertion could be economic reasons such as family poverty, pulling themselves out of domestic violence, or pursuing emotional support. Lai believes that a woman's agency played an essential role in abduction cases; after all, the decision to leave her current husband's home was made by a woman when she was not compelled by violence or other force.

In a paper on women eloping in Qing China, Paolo Paderni noticed that at the trial, women “presented themselves as passive and dependent in order to mitigate the magistrate’s punishment.”<sup>14</sup> I agree with this observation: in the local archives, the complaints and other documents emphasized other people’s active abducting behaviors and obscured the actions and mentalities of the women. What distinguishes my research from Paderni’s paper is that I focus on the role of the natal and marital family in the presence of women, especially their strategies to a large degree determined the presence of women in local archives.

## Abduction in Southwest China

This dissertation analyzes the stories and languages in the legal complaints, mainly in terms of litigation strategy, and abduction, as an essential part of plots, also played the role of strategy. This section will demonstrate that abduction became a prevalent strategy in Ba County for two reasons. Firstly, it was considered a serious crime under Qing law and could be used as a “hook” to draw the magistrates’ attention. Secondly, human trafficking was widespread in Qing China, but particularly in the three southwestern provinces, Sichuan, Yunnan, and Guizhou; the fact functioned in facilitating this strategy.

The previous chapter mentioned that abduction was a serious crime according to the

---

<sup>14</sup> Though Paderni has put more emphasis on passivity, women could not deny that they had actively sought to implement a conscious strategy, such as elopement, to improve their condition, see Paola Paderni, “I Thought I Would Have Some Happy Days: Women Eloping In Eighteenth-Century China,” *Late Imperial China* 16, no. 1 (1995): 1–32.

Great Qing Code. Statute 275, *Kidnapping Persons or Kidnapping and Selling Persons* (略人略賣人), and its substatutes stipulated the penalties to be imposed for criminal conduct, and substatute 275.02 seemed to fit the situations described in the complaints:

凡誘拐婦人子女，或典賣或為妻妾子孫者，不分良人奴婢、已賣未賣，但誘取者，被誘之人若不知情，為首擬絞監候，為從杖一百流三千里，被誘之人不坐；如拐後被逼成姦，亦不坐。<sup>15</sup>

In all cases of the abduction of women, (other people's) sons or daughters, no matter whether (the victims) are from commoner status or debased, sold or not, and no matter whether selling (the victims) to others or being his wife or offspring, if the crime of abduction is committed, if the one who is abducted does not know of the situation, the principle offenders shall be strangled after the assizes, and accessories shall receive 100 blows of the heavy bamboo and life exile at a distance of 3,000 *li*, those being abducted shall not be punished; even if the woman is forced to commit illicit sex, she also shall not be punished.

The punishment for the criminals who “lured” or “kidnapped” women could be penal servitude (with strokes of beating with the heavy stick), exile, or the death penalty. Therefore, abduction cases should have been treated as “major cases”<sup>16</sup> rather than “trivial matters” by the magistrates. The procedural legislation was not fully implemented, and abduction cases in Ba County usually would not draw attention. However, the local archives show that the notion of “major cases” influenced the drafting of legal complaints, and the litigants made use of abduction as an accusation and a vital part of the litigation strategy to make sure that at least the magistrates would accept their complaints.

Human trafficking was widespread in Qing China, particularly in the three southwestern provinces, Sichuan, Yunnan, and Guizhou. In the Qing Code, under the statute *Kidnapping Persons or Kidnapping and Selling Persons*, there are three substatutes about human trafficking in the Guizhou province,<sup>17</sup> one substatute about regulating “Sichuan human traffickers” (川販),<sup>18</sup> and one substatute that is a provision to specify human trafficking in Guizhou, Yunnan, and Sichuan.<sup>19</sup> The question of why human trafficking was so extensive in southwest China could be answered from the perspective of sellers and buyers. Guizhou was the home of the people who were sold, and many of them were ethnic minorities, such as the Miao,<sup>20</sup> who were sold either due to poverty or because they

<sup>15</sup> DLCY, 730.

<sup>16</sup> For the definition of “major cases,” see Note 39 of Chapter 2.

<sup>17</sup> Including substatute 275.05, 275.08, 275.09, see DLCY, 730-732, and Appendix D.

<sup>18</sup> Substatute 275.06, see DLCY, 730, and Appendix D.

<sup>19</sup> Substatute 275.07, see DLCY, 730-31, and Appendix D.

<sup>20</sup> James Stuart Olson, *An Ethnohistorical Dictionary of China* (Westport, Conn.: Greenwood Press, 1998), 228-35.

became captives in the frequent wars.<sup>21</sup> Therefore, the price of persons in Guizhou was extremely low.<sup>22</sup> Sichuan was the inflow of the sold people, and “Sichuan human traffickers” had become an idiom in Qing.<sup>23</sup> The immediate reason for the emergence of “Sichuan traffickers” was that Sichuan was a lucrative market. As shown in the Introduction, due to the wars and disasters in the transition between the Ming and the Qing, Sichuan saw a massive demographic decline. In the seventeenth and early eighteenth century, Sichuan still needed people to fill the population gap, as Xue Yunsheng mentioned, “several statutes (under the statute “*Kidnapping Persons or Kidnapping and Selling Persons*”) contain the term “Sichuan traffickers,” at that time (during Qianlong reign and earlier time) the human trafficking was prevalent, this is because Sichuan was vast but thinly populated area.”<sup>24</sup> Thus for human trafficking the trade route between Guizhou and Sichuan was created, and Chongqing became a major transit point in this path.

In the nineteenth century, the historical records show that the route of human trafficking between Guizhou and Sichuan still existed.<sup>25</sup> Chongqing no longer had a population vacuum; still, as an important trading center, the city attracted a large mobile population, especially single men, who would gather there.<sup>26</sup> According to the research of

---

<sup>21</sup> The reason why Miao and other minority people were sold was highly complicated, see Zhongkui Zhang, “Lun Qingdai qianqi Guizhou miaojiang renkou fanmai lujinbuzhi de yuanyin 论清代前期贵州苗疆人口贩卖屡禁不止的原因 [On the Reasons of Repeated Human Trafficking of Miao Frontier in Guizhou of the Early-Qing Dynasty],” *Journal of South-Central University for Nationalities (Humanities and Social Sciences)* 29, no. 02 (2009): 72–76; Yadong Yang, “Qingdai qianqi yungui diqu shehui wenti yanjiu 清代前期云贵地区社会问题研究 [Research on Social Issues in Yunnan and Guizhou Area in the Early Period of Qing Dynasty ——With the Perspective of Social Control]” (PhD diss., Yunnan University, 2016).

<sup>22</sup> *Qingdai Qianqi Miaomin Qiyi Dang'an Shiliao Huibian Shang*, 清代前期苗民起义档案史料汇编 上 [Compendium of the Historical Sources on Miao Rebellion in the Early Qing Part One] (Beijing: Guangming ribao chubanshe, 1987), 430.

<sup>23</sup> For example, the statute 275.06, see Appendix D. In *Qing shilu*, the term was around 10 times, for instance, “漢籍電子文獻資料庫,” accessed March 1, 2023, <https://hanchi-ihp-sinica-edu-tw.ezproxy.leidenuniv.nl/ihpc/hanji?@130^1500177931^807^^^702110010007005400010014^3@@448462405#top>.

<sup>24</sup> DLCY, 731.

<sup>25</sup> For example, Tao Tingjie, a Censor, had mentioned that “the human traffickers from different provinces come to Guizhou to buy women and earn money, which is very abhorrent,” see *Qing shilu* 清實錄 (Veritable records of the Qing dynasty), Daoguang Reign, 887-1, 887-2, in “明實錄、朝鮮王朝實錄、清實錄資料庫合作建置計畫,” accessed November 12, 2022, [https://hanchi-ihp-sinica-edu-tw.ezproxy.leidenuniv.nl/mqlc/hanjishilu?12:1277347639:10:/raid/ihp\\_ebook2/hanji/ttsweb.ini:::@SPAWN#top](https://hanchi-ihp-sinica-edu-tw.ezproxy.leidenuniv.nl/mqlc/hanjishilu?12:1277347639:10:/raid/ihp_ebook2/hanji/ttsweb.ini:::@SPAWN#top).

<sup>26</sup> “Single men” does not mean they were not married, but they lived alone without families. For example, Yan Ruyi, in his book mentioned that every month there might be ten thousand boat trackers gathering in Chongqing, see

Zhou Lin, many women were sold to Chongqing as prostitutes.<sup>27</sup> The abduction had become a quotidian experience with a long history in Chongqing. Although not all abduction accusations in the archival documents were true, the choices of accusations constituted “representational reality”: not all the charges were true, but the social background could convince the magistrates, the litigants, and the litigation masters that abduction was a proper excuse for litigation. In a word, the choice of accusation was a result of the common sense in the Sichuan region and the impact of legal regulations.

## Attacks From the Marital Family

It is difficult to discern the specific provisions that impacted the cases discussed in this chapter. However, it does exemplify how family relations controlled women. According to the regulations of the *Great Qing Code*, women’s lives should always be under the control of the natal and marital families; and in practice, women were indeed contested between these two families.

This part will examine the reaction the husbands (or other members of the marital family) would have when their wives disappeared, and analyze the reason why they directed attacks against their relatives by marriage. When a married woman suddenly disappeared and her husband or parents-in-law did not have any clues about her disappearance, one of their reactions was to report the event to the court. Among 221 cases that happened between marital and natal families, 138 were brought to the court by the members of the marital family. This is because of the patrilocal system in China, where women, after the wedding, were generally obligated to move into the home of their husbands, and the husbands and in-laws could immediately realize that the wives were missing. Yet, it was difficult for a woman’s parents and other natal family members to find out if there was anything wrong with her marriage if a married daughter did not visit for her parents a long time.

---

Ruyi Yan, “Sansheng bianfang beilan 三省邊防備覽 [Guide to the defense of the three-province border],” in *Xu xiu Si ku quan shu shibu* 續修四庫全書史部, *Xu xiu Si ku quan* 續修四庫全書 732 (Shanghai: Shanghai guji chubanshe, 2002), 218.

<sup>27</sup> 澎湃私家历史, “消失的‘茶妹’与沉默的盛世: 清代重庆一桩拐卖妇人案件,” Weixin Official Accounts Platform, accessed December 2, 2022, [https://mp.weixin.qq.com/s?src=11&timestamp=1669978389&ver=4202&signature=DaYYdlmzPda2cQxx0x-JyrBdwRdcLxAv0EQAxCoFxmL4BmiuvdBqEvYnLpHG\\*J7y86W6Ka0TGowVenHRSRW0taErDe9f7KgPnx4D0jBjcL5RSLw6UEBmtfpWZzfG5vk4&new=1](https://mp.weixin.qq.com/s?src=11&timestamp=1669978389&ver=4202&signature=DaYYdlmzPda2cQxx0x-JyrBdwRdcLxAv0EQAxCoFxmL4BmiuvdBqEvYnLpHG*J7y86W6Ka0TGowVenHRSRW0taErDe9f7KgPnx4D0jBjcL5RSLw6UEBmtfpWZzfG5vk4&new=1).

On the one hand, what makes this course of action interesting is the subtle expressions husbands or fathers-in-law used to depict what happened. In 1808, Zhu Weiyuan found that the child bride of his son had vanished from sight. In the plaint he sent to the court, Weiyuan stated: “I have been searching her for days to find out whether she was abducted by others. .... please track down the abductor and find the child bride of my son.”<sup>28</sup> The plaintiffs did not know exactly what happened, but Weiyuan assumed that it was somebody else who lured his daughter-in-law away. In 15 cases where women suddenly disappeared without evidence as to their whereabouts, seven held a similar statement. Texts in many case samples (cited in the following part) implied the same fact: the language in the plaints did not leave many traces of women’s voices and much space for women to act, rather the plaints usually portrayed the women as an object that others were competing for. It was, to a large extent, a denial of female agency and self-determination; due to a lack of autonomy, women were not supposed to and were not able to determine an action like escaping.

On the other hand, husbands were inclined to blame the parents and other members of the natal family for their missing wives. If there was no clear suspect, returning to her natal family (*hui niang jia* 回娘家) would be the most straightforward explanation accepted by the marital family for why the wives ran away. It was generally accepted that married women could visit their parental families from time to time, but there were not usually definitive guidelines on how often they could go and how long they could stay.<sup>29</sup> In Ba County, I found cases where “*hui niang jia*” resulted in legal conflicts. A man named Li Qingyun accused his wife (and her brother) in 1858 of running away with clothing and jewelry. When a runner found Qingyun’s wife staying with her sister six weeks later, Qingyun had to file another plaint to withdraw the charge and clarify that his wife had just been visiting her sister.<sup>30</sup> The plaint mentioned neither how long she stayed with her natal family members nor whether it had happened before, and the plaints did not provide an explanation for why he chose to resort to the court for such a trivial matter and charged the brother of his wife.

Philip Huang has noticed that a woman visiting and staying with her parents or

---

<sup>28</sup> Q6-05-04282.

<sup>29</sup> Ellen R. Judd, “Niangjia: Chinese Women and Their Natal Families,” *The Journal of Asian Studies* 48, no. 3 (1989): 525–44.

<sup>30</sup> Q6-20-05426.

siblings could lead to litigation. He finds 13 cases represented as involving “runaway” wives out of 32 marriage cases in the Baodi archives, “the disgruntled peasant wife’s only real recourse was to return to her natal family. . . . .wives who had returned to their natal home for extended stays but were charged by their husbands with having run away to make their actions appear criminal to the magistrate.”<sup>31</sup> Huang thinks the cause of a “runaway” accusation is that a woman stayed with her natal family for a long time without her husband’s permission.

However, the underlying causes are more complex than Huang’s conclusion. Husbands and in-laws usually saw the natal family as a great threat, and this sense of being threatened, according to complaints in the archives, comes from at least three aspects. First, the natal family was the most convenient shelter that a runaway wife could find, especially for women from the underclass, who would not live far away from their parents after marriage. In the research of Chinese historian Guo Songyi, the lower the social class people in Qing China were from, the smaller the geographical circle of marriage would be; most families contracted marriages within the same county, or even within the same township.<sup>32</sup> This close geographical proximity constructed the necessary conditions for natal families sheltering married women.

Second, if a married woman suddenly died or disappeared, her natal family had the right to know what happened to their daughter, and natal family members may seek legal recourse under the pretext of their missing daughters.<sup>33</sup> This is the apparent reason for the worries that the husbands and parents-in-law had. There is a legal complaint filed in 1858 by Yi Yonglu:

為嫌貧私逃，稟懇存案事情。蚊家貧下力生活，娶妻王氏，不守婦道。本月初二，乘蚊未家，否聽何峻，私捲衣服、首飾、錢文潛逃。..... 若不稟存作主，恐伊娘家尋蚊滋禍，迫不得已，粘呈捲單。懇稟仁天賞准存案，俾後查獲王氏，稟究有憑，伏乞。

For (my wife) escaping from home without permission, report and beseech (the court) to reserve the case. My family is poor, and I make a living by toiling. I have married Wang Shi, who does not observe female virtue. On the second day of the current month, I am not at home (I do not know) whether she was instigated by someone. She absconded with clothing, jewels, and money. [...] I

<sup>31</sup> Huang, *Civil Justice in China*, 29.

<sup>32</sup> Songyi Guo, *Lunli yu shenghuo: Qingdai de bunyin guanxi* 伦理与生活：清代的婚姻关系 [Morality and Life: Marriage in the Qing Dynasty] (Beijing: The Commercial Press, 2000), 142–79. For two-thirds of women, their natal and marital family were located in the same township, see Mao, “Qingdai xiaceng funü yu niangjia de guanxi,” 14.

<sup>33</sup> Sommer, *Polyandry and Wife-Selling in Qing Dynasty China*, 437; Arthur P. Wolf and Chieh-Shang Huang, *Marriage and Adoption in China, 1845-1945* (Stanford, Calif.: Stanford University Press, 1980), 76–77.

report (to the court) and reserve the case for fear that *her natal family will stir up trouble* for me. I have no choice but to report and beseech with the list of lost property. I implore the benevolent heaven to approve to reserve this case in order to have grounds for investigating Wang Shi when tracking her down in the future.<sup>34</sup>

Above is a typical legal complaint to instigate a runaway case. Though no evidence showed that Wang Shi was lured away by others, the husband still cited this situation as a possibility. Moreover, most complaints would start with “to prepare for a charge,” and the name of the defendants usually would be titled as “being charged” (被告) at the end of the complaint, as mentioned in Chapter Two. But this complaint starts with “to prepare for reservation” (*ju cun* 具存), and in this complaint, the woman was identified as “being reserved” (被存). In short, the husband did not intend to charge and punish his runaway wife but to avoid potential conflicts with her natal family. There is no single word in this complaint mentioning what the natal family did or if they had any connection with her escape, but out of the fear of future trouble, her husband resorted to the court for security.<sup>35</sup>

If the daughter-in-law had close contact with her natal family, it would make the husbands and in-laws in greater distress. Li Shanglun handed in a complaint in 1863 with the pearl words: “My rebellious daughter-in-law absconded and escaped.” However, the first name he listed as the defendant was Tong Tangguan, the father of his daughter-in-law (Li Tong Shi). More specifically, Tong Tangguan and her daughter did not get “charged.” Instead, Shanglun asked to “reserve” his accusation because he was afraid that Tangguan “would ask me for the woman and stir up trouble for me, it is hard for me to avoid it. I implore (magistrate) to approve to reserve this case to have grounds for (solving) future troubles.”<sup>36</sup> Similar to the example above, Shanglun did not show any credible evidence for Tangguan being involved in the case of Li Tong Shi. He believed the natal family must play a key role, only because Tangguan took the young girl back home regularly and “there was something immoral, and bad rumors spread everywhere.” However, no details explained what exactly happened when she stayed with her parents.

The last, and most important reason why the natal family was regarded as a threat by the marital family was the potential conflicts over the ownership of married women

---

<sup>34</sup> Q6-20-05396.

<sup>35</sup> The logic should be that if in the future the natal family of his wife make trouble, he could use the “preserved” complaint as the evidence for that he had tried best to look for his wife.

<sup>36</sup> Q6-26-07184.

between the two sides. Research by Ransmeier and Sommer supplies the theoretical basis for our understanding of the conflicts between affinal relatives. Ransmeier's book "exposes the position of women in the Qing as movable property, as household assets that could be realized through sale."<sup>37</sup> In other words, whoever took possession of women had a portion of portable property. Sommer points out how women became moveable property in the Qing era, that the three forces: severe gender imbalance, a pervasive market for women, and widespread poverty among farmers converged to result in polyandry and wife-selling. Furthermore, Sommer has concluded that people at the bottom of Qing society followed a marriage pattern, "brideprice-heavy," which means that "the brideprice (*caili* or *caili qian* 彩禮) paid by the groom's family far exceeded any dowry, which was often trivial in value (if any was given at all)."<sup>38</sup> Thus, when a daughter or a widow got married, those who arranged the marriage for her (her natal or marital family members) would receive money rather than spend it.

These premises can help to analyze the motivation for the two parties (the natal and marital family). For a family from the lower strata, finding a bride had already cost them a great deal of money. It would be devastating for a man and his family to lose a wife. Not only would they lose the money they had paid, but they would also lose the possibility to capitalize on the woman in the future. In addition, if she had not given birth to a son, the husband and the family presumably needed to buy another bride, which would increase the burden on the family's finances. Therefore, the marital family of a woman must ensure that the woman stays in their household under their own dominance. Their suspicions and hostility against the natal family, built on a solid economic foundation, made it so that they could not bear the risk that their affinal relatives would claim the women back.<sup>39</sup>

At the same time, the natal family could also make money by marrying the daughter to someone else if they could find a chance to take her back home. Another part of the reason why the natal family took part in the lawsuits about their daughters or sisters was

---

<sup>37</sup> Ransmeier, *Sold People*, 22.

<sup>38</sup> Sommer, *Polyandry and Wife-Selling in Qing Dynasty China*, 8–9. Also see Hill Gates, *China's Motor: A Thousand Years of Petty Capitalism* (Cornell University Press, 1996), 121–47. While the elite and rich families followed "dowry-heavy" and de facto polygyny marriages, see Ebrey, *The Inner Quarters*, 99–11–3.

<sup>39</sup> Indirect evidence comes from Li Liying, who finds that in 80% of homicides, subsequent to adultery, the adulteress' husbands were killed, and much fewer adulteresses were murdered by either their husbands or relatives. This is because the husbands could sell the wives for money, as Li shows, they did not have to take the lives of the wives. Liying Li, "‘They Are Expendable’ Adultery and Homicide in Late Imperial China," *International Journal of Comparative and Applied Criminal Justice* 23, no. 2 (September 1, 1999): 267–76.

an emotional concern to protect the married women. In the cases discussed later, fathers of women would constantly claim that their daughters had experienced domestic violence.

## Weapons of the Natal family

There were 80 cases against the marital family of a woman initiated by her natal family.<sup>40</sup> The purpose of the natal family – to bring their daughter home – can be reflected in the accusations they chose in litigation. The natal family, in 19 cases, had alleged that the in-laws and the husband were trying to force their married daughters or sisters into prostitution, or had sold/tried to sell the women into prostitute households.<sup>41</sup> Prostitutes have been the subject of most scholarly research in Chinese women's history.<sup>42</sup> This section will, from a unique angle, emphasize the function of “force into prostitution” as a strategy in local legal practice.

The ultimate purpose of the natal family was a divorce. Their aim led to their choice of prostitution accusation. In the nineteenth century, being a prostitute was forbidden by the *Great Qing Code*. Although there is no clear article about “a husband forced his wife into prostitution,” the closest regulation is “*Facilitating and Tolerating the Wife's or Concubine's Fornication*.” (zongrong qiqie fanjian 縱容妻妾犯姦) According to the article, if a woman were forced by her husband or parents-in-law to engage in fornication with another, the wife should not be punished; more importantly, the marriage should be terminated, and the woman should be “returned to her clan.”<sup>43</sup> The legal result of divorce constituted the vital reason why a woman's natal family chose to initiate “prostitution” cases.<sup>44</sup>

---

<sup>40</sup> As shown in Table 3.1, there are 221 cases happened between natal and marital family, in which three cases that it was not clear which parties brought the case to court.

<sup>41</sup> I could only find one case in which the marital family clearly charged the natal family for prostitution. Another common type of dispute caused by prostitutes in Ba County was the dispute over the cost of prostitution and jealousy, see Zhang, *Qingdai Baxian bunyin dang'an yanjiu*, 626–700.

<sup>42</sup> For a short overview of Chinese prostitution and a list of important works, see Weikun Cheng, *City of Working Women: Life, Space, and Social Control in Early Twentieth-Century Beijing* (Berkeley [etc.]: Institute of East Asian Studies, University of California Press, 2011), 3.

<sup>43</sup> Jones, *The Great Qing Code*, 348.

<sup>44</sup> As a strategy, another function of forced prostitution might be to stain the morals of the husband and in-laws. Sommer has concluded that before 1723, for the legally debased or mean (*jian*) groups, sex work constituted an essential stigma that defined their social and legal status. The aim of emancipating the debased groups in 1723 was to extend commoner standards of sexual morality and criminal liability to all people. Hence, the prostitution charge also means that the husbands and in-laws had serious moral stigma, see Sommer, *Sex, Law, and Society in Late Imperial China*, 210–11, 260–61.

In a plaint of 1838, the daughter of Zheng Yucai, Zheng Shi married Xiao Yongshun after she became a widow, however:

殊永順不守法紀，欺蚊年邁耳聾。本月初八胆敢申誘周長興同來伊家宿娼，被永順逼蚊女為娼。蚊女不從，反遭永順執木棒打傷蚊女鄭氏，兩膀兩肋青紫可驗。

Yongshun did not observe laws and discipline, and took advantage of my old age and deafness. On the eighth day of this month, Yongshun dared to conspire with Zhou Changxing to come to his house and sleep with a prostitute. Yongshun tried to force my daughter into prostitution. When my daughter refused, Yongshun beat her with a wooden stick, injuring her. Her arms and ribs are bruised, and the injuries can be verified.<sup>45</sup>

Yongshun, on the contrary, argued that Zheng Shi had committed adultery with another man. The coroner did not mention any injuries to Zheng Shi's arms and ribs, but a bruise on her head. No matter what really happened, Yongshun admitted in the testimony that he used to force his wife into prostitution. Yucai successfully used the strategy; the magistrate finally gave a divorce judgment, allowing Zheng Shi to return with Yucai to her natal family.<sup>46</sup>

In some cases, though the charges of forcing women into prostitution did not get full admission, or even were denied, the natal family still achieved their purpose. In 1853, Peng Shuangfa stated in his plaint that his daughter Zhaogu married Ning Xuegui. But, the mother of Xuegui, Ning Chen Shi, smoked opium and "forced my daughter into prostitution. My daughter resisted, so she was beaten several times." Just like Zheng Shi, Zhaogu's arms and ribs were injured. The response of Xuegui was "classic," saying that the natal family was trying to abduct Zhaogu who went back to her parents very often. All their legal plaints were submitted in the summer, and the dispute was settled privately in autumn, and the two parties agreed on a divorce. The court hearing did not start until winter, and the magistrate confirmed the result of divorce, though all people's testimony included a similar story, in which Zhaogu disobeyed and clashed with her mother-in-law, and Shuangfa falsely accused his affinal relatives.<sup>47</sup> In this case, even though the story of prostitution was rejected, the natal family successfully claimed the daughter back.

No strategy could always get the expected result. In 1853, a widow, Huang Wang Shi,

---

<sup>45</sup> Q6-20-05025.

<sup>46</sup> Q6-11-09213.

<sup>47</sup> Q6-20-05025.

likewise suggested that the in-laws forced her daughter into prostitution and beat her unmercifully many times. Her son-in-law, Shen Yisheng, argued that Huang Wang Shi “had no sense of shame, despised of poverty, so she repudiated the marriage.” Eventually, Wang Shi and her son admitted that they had lodged a false accusation, and Wang Shi’s daughter was still Yisheng’s wife.<sup>48</sup>

Sometimes, “force into prostitution” was used by women themselves to state that their husbands or other members of the marital family forced them into prostitution. In 1838, Chen Song Shi claimed that her husband, Chen Yongshun was ill, and could not find work to support the family, so he forced his wife into prostitution. Song Shi resisted, but the husband still found a customer, Hu Shishun, for her. The woman then had a physical encounter with the customer and cut the man’s hair in the fighting. Song Shi went to court, fearing that Shishun would file suit first. In the final judgment, the woman and her husband were sentenced to be slapped on the face, and Song Shi was told that she should follow her husband back home.<sup>49</sup> In another similar case in 1843, Feng Xie Shi stated that she was forced more than once by her husband into prostitution and had physical conflicts with a customer her husband had introduced. The magistrate gave a rare decision, banishing the couple from Ba County.<sup>50</sup> Compared with the lawsuits initiated by natal family members, it seems that the chances of getting a divorce were lower in the cases filed by women themselves. In the cases filed by natal family members, most (20 out of 32) cases ended with divorce, while in the cases initiated by women, only one case clearly mentioned that the woman could return to her natal family. I could not give a concrete explanation for this, but we can see that if a woman entered the court by herself, there was a chance that she did not have a natal family to rely on, so the magistrate would not think it was impossible to let her return to her parental home.

Those women who resisted being prostitutes and resorted to the court often proposed to leave their husbands. While the women who obeyed the command of their husbands to be prostitutes could also go to court for financial compensation.<sup>51</sup> In such cases, the magistrates probably would not blame anyone for prostitution. In 1838, Wang Xiong Shi accused her husband, Wang Cifu:

---

<sup>48</sup> Q6-20-05018.

<sup>49</sup> Q6-11-09242.

<sup>50</sup> Q6-11-09422. The judgement to banish somebody only appeared twice in my research of archival documents, by the same magistrate (Ye Zhaocai 葉朝采) in the same year (1843), see Q6-11-09422 and Q6-11-09418.

<sup>51</sup> Some prostitutes could even go to the court to ask their customers to pay, see Q6-20-05397

氏父故母醮，賜福不務正業，赤貧無聊，在渝欠眾債無償，將氏潛搬綦邑，逼氏為娼婦，無奈勉從。

My father is dead and my mother has remarried. Cifu does not live by honest labor. He is utterly poor and heavily in debt which he could not repay. He secretly relocated me to Qijiang and forced me into prostitution. I had no choice but to agree.<sup>52</sup>

She also claimed that Cifu sold her to another man as a concubine, and continued blackmailing the woman and her second husband. In contrast, Cifu claimed that Wang Xiong Shi was abducted. The case was closed by mediation. Wang Xiong Shi aimed to stop the blackmail, however, after mediation, her second husband gave her up, and she had to live with her first husband. Wang Xiong Shi did not have a natal family anymore, and her second husband got rid of her because of the potential trouble she might bring. The magistrate accepted the result and did not give any punishment.

Almost all women in their complaints approached chastity in the issue of prostitution with the same attitude. The pattern was that they first affirmed that they had made the necessary resistance, but the poverty of their family and the pressure of their husbands left them no choice. As Theiss argued, women could interpret the notion of “chastity” for their own interests. Here, women argued for the circumstances under which chastity might be abandoned. The magistrates, in general, took a tacit position, in which they might reprimand the prostitutes, but seldom punished them and sometimes even helped them to find a way out. For example, a widow, Li Chen Shi, charged her father-in-law. When her husband was alive, he did not have a job and then forced his wife into prostitution. After his death, Li Chen Shi was getting ill, but her father-in-law still asked her to give him money. After she refused, he even tried to rape her. Instead of making value judgments and punishing the woman as a prostitute, the magistrate asked the runners, together with her father-in-law, to find her a new husband. It took them two weeks to find someone willing to marry her.<sup>53</sup>

For a woman who was never involved in sex work, forced prostitution was a strategy she could use to get rid of their greedy and unemployed husbands. Those who were already prostitutes could also find a way to reduce the stigma attached to their occupation that nineteenth-century China might have set off.

We cannot speculate how many allegations of “prostitution” were true; yet, as shown before, the emergence of an accusation and the construction of a plot usually worked to

---

<sup>52</sup> Q6-11-09231.

<sup>53</sup> Q6-11-09188.

tell a convincing story in the justice system. Fitting in with people's perceptions of society and family was the basic and critical foundation of the narration. The recurrence of forced prostitution denotes that it might be an effort that a family often made to alleviate poverty, a part of representational reality. More significantly, it is one circumstance of coerced divorce endorsed by the codified laws, allowing the natal family to reclaim their daughter from her husband or a woman to leave her husband.

## Vague Boundary Between Marriage and Abduction

Table 3.3 tells us that the most frequent lawsuits that occurred between the marital family and the natal families were abduction and marriage. The following section will show that it is worth considering whether there is a binary distinction between abduction and marriage in the archival cases. Analysis of the common factors used in both marriage and abduction can show the consistency between these two kinds of accusations. The highly similar storylines in the complaints submitted by the husbands to charge the natal family about marital disputes and abduction suggest that the core of all the cases was the same: who had the ownership and control over women was the focal point of the lawsuits.

*"Despise the Poor"*

"Despise the poor" and "break up the marriage" are widely used by the marital family in their complaints, which from the perspective of women's in-laws, constituted the critical factors to show the motivation of the natal family and the worries and concerns of the marital family. The following is a case that mingled with such common factors. This is a complaint from a marital dispute. A thirty-four-year-old man, Liao Bingnan, again sued his father-in-law, Luo Hengtai. The pearl words Bingnan used were "Luring (my wife) into (new) marriage and no trace (of her)" (誘嫁無踪):

[妻子廖羅氏]被妻父羅亨泰乾戚曹陳氏，屢接妻妾，引誘不端。經蚊教誡，不許往來。孰知亨泰嫌貧，居心拆嫁。今二月，亨泰生期接羅氏赴席，淫惡曹老三唆使不歸。蚊疊往問，亨泰藏匿羅氏不現。密問推艇丁洪順，吐說亨泰陳氏已將羅氏拆嫁。

Cao Chen Shi, the sworn relative of Luo Hengtai, who is the father of my wife, had repeatedly picked up my wife at her house and seduced her to improper conduct. I reprimanded them and forbade them to interact with each other. However, Hengtai despised my poverty and harbored evil intentions to break up my marriage. In the second month of this year, when my wife went to take part in Hengtai's birthday dinner, the villain Cao Laosan urged my wife not to return home. I have asked (my parents-in-law about my wife) more than once, but Hengtai hid Luo Shi, and I could not find her. I had secretly questioned boatman Ding Hongshun, who told me that Hengtai

and Cao Chenshi had married Luo Shi to another man.<sup>54</sup>

The lawsuit initiated by Bingnan was a marital dispute. Bingnan believed that Hengtai intended to break up the marriage, so Bingnan's wife, Liao Luo Shi went back home to celebrate Hengtai's birthday, and Hengtai and Cao Chen Shi kept Luo Shi with her parents. In Bingnan's opinion, this is a marital dispute with the storyline that the couple were forced to separate, and the natal family married the wife to another man, so the husband sued the natal family in court when he found his wife missing.

The following "marriage" case is similar and includes more details. Zheng Yongtao, a twenty-one-*sui*, sued his father-in-law, Liu Hanwu, in 1808 because Wuhan "broke up (my marriage) and sold (my wife) when I was not at home" (乘外拆賣):

蚁幼抱劉漢武之女劉氏為婚，……夫婦和睦無異。殊劉漢武夫婦窺蚁近年貨賣不遂，即起嫌賤之心，屢次刁擺蚁妻劉氏與蚁不睦。動輒凌辱扭毆，蚁尚舍忍。於去冬月，蚁往江北遠貿，被岳漢武即將妻歸寧，隨將衣飾捲去，遭地棍杜之賢主擺，劉漢武串痞李正倫為媒，將蚁妻劉氏夥賣與豪惡杜老大為妻，獲銀分肥。腊月廿八，蚁歸始知往理，豈惡等欺蚁目不識丁，預寫字據一紙，逼蚁畫押。

I married Liu Hanwu's daughter when I was young [...] We lived in harmony. However, the Liu Hanwu couple felt that my business had not gone well during the past years, so they entertained thoughts of despising and loathe me and cunningly influenced my wife to be at odds with me several times. My wife thus insulted and grappled with me. I put up with (all unruly behaviors). In the eleventh month of last year, I went to Jiangbei for business, and my father-in-law asked my wife to abscond with clothes and ornaments and visit her parents. Then the local thug Du Zhixian was in charge (of the evil event), and Liu Hanwu colluded with ruffian Li Zhenglun as the matchmaker to marry my wife to Du Laoda. They earned money and shared the booty. On the twenty-eighth day of the twelfth month, I came back home and went to argue with them. However, they took advantage of the fact that I am illiterate and prepared a contract and forced me to sign it.<sup>55</sup>

This plaint contains all the familiar elements: a husband away from home and his impoverished family, a greedy natal family, and the missing wife. Liu Hanwu not only took her daughter back home, but also had a whole set of arrangements for a new marriage, including matchmakers and a marriage contract, or a document to confirm the termination of the current marriage. From this perspective, the case is a typical marital dispute about the legality and validity of a marriage. Therefore, the case could be defined as a marital conflict, with the same plot and language used as the prior-mentioned abduction and marriage cases.

---

<sup>54</sup> Q6-20-05412.

<sup>55</sup> Q6-05-04284.

The following case discussed here refers to abduction and involves the natal family having lured their married daughter back to the family and hiding the woman in her parental home. Xie Zhengrong, a twenty-four-*sui* man, sued his father-in-law, He Ershun, and Ershun's relatives, He Zailin and Hu Wu, for “slyly stealing (my stuff) and firmly hiding my wife”(刁透堅匿):

不料二順嫌蚊家貧，支伊兄何在林，並妻兄胡五於九年七月初六來家，乘蚊外貿未歸，胆唆蚊妻何氏私將蚊衣飾等物透，逃二順家藏匿。

Ershun despised my poor family, and asked his elder brother, He Zailin, and the brother of his wife, Hu Wu, to influence my wife, He Shi, to abscond with clothes and adornment when I was doing business elsewhere.<sup>56</sup>

The model of this complaint was still that the parents of the wife resented the poor husband, so the natal family members decided to lure the wife to come back to her natal family when the husband was not at home. The mere difference between this abduction case and the previous marital disputes lies in whether the complaints mentioned “marriage.” Nevertheless, the storyline of each case expresses a husband's anxiety about his ownership and control over his wife, and no matter whether the natal family had arranged the remarriage for the woman, the claim of the husband rested on getting his wife back. This concern probably stemmed from the woman's role as the portable property of the family, and the anxiety over the missing wife followed the same logic of the loss of land.<sup>57</sup>

Many of the complaints look alike. The drafting of complaints works similar to assembling a machine; those who drafted the complaints extracted specific terms from common phenomena and used these parts to assemble a legal paper. “Despising poverty” and domestic violence (discussed below) were regularly used to describe the motivation of their litigation in the conflicts between natal and marital families. “Abduction” or “marriage” merely functioned as an outer packing.

The practice of trafficking women was consistent with the preconceived notion that women were frequently used in exchange for survival resources, so this kind of representation could be sustained and eventually become part of the litigation strategy. It should be noted here that the extensively used expression of “despising poverty” does not have to mean that most conflicts between affinal relatives resulted from economic hardship in reality; rather, in contemporary social perceptions, poverty or the resentment against

---

<sup>56</sup> Q6-27-08182.

<sup>57</sup> Ransmeier, *Sold People*, 24–61; Sommer, *Polyandry and Wife-Selling in Qing Dynasty China*, 189–96.

poverty was the most important root for the battle over women. The phrasings “despise the poor” and “break up the marriage” were employed to create a context that contemporary people were familiar with and tended to believe. These factors were tallied with the experiences of ordinary people and the knowledge of magistrates: it is normal for a married woman to be abducted since there was a history of human trafficking in the Sichuan area.

All complaints in this part stressed that silver was used as a primary motive for breaking off the marriage and creating conflicts between the affinal relatives. Husbands or marital families accused the natal family of “despising the poverty” and “abducting” very frequently. The marital family and natal family mirrored each other to a certain extent. The resentment of poverty, in effect, preceded the transaction; complaints against the domestic financial situation might trigger the trade concerning the woman, or forced prostitution as explained before. Both marital and natal families took this logic for granted. The practice of trafficking in women and the diverse forms of the transaction, such as “getting a husband to support a husband” had become a widely recognized fact. Simply because it was consistent with the preconceived notion that women frequently were used in exchange for survival resources, few people would question the veracity of the description, and this kind of representation could be sustained and eventually become part of the litigation strategy. In summary, the expression of “despising poverty” was a part of “representational reality,” which means that the conflicts between affinal relatives resulting from economic hardship were common. This phenomenon was broadly accepted and fixed as part of the litigation strategy.

*“Loathe and Hit”*

Rather than “despising the poverty,” the natal family more frequently chose to blame the husband for domestic violence. As mentioned above, “*xian jian*” (嫌賤, to loathe and despise) is a term suggesting that the husbands or parents-in-law had been abusing married women. There are other phrases more directly referring to violence, “*xian ou*” or “*xian ke*” (嫌毆 or 嫌尅, to loathe and hit).

Mao Liping has pointed out that in cases of “abduction,” the in-laws always attributed the cause to “despising the poverty,” while the natal family emphasized that husbands and in-laws abused the daughters.<sup>58</sup> It is true that young wives were usually perceived to be the

---

<sup>58</sup> Mao, “Qingdai xiaceng funü yu niangjia de guanxi,” 36.

victims of domestic violence, but domestic violence, as a weapon to gain sympathy, was widely deployed by litigants and was not limited to the natal family members.

The following case is an example of how the parties use violent factors in their legal actions.

In 1837, Zhang Wenlun's eldest son, Zhang Guangxi, married He Boyuan's daughter, He Gu, but conflict occurred between the parental families of the young couple during the second year of the marriage. Wenlun reported that his daughter-in-law had escaped more than once:

不料何姑幼失教訓，自適蚊門，性最刁傲，與子不睦，藉端鬧釀，已非一次。蚊屢向伯元說知，縱女不戒，以致何姑愈為得勢。今正十八，私捲衣物逃亡伯元家。蚊憑團理說，伯元雖將何姑送歸，不安於室。蚊夫婦只得隱忍未較，殊何姑不改前非，本月初八又捲摺銀飾、衣物私逃走。蚊妻李氏趕至路途理阻，何姑胆敢推蚊妻，跌地挺傷腰脊。

To my surprise, He Gu did not get a proper education when she was young. When she came into my home, she behaved meanly and arrogantly and did not live in harmony with my son. She seized opportunities to make trouble more than once, I have told Boyuan repeatedly, but he pampered her daughter so that He Gu was more unbridled. On the eighteenth day of the first month, she absconded with clothes and adornment to Boyuan's home. I resorted to community leaders to reason with Boyuan. Although he returned her to my family, He Gu still did not behave herself in the family. My wife and I chose to forbear. However, she did not rectify her errors. On the eighth day of this month, she absconded with silver jewelry. My wife, Zhang Li Shi, hurried to stop her, but she dared to shove her to the ground, and my wife hurt her waist and back.<sup>59</sup>

According to the context, a daughter-in-law hurt her mother-in-law. If we strictly refer to the codified law, and if “pushing over” could be considered “striking,” this accusation is close to “*Gross Unfilialness*” (惡逆), the fourth clause of “*The Ten Great Wrongs*,” and He Gu should be beheaded!<sup>60</sup> However, neither Zhang Wenlun nor the magistrate treated the case as a severe unfilial crime, and the magistrate only made a common instruction, “waiting to be inspected wounds, summoned and interrogated.” Wenlun did not ask to punish He Gu (her name was the last one on the defendant list) but to guarantee his control over the young woman. The conflict and its resulting injury helped Wenlun and his family play the role of victims and hold the moral high ground.

Compared with the former brief and sketchy narration, a plaint filed by He Boyuan described how the marital family, especially her husband and mother-in-law, abused his

---

<sup>59</sup> Q6-11-09209.

<sup>60</sup> See Article 284. *Plotting the Killing of Paternal Grandparents and Parents*, in Jones, *The Great Qing Code*, 236–70.

daughter in great detail:

蚊厚辦賠奩，並外贈錢十三千。蚊女素知婦道，敬孤順夫無異。殊光喜母子嫌蚊女性蠢木舌，今正十六、十九兩次將蚊女毆打，蚊尚婉言勸慰。詎光喜同伊庶母張李氏悍惡不悛，嫌賤愈熾。本月初六光喜又藉事生枝，執漿洗木棒毆打蚊女。逶至蘭土地啼哭，李氏復縱子光喜二次拳毆，跌下街鄰雲應銀田內。

I prepared and gave a large dowry and extra money. My daughter always knows female virtues, respects her mother-in-law, and obeys her husband without any behavior disorder. However, Guangxi and his mother think my daughter is dull and awkward in speech. They beat my daughter twice in the first month of this year, I had gently persuaded and soothed them.<sup>61</sup> Guangxi and his concubine mother, Zhang Li Shi, remained shrewish and impenitent, and they loathed my daughter more aggressively. On the sixth day of this month, Guangxi made trouble again and clubbed my daughter with a stick for laundry. My daughter was running away and crying. Mrs. Li indulged her son Guangxi in beating my daughter again, so she fell into the neighbor's land.

He Boyuan gave more information, including which day and what kind of weapon Guangxi and his mother used to strike He Gu. But the following report by the coroner merely mentioned there was a wound on Zhang Li Shi's arm and no information about whether He Gu was injured. All of them, no matter whether natal or marital family members gave similar testimony later: the in-laws did not like He Gu going to the natal family so often, so once when she came back again, Zhang Li Shi upbraided her, and she talked back, which irritated Zhang Wenlun so that he decided to resort to the court.

If the testimony was the truth, both parties had exaggerated or falsified violence as their strategy to win the lawsuit. For Wenlun, a more severe accusation could help to make sure his complaint would be accepted. From the standpoint of the natal family, telling a story of a daughter being severely injured would not only shape her as a victim but also imply that He Gu, as a newly married wife, was weak and alone in the natal family, so she was not able to injure her mother-in-law.

The magistrate decided that since the two parties were affinal relatives, they should get along well with each other. He did not give punishment to anyone, and Zhang Wenlun could bring He Gu back. However, Wenlun staged a comeback one year later:

張主見何姑光喜均屬年幼，諭蚊帶回管束，不許娘家往來，各結在卷。本年正月二十四，伯元聽得何姑與蚊妻口角，令伊次子何秀全、何三等來家，估接何姑，蚊妻與子隱忍未阻。至三月十八裁秧，乏

---

<sup>61</sup> It happened on the sixteenth and nineteenth day.

人炊爨，蚁着子光喜往接何姑。反被伯元挾忿嫌貧，逼令休退。伊次子何秀童書就婚約稿，令蚊子照字書寫，蚊子不允，逃歸向蚁說知。

The magistrate believed that He Gu and Guangxi were both young, and instructed me to bring He Gu back and discipline her, while her natal family should cut off relations with her. The records of all parties agreeing to end the case remain on file. On the twenty-fourth day of the first month, Boyuan heard about a quarrel between my wife and He Gu, so he asked his second son He Xiuquan, He San, and others to come to my home to pick her up. My wife and son tolerated this and did not prevent them. By the eighteenth day of the third month, when we were busy transplanting rice shoots and nobody could cook, I asked my son Guangxi to bring He Gu back. However, Boyuan, harboring resentment and despising the poor, forced my son to divorce his wife. He asked his second son, He Xiutong, to draft a divorce contract and had my son write according to his draft. My son refused and returned to inform me.

His accusation took further steps this time, from runaway to breaking off the marriage. Unfortunately, no more investigation and interrogation records followed, and the magistrate only instructed that Wenlun could bring He Gu back, as the former judge said. Indeed, Wenlun confirmed his lawful authority over He Gu, and as the record has revealed, this is a case where the accusations evolved from runaway to marriage conflicts, which suggests another kind of connection between the two accusations. They might not appear in the same complaint but would gradually approach the core of conflicts, the legality of marriage, and the control over and ownership of the woman.

It is undeniable that until today domestic violence is still one of the biggest threats to women's life and health in China, and the news that domestic violence leads to homicide can still prompt nationwide outcry and discussion from time to time.<sup>62</sup> On the other hand, domestic violence could also work as a part of the litigation strategy in the Qing era. The role of violence in litigation shows that it constitutes the "representational reality." The image of abusive husbands and mothers-in-law was equally accepted in the textual facet and therefore became a part of the strategy.

## A Mix of Marriage and Abduction

The case of He Gu has demonstrated the circumstance that the accusations of breaking off marriage and abduction tangled with each other. This section will give examples where

---

<sup>62</sup> For example, a young wife was abused to death by her husband and in-laws, and the criminals were given a very light penalty in November of 2020, see Jessie Yeung CNN, "Public Outrage after Family Sentenced to Three Years for Killing Young Woman," CNN, accessed November 30, 2020, <https://www.cnn.com/2020/11/20/asia/china-woman-killed-fertility-intl-hnk-scli/index.html>.

the same complaints submitted by the husbands to charge the natal family members of their wives, contained indications of both types of conflicts: marital disputes and abduction. All the stories told by the husbands in this section clearly showed that the nature of the conflicts between the marital and natal families of wives was about the ownership of the women.

In Xianfeng 3 (1853), a twenty-four-*shui* man, Xiong Dashun, submitted a complaint, “abducting (my wife) and marrying (her to another man), using violence and forcing me” (拐嫁兇勒), to charge Liao Daxing and Liao Jinxiu, who were Xiong Dashun’s father-in-law and brother-in-law, and a man with the surname of Deng:

不料大興嫌蚊家貧，本月二十三，乘蚊出外做活，縱伊子廖金秀刁唆廖氏透捲衣物。清理大興翻言與蚊要人。

Daxing despised the poverty of my family. On the twenty-third day of last month, when I was working outside, Daxing asked his son, Liao Jinxiu, to lure Liao Shi to abscond with clothes. I asked Daxing what happened; however, Daxing asked me for her.<sup>63</sup>

According to Dashun, Liao Daxing, and Jinxiu first abducted Dashun’s wife, then arranged another marriage for her (with Deng). He used the four characters to summarize his complaint, including the keywords for marriage and abduction disputes. In this case, abduction and marriage were two segments of the conflict; the integration of the two made the complaint complete. Moreover, there was no clear-cut line between abduction and marital disputes as that in the *Great Qing Code*. There are no records of how the conflict ended and no judgment of the magistrates.

In the case detailed above, abducting the woman and arranging a marriage for the woman were still separate acts, while in the following case, abduction and marriage were inextricably linked. In 1853, Wu Chaofa filed a complaint with pearl words, “colluding and marrying (my wife to others), and (there is) no trace (of her)” (串嫁無踪). The phrasing makes me want to categorize it under “marriage,” and it also suggests the key part of his accusation was that Wu Chaofa could not find his wife:

蚊父母俱故。幼娶髮妻王氏，傍岳母王田氏樓住。蚊傭工度活，今正蚊幫張油匠數月未回。田氏嫌蚊貧苦，串媒滾...乘蚊未家，私將王氏拐嫁無踪，捲擄蚊衣被飾物一空。本月廿五，蚊歸始知，投團約羅德超等集理，田氏仗屬女流潑蠻，橫不由剖。

My parents died. I married Wang Shi when I was young, and I lived with my mother-in-law, Wang Tian Shi. I make a living by being hired labor. Early this year, I came to work for Painter Zhang. I left my house for several months. Wang Tian Shi despised my poverty, and colluded with the

---

<sup>63</sup> Q6-20-05027.

matchmakers, [...] abducted and married my wife to others when I was not at home; now I cannot find her trace. She absconded with clothing, quilts, jewels, and money. On the twenty-fifth day of this month, I came back and realized what happened and resorted to speaking to the community leaders. However, Tian Shi counted on herself as a woman and was shrewish to obstruct my actions.<sup>64</sup>

The narrative of this plaint did not include the respective depiction of abduction and marriage; rather, it combined the two issues as one verb. *Guai jia* 拐嫁 (abducting and marrying) could be explained as two acts, first luring a married woman to leave her husband, then marrying her to another man, which is how Liao Daxing used the word. It could also be interpreted as indicating that abduction and marriage were inherently integrated, in which case there would be no need to distinguish and describe them separately.

In the two preceding cases, although the two defendants did not specify their claims (as most plaints did not), the texts in the plaints made their purpose clear: they wished that the court recognized the legitimacy of their marriage, that it would nullify the next marriage, and especially that it would help them get their wife to return home. In other words, the two cases were indeed marital conflicts, but the writers of the legal plaints injected the element of abduction into the lawsuits, for which there was no better reason than interpreting as a strategy to draw the attention of the magistrate.

Since the litigants and litigation masters drafted the “marriage” and “abduction” plaints in identical ways, and we have seen the words “abducting and marrying,” this might suggest that it is not necessary for us to distinguish between these two types of accusations. Still, the subtle differences between “marriage” and “abduction” cases can also show the different dimensions taken into account when choosing an accusation. Marriage lawsuits were more in accordance with the perception of the relationship between the marital and natal family. Since the law only granted parents (and husbands and in-laws, under certain circumstances) the authority to arrange a woman’s marriage, it was logical for them to bring a lawsuit related to marriage. For those who were inclined to use abduction, one of the reasons might be, compared with marriage disputes, abducting women was a more serious crime, and the magistrates should more easily approve lawsuits with abducting accusations. Therefore, family ties and legal provisions together determined the strategy employed by the parties.

---

<sup>64</sup> Q6-20-05058.

## Relationships between Daughters and Natal Families

The previous part mainly talks about the conflicting relationship between the natal family and marital family of the same women, and in the cases above the natal family seemed to help women to get rid of their poor and violent husbands, and maybe earn money by remarrying the daughter. However, the daughters and the natal families sometimes had conflicts and this part will focus on the relationship between women and their natal families.

The opinion that married women in China were isolated from their natal family used to be popular; just as a proverb implied, “married daughters, as water spilled out onto the ground, could never return” (嫁出去的女儿, 泼出去的水). For example, Kay Ann Johnson concluded that ties of married women to natal families were weak due to “patrilocal residence, poor communication and a kinship ideology and religion based exclusively on patrilineal lines.”<sup>65</sup>

However, this view is constantly challenged. A daughter was depicted as “a pearl in the palm,” an essential member of the natal family, and cherished and protected by her parents.<sup>66</sup> Upper-class families maintained political influence or formed alliances through their daughters and affinal relationships and even passed on “family learning” through their daughters.<sup>67</sup>

Most studies on the affinal relationship in the lower classes are on the basis of the judicial archives.<sup>68</sup> According to Sommer, natal families were expected to protect a daughter’s safety and interests. With the help of her parents, a woman could get rid of her unhappy marriage.<sup>69</sup> This opinion has been echoed in the work of Theiss, who argues that women’s natal families posed a significant threat to “notions of patrilineal prerogative,” as they “intervened to defend daughters who had been accused of impropriety by their in-laws.”<sup>70</sup> Mao Liping, in her research about the Nanbu Archives, elaborates that as their elite counterparts, affinal relationships for lower-class people also constituted a vital alliance for them to tide over and survive difficult times. The fact that daughters remained

---

<sup>65</sup> Kay Ann Johnson, *Women, the Family, and Peasant Revolution in China* (Chicago and London: University of Chicago Press, 1985), 8–9.

<sup>66</sup> Weijing Lu, “A Pearl in the Palm’: A Forgotten Symbol of the Father-Daughter Bond,” *Late Imperial China* 31, no. 1 (2010): 62–97.

<sup>67</sup> Mann, *Precious Records*, 76–120.

<sup>68</sup> As mentioned before, the marital and natal families of a woman usually would live in the same town.

<sup>69</sup> Sommer, *Polyandry and Wife-Selling in Qing Dynasty China*, 222–33.

<sup>70</sup> Theiss, *Disgraceful Matters*, 89.

in close contact with their natal families after they were married was not only a consequence of emotional or affective ties but also because natal families perceived their married daughters as a potential survival resource.<sup>71</sup>

My observations on the Ba County Archive prove the close connection between married women and their natal families. For instance, Tu Huanzhang, aged 19, submitted a complaint in 1863 with *zhu yu* “cunningly hide (my wife), absconding (my property), and forcing (me)” (刁匿捲逼), to charge his father-in-law and brother-in-law, because they abducted Huanzhang’s wife, Tu Chen Shi and forced Huanzhang to sign a divorce contract. Soon after, Tingxing and Shuangying responded and handed in a complaint with *zhu yu*, “force to marry and confound (black and white) to accuse falsely” (逼嫁顛誣):

鶴鳴父子浪蕩傾家，日食莫繼。七月初三，煥章向蚊雙瀛泣懇，家貧難保。伊父苦逼陳氏嫁賣祝姓，取銀十兩。陳氏不從，煥章親送蚊女至劉欽瑜家暫住等語。……殊鶴鳴逼嫁未遂，堅聽棍監塗玉山唆擺，旋支煥章架以刁匿捲逼誣告，……且伊家貧如洗，何有捲逼。

Heming (Tu Huanzhang’s father) and his son, loafed and lost his family fortune, and could not afford daily food. On the third day of the seventh month, Huanzhang cried to me (Liu Shuangying), saying his family was too poor to keep (his wife), so they forced his wife hard, to sell her off in marriage to a Mr. Zhu, and got 10 teals of silver; Tu Chen Shi did not follow the arrangement, so Huanzhang himself sent her to stay with Liu Qinyu temporarily. [...] However, because his force to remarry did not succeed, Heming was instigated and manipulated by a villainous imperial student, Tu Yushan, and prompted Huanzhang to accuse falsely [...] and how impossible (Tu Chen Shi) to abscond, since Tu family is as poor as a church mouse.<sup>72</sup>

Then Tu Chen Shi herself submitted a complaint, telling a similar story and adding more details:

去四月，氏夫屢說日食無度，翁要估逼作賤，氏不允從，氣急觸怒口角，闔鄰共知。前月初一，氏翁逼氏嫁賣...氏願從一而終，臨死不允。

During the fourth month of last year, my husband said several times that there had been no reliable income, and my father-in-law intent to force me to be a prostitute. I did not allow it and refused to follow his order, which infuriated them, and we had a quarrel. All the neighbors heard and knew this. On the first day of last month, my father-in-law threatened to sell me off in marriage ... I am faithful to my husband to the end, rather die than submit.

<sup>71</sup> Liping Mao, “Qingdai xiaceng funü yu niangjia de guanxi: yi Nanbu Dang’an wei zhongxin de yanjiu 清代下層婦女與娘家的關係—以南部縣檔案為中心的研究 [Lower-Class Women and Their Natal Families during the Qing Period: A Study Based on the Nanbu County Archive],” *Research on Women in Modern Chinese History*, no. 21 (2013): 3–48.

<sup>72</sup> Q6-26-07223.

This is a story where a daughter and her natal family allied to fight her in-laws. According to the two complaints, it is Tu Chen Shi's determined attitude to refuse to remarry that led to the conflict between her natal and marital families. Her father and natal family stood together with her in an alliance to fight her poor and evil husband and father-in-law. This case is very emblematic of the fact that many women could count on their natal family to combat their husbands and in-laws. Although domestic violence might function as a tactic, it cannot be denied that there must be parents who sued their affinal relatives for the sake of their daughter's life and health. A woman could take refuge with her natal family when she faced violence or other threats if they lived in close proximity to each other. If she had to take part in legal actions, a married woman possibly had no choice but to depend on her natal family to take legal action for her rights and interests. Margery Wolf has suggested that a married woman could gradually establish herself as a member of the women's community in the village, which could help her to find protection in her husband's household.<sup>73</sup> However, in contrast to her natal family, the women's community that a wife might count on in everyday life could hardly give any substantial support for legal actions.

The case of Tu Chen Shi also includes some unusual elements because the married daughter filed a legal complaint. In most cases, as long as the natal family members offered succor, the woman did not have to show up by herself in court. Or rather, the voice of women could exit from the public sphere as long as they could have their natal family speak for them.

## **A Mother Fighting for Herself**

All the cooperation or alliances between women and their natal families was based on the alignment of the woman's interests with her natal family, and the natal family being willing to help the woman, whether for financial or emotional reasons. However, what if they had conflicts or diverged interests, or the woman was trying to attack her natal family? Though such cases were rare, they indeed existed and reflected the diversity among females.

The behavior of the woman Yao Yang Shi in the case below contradicts the cliché that a mother would always want the best for her children. It is not salient in the text that she cared about her daughter's life; instead, she put her own interests first. She was dragged into the court because her son-in-law, Zhang Shifang, submitted this complaint in 1858:

---

<sup>73</sup> Margery Wolf, *Women and the Family in Rural Taiwan* (Stanford, Calif.: Stanford University Press, 1972), 37–41.

咸豐二年，被伊再醮母姚楊氏嫌貧愛富，將陳氏藏匿伊家，是□七月鳴喊……將陳氏掌責，斷奴承領。三年復遭姚楊氏將伊女串拐……奴四路找尋無蹤，忽至今三月初三，…得見奴妻陳氏。熟料伊母復又改嫁張姓，與楊氏在彼看戲，奴扭陳氏投鳴街坊。伊吐稱在鄭洪家賣娼為生。

In the second year of Xianfeng (1852), my wife's mother, Yao Yang Shi, who had remarried someone else after widowed, despised me for my poverty and curried favor with the rich, so she hid my wife in her own house, so I cried out about my grievances to magistrate... my wife (Zhang Chen Shi) got slapped, and I brought my wife back. However, three years later, Yao Yang Shi seduced my wife to run away again, [...] I searched everywhere but could not find any trace of her until the third day of the third month of this year (1858), [...] I found my wife was watching a play with her mother (she had remarried another man again), then I seized my wife and handed her over to neighbors, and she admitted she had been making a living from prostitution in Zheng Hong's household.

被稟：張楊氏（即姚楊氏），（惡娼）鄭洪游本家，（聽匿）陳氏

Defendants: Zhang Yang Shi (Yao Yang Shi), (evil prostitute) Zheng Hong, (being hidden) Chen Shi<sup>74</sup>

Zhang's mother-in-law admitted and confirmed his statement during the interrogation, and the magistrate asked Zhang to rent a place first, then he could bring his wife back. It seemed the case was going to be closed, and Zhang had already handed in a document in which he promised to bring his wife and mother-in-law back home. However, on the same day, his mother-in-law suddenly filed a simple plaint:

時芳引女至涪州，嫁賣劉倫為妾。劉倫亡故，伊妻劉巫氏又將氏女陳氏嫁與林志冲為室，育有幼子。因志冲未家，時芳扭氏喊冤。本月初四訊斷，時芳暫領母女在城佃居……今時芳不思嫁賣之咎，胆違訊斷，只領氏女，不要氏同居。氏思志冲歸家害累胡底，為此呈明。…飭時芳全領同居。

Zhang Shifang brought my daughter to Fuzhou and sold her off in marriage, Liu Lun, as a concubine. After Liu's death, his wife sold my daughter to a man, Lin Zhichong, and my daughter had already given birth to a young boy (with Lin). When Lin was not home, Zhang handed me over to the court to cry out about his grievances; on the fourth day of this month, the judge asked Zhang to rent a room and live with my daughter and me in Ba County. [...] However, Zhang does not ponder over his mistakes of selling his wife off in marriage, and he dares to violate the judgment since he only brought my daughter back and did not let me live together. I will be implicated in this case when Lin returns home, so I report this clearly [...] [the magistrate] orders Zhang to live with me.

Because of this unforeseen event, Shifang and two women had to get interrogated eight days later, and all of them changed their testimony; Zhang and his mother-in-law

---

<sup>74</sup> Q6-20-05405.

both acknowledged that they withheld the truth of the transaction during the first interrogation.

The archive does not record a formal ending of the case. The magistrate decided to investigate in Fuzhou and ask for help from the local court. Three weeks later, Zhang filed another plaint, saying it was Lin Zhichong who illegally took possession of his wife. However, in another plaint submitted by Zhang one month later, he was willing to let his mother-in-law bring her daughter back, and because his mother was seriously ill, he had to come back to his hometown, and the runner could not find him anymore.

This is a record full of contradictions. It starts with a statement about abduction and prostitution but ends with wife-selling and forcible occupation. It is classified as “abduction” because, in the first plaint submitted by Shifang, he used the word “*gua*” several times; yet, in the next two plaints, he stressed Lin Zhichong “forcibly takes possession of” Chen Shi and his focus transferred to “occupation.” While in his mother-in-law’s narration, she urged the audience to pay attention to the “fact” that someone else had already taken possession of her daughter.

The two women in the case are examples at opposite ends of the spectrum of female behavior in the legal records. In this case, the distinctive performance of mother and daughter reminds us that women as a group are never homogeneous, and gender cannot explain all female actions. As (ex)wife of Shifang and daughter of Yang Shi, Zhang Chen Shi or Lin Chen Shi, whom the two parties were fighting for, was kept in silence in the court records, “according to Zhang Chen Shi: Yao Yang Shi is my mother. The rest is the same as my mother’s words.”<sup>75</sup> This sentence appeared in two records of interrogation. Whether she was manipulated by her mother’s scheme to leave her first husband, or sold by her first husband and the wife of her second husband, she acted on others’ decisions, and it is hard to see her actions and mentalities.

On the other end of the spectrum, Yao Yang Shi took an active part in the process, which related to her identity. Even though Zhang mentioned she had remarried more than once, she insisted she was a widow. This case demonstrates that as a segment of litigant strategy, it was possible for women or others who helped them to participate in lawsuits to stress or make up their identity as widows. Regardless of whether the widow’s identity was true, she could gain confidence in her position as a widow. As the previous chapter shows,

---

<sup>75</sup> There is a slight difference: in the first interrogation, it also mentioned “Zhang is my husband,” but this is not present in the second one.

widows played a role as plaintiffs in the archives more frequently than women in other marital statuses.

Moreover, Yao Yang Shi probably was not in marriage during the lawsuit because of the strange requirement she had. She begged to live with her daughter and Shifang, although she knew clearly that if she did so, she would have to live in poverty. In her testimony and plaint, she mentioned several times that she had been afraid that Shifang could not support her daughter, and Zhang himself admitted that he could not afford to rent a room within the city. So, it is most likely that she had to live with her daughter and rely on her son-in-law as a widow. According to her statement, she did not care about who should be the legal husband of her daughter, but the husband would have to bear the responsibility of feeding her. In other words, her main concern was not who or what was good for her daughter but what was good for herself.

## An Unmarried Girl Entered the Court

The case above was about a mother and her daughter having divergent interests, but they did not have direct conflicts. The following example includes close combat between a woman and her natal family. This is only one case in which an unmarried girl filed plaints by herself to the court out of hundreds of cases.<sup>76</sup> Her natal family did not give her any help; on the contrary, the young girl accused her uncle (father's brother) more than once. The experience of the unmarried girl to some extent suggested that the natal family, in addition to helping women to take legal actions, also constituted a barrier for women to resort to the court.

Yang Yan Shi, a sixty-*sui* woman, with her son Yang Hongxing as the proxy, sued Li Yuting because Yuting lured her granddaughter, Yang Zhanggu ("the eldest daughter"). In the story from Yang Yan Shi, as usual, the texts in the plaint did not record any dynamic behavior of the young girl Zhanggu:

氏長子故，遺孫女陽長姑，年十五歲，擇戶未字，傍氏么子洪興，剃頭鋪居住。……洪興多外，遭痞李二大耶，胆窺長姑少艾。本月初二早，乘間瑣唆使長姑透捲氏家衣飾拐渝。

My eldest son died and left a granddaughter, Yang Zhanggu, fifteen *sui*. She has been engaged but has not gotten married; she lives with my youngest son, Hongxing, in the barbershop. .... when Hongxing was not at home, a ruffian, Li Yuting, coveted the young and pretty Zhanggu, on the

---

<sup>76</sup> There are two cases including plaints filed by an unmarried girl, see Table 2.5; another one is Q6-20-05468. But this case is the only one in which the girl submitted the plaint without a proxy.

second day of this month, Yuting instigated Zhanggu to pilfer with clothing and jewelry and run away to the Chongqing City.<sup>77</sup>

In the counter-plaint submitted by Li Yuting, he highlighted his innocence and the greed of the Hongxing. At the same time, the plaint portrayed Zhanggu as an adamant figure. Her runaway was the direct reason for the dispute:

蚊販賣水果，與楊洪興家往來。去腊伊姪女楊長姑，託伊戚楊氏為媒，許蚊為婚，受蚊聘銀，洪興盡知。復逼長姑另行嫁賣，不允。本月初二，長姑同鋪司林五外出，着林五尋蚊，會面哭訴。蚊送不歸，只得通知洪興，擇期治酒。洪興將長姑接回，旋支伊母楊顏氏喊控蚊。

I make a living by selling fruit and have dealings with Yang Hongxing. In the last month of last year, his niece Zhanggu, who entrusted a relative, Yang Shi, as the matchmaker, was betrothed to me and accepted my betrothal silver. Hongxing was fully aware of this, but he pressured Zhanggu to marry someone else, which she refused. On the second day of this month, she went out with Lin Wu, a barber, and asked Lin to find me, where she cried and confided in me. I tried to send her home, but she did not return, so I had to inform Hongxing to arrange a date for a wedding. Hongxing brought Zhanggu back home, but then immediately sent his mother, Yang Yan Shi, to accuse me.

The second plaint by Yang Yan Shi was strange. In general, it again told the story in which Yuting was trying to lure Zhanggu, and the main body did not contain much about the behavior of the girl, but it stressed in the end: “Now Zhanggu does not follow the girl virtue, and she is guilty and deserves to be chastised, it is hard for the law to forgive her, I implore to enquire and severely punish her.” However, the plaint did not put her name as a defendant, but as a witness.

This twisted attitude was later explained to some extent. Since Zhanggu herself filed the complaint on the same day, perhaps her family was aware of her impending action before, and they chose to speak ill of her in the text. Or, the bad behavior actually referred to her participation in the lawsuit. It is particularly noteworthy that Zhanggu filed this document without any proxy, and the magistrate did not raise any questions about her actions in any way. This is her statement:

女憑媒許李玉亭為婚。洪興翻異，昧絕天良，勒要將女另行嫁賣，女不甘從。殊洪興圖財心堅，囑伊鋪內客司鄭大順與玉亭說知，給銀允嫁。否洪興罔顧倫紀，旋允旋翻。由此口角，今大順喊控，株女在案。女不露面陳情，將來皂白難分，只得據實稟懇。

I have been betrothed to Li Yuting through a matchmaker. However, Hongxing changed his mind

---

<sup>77</sup> Q6-26-07194.

and acted against his conscience, trying to force me into another marriage, which I was unwilling to accept. Determined to profit, Hongxing instructed a customer, Zheng Dashun, to speak to Yuting, stating that he would allow the marriage only if Yuting paid him extra money. Yet, Hongxing showed no regard for ethics and quickly went back on his word, leading to a quarrel. Now, Dashun has accused and implicated me in this matter. If I do not show my face and provide a full account, it may be difficult to distinguish right from wrong in the future. Therefore, I must report the facts.

Because of her unique status, Zhanggu emphasizes at the end that while her actions might have been inappropriate, she had a good reason for doing so. The way the plaint was drafted did show that those who wrote the documents took her identity fully into account. Since the status of unmarried could not bring any benefit in litigation, it is likely that Zhanggu herself made the decision to resort to the court and sit at the center of the whole plan. From a modern angle, it is a story of a girl who broke through the fence of her natal family and entered court in a tightly controlled environment.

This sensitive status of the unmarried girl also forced Zhanggu to position herself in the orthodox and official discourse and emphasized that her reason for doing so, like most plaints, was for social justice and decency. The regulations on proxy might not wholly prevent women from taking part in legal actions; but when women took part in litigations, they consistently observed the requirements regarding the language and discourse. So, Zhanggu's behavior was indeed a rebellion against family and social control, but this rebellion could not transcend the parameters of official discourse.

Based on the initial results, Zhanggu's resistance was hardly a success since she did not marry Yuting as she had wished. The magistrate gave his judgment that Zhanggu should follow Hongxing back home and marry someone else, and she was not allowed to marry Yuting. He also made a response to Zhanggu's participation: Zhanggu did not follow the female virtue and should be punished but treated with leniency. Furthermore, there were no more words from Zhanggu in this testimony, only "my testimony is the same as my uncle's." From this perspective, most women's voices could be easily erased from judicial files or assimilated by other men's testimony in the process of making depositions by the staff working in the court.

After this, Zhanggu married Qingtian, but her story did not stop there, and the legal records documented the twists and turns of her life. Her husband believed that she had committed adultery with Yuting after their marriage, and Zhanggu (by this time, she was known as Yang Shi) walked into court again:

氏幼孤。去春遭游勇李成龍稱係武職，窺氏孤弱，蠱惑污沾。至七月無媒無證，將氏套娶。未浹旬，

無力養活，逼氏作賤。去冬復欲將氏嫁賣，氏不甘允。索要贖身銀兩，迫氏出約。央戚彭長發等抬借銀五十兩，經房主過交成龍，憑街鄰給氏離異字據，聽氏從良，永不復滋。氏因獨居擇戶，殊成龍貪得味良，屢稱尋禍，意圖滋索。氏聞外避，本月初八夜，成龍統黨兇將氏家器物搜空，陷害情慘，泣懇作主，俾使得另尋生路。

I became an orphan when I was young. Last spring, I encountered Li Qingtian, who claimed to be a soldier and had a position in the army. Seeing that I was weak and vulnerable, he deceived and exploited me. In the seventh month, he married me without any matchmaker or witnesses. Before long, he could not support me and forced me into prostitution. Last winter, he tried to sell me off again, but I refused. He demanded money for my redemption, which forced me to sign a contract. I borrowed fifty taels of silver from relatives, including Peng Changfa. The landlord handed the money to Chenglong, and with neighbors as witnesses, he wrote the divorce contract for me. I have left prostitution and returned to a common life, vowing never to return. I am living alone and looking for a new husband. However, Chenglong is greedy and lacks conscience; he often seeks trouble and demands more money. I have had to escape from him. On the eighth day of this month, he led a group of thugs to empty my house of all my belongings. I have suffered greatly and cry out for help: please allow me to find a new means of livelihood.

There was something implausible in Zhanggu's petition, such as why Peng Caifeng (tailor Peng) was willing to lend Zhanggu fifty taels of silver and how Zhanggu intended to return the massive amount of silver. There is no way to find this truth, but one thing is certain: Zhanggu's plaint did change, as she had a proxy this time. Her uncle Hongxing took this part, whom she had previously rebelled against. On the same day, the magistrate interrogated Qingtian and Zhanggu. This time the testimony of Zhanggu was preserved, which was consistent with her statement in the plaint. Yet, in virtue of the deposition, I wonder if Hongxing was truly Zhanggu's proxy since his words actually matched the claim of Qingtian, that Zhanggu had adultery with Yuting, the opposite of Zhanggu. The result suggests that Zhanggu added the name of Hongxing as a proxy to make her document meet the criteria, and Hongxing did not agree to help her.

The outcome of the second phase, again, was largely negative for Zhanggu, who was sentenced to be slapped. More importantly, she was required to follow Qingtian home. But the magistrate also gave her a gleam of hope: if Qingtian forced Zhanggu to be a prostitute again, she could come to the court and get a divorce. Zhanggu soon found a chance to divorce. Qingtian sold her to another man as a concubine. The two husbands were well aware of the risks involved in this transaction and reported the matter to the magistrate, but they received a response that the sale of a wife was forbidden. Zhanggu, of course, did not miss this opportunity:

殊青田鮮恥，旋串媒李春富等，將氏嫁賣陳泰順作妾，獲銀一百餘兩，書立賣約，出有手印，與泰順各稟存案。……泰順買氏月餘，見批畏累，將氏退交祖母顏氏另嫁脫貨。家貧乏費，難以餓守，哀懇賞批作主，俾得另尋生路，終身有着。

Qingtian had no sense of shame. He immediately colluded with matchmakers, tried to sell me off in marriage to Chen Taishun as a concubine, and got one hundred taels of silver. He wrote the contract with a thumbprint and reported it to court with Taishun. [...] One month after Taishun bought me, he felt worried about future trouble, so he returned me to my grandmother. My family is poor, and I cannot stay chaste in hunger. I implore the magistrate for mercy. Please let me look for a new means of livelihood and rely on it for life.

Since Qingtian had previously admitted to selling his wife, the magistrate agreed to Zhanggu's request. His logic was that the husband had sold his wife and broken the bond between the couple, and he believed and accepted the statement of Zhanggu that her second husband was willing to return her to her natal family.

Zhanggu had thus realized her purpose. However, Zhanggu's crisis was not over. Her grandmother and uncle handed in another document a few days later, saying that Yuting had forcibly occupied Zhanggu. Zhanggu did not allow herself to be manipulated, and her response straightforwardly pointed out the greed of her uncle:

氏胞叔見氏無依，藉氏圖利，屢欲賣氏分肥。氏恐被陷，不允。洪興挾忿。今氏擇嫁張姓，已行聘。洪興等聞知向氏索要銀一百兩，未遂。胆以氏祖母楊顏氏名控。

My uncles saw the chance that I was lonely and helpless, so they tried to sell me and make money. I feared being framed by them, so I did not accept the arrangement, and my uncle had a grudge. Now I have decided to marry Zhang, and he sent betrothal gifts and money to me. My uncle got to know this and asked me for one hundred taels of silver but in vain. So, they sued me with the name of my grandmother.

The command by the magistrate fully affirmed Zhanggu's right to choose a husband for herself: "I have made comments on former plaint, she could choose a man and marry. According to your granddaughter, she has decided to marry Zhang, so you should let her marry someone else. You should not be instigated by others and implicate cases that had been closed, do not rely on the status of being women to mislead and come to court."

The piece of record begins on the fourth month of Tongzhi 2 and ends on the third month of Tongzhi 3. Zhanggu went to court at least four times in less than a year, terminated her marriage twice, and was about to have a third husband. In this process, she gradually realized the convenience and trouble that her gender identity might bring. It is interesting to observe the changes in her plaints during the year. In the beginning, when she was an unmarried woman, Zhanggu did not have a proxy. But afterward, the name of

the proxy did not stay blank. Most likely, it was a measure to meet the format requirements and a sign to show that she behaved herself. She became aware of how to present herself as a well-disciplined person, so the complaints she submitted became more and more compliant with all kinds of rules.

On the one hand, there was only a total of two cases of women suing their natal families in my collection, and both were initiated by an unmarried girl. This is not a coincidence, because the chances for married women to sue their natal family were smaller. Though it is not surprising that women, married or not, were at odds with their parents or siblings, logically, just as they could rely on their natal families to fight against their in-laws, the husbands, sons, and parents-in-law could speak for married women legally. So, even if the disputes between a woman and her natal family became a lawsuit, it would look like a conflict between their natal and marital families.<sup>78</sup>

On the other hand, the random factors in these two cases were also important. Zhanggu was an orphan, so her parents, who were supposedly closest to her, could not provide any help. Obviously, she did not live in harmony with her grandmother and uncle, who had the power to marry the young girl off or sell her arbitrarily. The other case was about a girl charging her adoptive father, rather than her biological parents. Therefore, the special family structure might be one of the reasons why unmarried girls decided to take legal action by themselves. Another question that should be explained by random factor was how Zhanggu could have dealt with the largest challenge: how did she gain knowledge about litigation? How could she pay for the costs of litigation? The archives cannot give a certain answer. Her courage was essential; in addition, she seemed to have maintained some contact with Yuting and his family, who might have helped her somehow.<sup>79</sup>

The mainstream in the archives was that commonly the members of the natal family spoke for the married woman, which is indeed evidence of the close relationship between the woman and the natal family. A general conclusion is that if the interests of both parties were consistent, the consanguinity provided a “shortcut” for women to achieve their goals, and women could rely on their parents and not have to show up in public in the courts. The case of the Zhanggu proves the inverse of the assertion, that if women and their natal

---

<sup>78</sup> Although I never found such a case in archives.

<sup>79</sup> Since Li Yuting was also named as Peng Yuting, and Peng Caifeng was very likely to be a close relative of Yuting, this was the most possible explanation why he would lend Zhanggu a large sum of money. In another case, the girl counted on her “sworn father” (*gandie*, 干爹) to stand up to her adoptive father.

family had divergent interests, women would lose this aid, and they would have limited choices but to go to court by themselves.

## Conclusion

This chapter deals with two sorts of relationships: between the natal family and marital family of a woman, and between women and their natal families. The affinal relatives in the archives always had conflicts with each other. Women and their natal families were usually in alliance, though the archives also recorded their conflicts. Abduction and marriage were the most frequent accusations the marital and natal families chose to use. From the view of writing complaints, these two accusations were presented in highly similar ways in text and language, and it is difficult to distinguish between the two accusations. The factors used in both accusations, such as “despising poverty” and domestic violence, had achieved “representational reality” since the phenomena that the phrases depicted remained consistent with public perceptions.

The impact of family relations on litigation was based on both legal regulations and social practice. According to the *Great Qing Code*, this relationship between husbands/in-laws/parents and women brought important control over women. In social practice, a patrilocal marriage made it possible for husbands or in-laws to detect any unexpected situation of women, particularly if the wives went missing. Meanwhile, the three elements, gender imbalance, massive market demand for women, and widespread poverty pushed women to become a vital part of movable property. Because of this, the marital family aimed to maintain control over women, and the most significant threat to this property, from the perspective of husbands and in-laws, came from the natal family. The natal family, sometimes based on emotional factors, might try to protect their daughters from domestic violence; yet, when it comes to economic concerns, the natal family might also have interests in making money by selling their daughters into marriage, which required control over their daughters. As a result, the two parties, the natal family and the marital family, waged war to claim their ownership of the woman.

The skills of drafting legal complaints had an essential impact on how the archives portrayed women; meanwhile, the strategies were a reproduction of official representation. Normally, the narration about the behaviors of women in the complaints submitted by husbands and in-laws did not include any signs of autonomy, issuing claims stating a woman did not run away herself but was abducted by others, for instance. Her husband or marital family members also did not ask to punish her but to let her return home, which

was consistent with the spirit of the Qing Code. In this and the next chapters, abduction was used as an accusation frequently, partly because the law gave heavy penalties to those who committed abduction, and the plaint about abduction could draw the magistrates' attention.

More significantly, the story between natal and marital families can help us to understand why women seldom go to court by themselves and without proxies. That was mainly because they depended on the natal family to take legal action; conventionally, her father or other male relatives could act as her agent in court. There was a comparative dearth of female plaintiffs in this chapter, showing that if there were someone who could take action on behalf of women in the court, it would make women invisible and their voices unheard in the court.

