Women, family, and litigation in nineteenth-century Chongqing

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Chapter 4. Outside Male and Inside Couple: The Interplay Between Sex and Money

This dissertation is rooted in the Inner-Outer Model of Relationships around Women (Figure 1) and discusses how the relationships between the plaintiffs, defendants, and women in a lawsuit could influence the choice of accusation as found in the archival cases. In this section, I will answer a series of questions about the patterns of conflict between women or women's family members (the Inner Tier) and outsiders (the Outer Tier), especially male outsiders: what types of accusations involved outsiders? Who started these lawsuits? Why did they go to court? And which strategies did the plaintiffs adopt to compose the plaints?

One critical issue is that of identifying "outsiders" from the case records. Though the boundary between the Inner and Outer Tier is always blurry and ever fluctuating, the outsiders defined and discussed in this chapter – which includes all individuals except for family members – are those belonging to the Outer Tier 1).[1] These outsiders could be neighbors, distant relatives, landlords, tenants, friends, colleagues, acquaintances, or strangers.[2] The position and identity of outsiders are differentiated from those in the Inner Tier; for example, "parents" merely refers to the woman's parents, but "neighbors" means her and her family's neighbors. Family members always have a certain and clear relationship with the woman herself, but outsiders could have connections with the whole family. This is a starting point for understanding the cases in this chapter; a woman could be implicated in lawsuits not only because of her own behavior but also due to her family's disputes with outsiders over rent or debt.

This chapter will deepen our understanding of the interplay between money and sex by focusing on how litigants made use of sexual offenses and female chastity as a strategy.

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[1] "Family members," as shown in Figure 1, include parents, siblings, husbands, parents-in-law, siblings-in-law, and children.

[2] There is no exact definition of "neighbors, distant relatives, landlords, tenants, friends, colleagues, acquaintances, and strangers." They were generally identified by their own words in the plaints. "Distant relatives" are an exception, and their relationships with the women would usually be described in detail. Those who are identified as "distant relatives" in this dissertation include all relatives except for family members as defined in Figure 1.

Taiwanese legal historian Chen Yun-ru has examined cases of adultery and abduction in the Danshui-Xinzhu Archives, finding that "in litigations among families, chastity of female members was often called into question, and bringing a false charge of abduction was a common strategy by ex-husbands in disputes of wife-selling."[3] This part will broaden these findings, demonstrating how all kinds of sexual offenses, not limited to adultery and abduction, could be used as strategies to settle an economic conflict.

The first part of this chapter will provide definitions of sexual offenses. The second part will discuss the combination of abduction and adultery. As argued in the previous chapter, abduction cases between a woman's natal and marital family cannot be clearly distinguished from disputes over marital matters. In this chapter, we will also see the complicated situation of abduction cases (105 cases, accounting for 41% of all cases related to outsiders; Table 3.2) involving outsiders entangled in sexual offenses; more specifically, adultery would lead to abduction, according to the narratives of the plaints. A comparison between this chapter and the previous one will show that even the same types of cases, particularly those entailing abduction, can reveal discrepancies in their features, such as the motivation for the abduction, which depends on the participants and their relationships.

The third part of this chapter will pay attention to extramarital relationships. Sexual offenses took up a high proportion of lawsuits related to outsiders (109 cases, or over 40% of all cases involving outsiders; Table 3.2), and outsiders were involved in more than two-thirds of all sexual offense cases. In late imperial China, all (attempted) sexual behaviors outside the bounds of lawful marriage were sexual offenses, because they would affect the social and family order and pollute female chastity – "chastity" being the key word to understanding sexual offenses. My discussion will reveal a link between sexual offenses and economic disputes in an unexpected way: women's bodies, and especially their chastity, became a pivotal means for resolving financial conflicts, such as removing debt or settling disputes over rent.

Sexual Offenses and the Pollution of Women

Rape and adultery were two categories of cases in which outsiders were frequently implicated, accounting for 30% of all cases involving outsiders (Table 3.2). Both crimes were perceived as "illicit sex" (*jian* 姦) in the *Great Qing Code*. As discussed in Chapter One, I define illicit sex in Qing

[3] Yun-ru Chen, "Danxin Dang'an zhong de jianguai anjian: falü chuantong de chongxin jianshi 《淡新檔案》中姦拐案件：法律傳統的重新檢視 [Cases of Adultery and Abduction in Tan-Hsin Archives: Re-examining Legal Traditions in Qing Taiwan]," *Taiwan Historical Research* 25, no. 4 (December 2018): 21–73.

China as all acts that mutilated, polluted, or posed a threat or danger to the purity and chastity of women.

Adultery cases, or *he jian*, stressed that women were willing to be polluted and lose their chastity, and they would therefore receive the same penalty as the male criminals. In rape cases, or *qiang jian,* women did not receive punishment if they could prove that to protect their purity, they had struggled against the violation.[4] Even if there was no contact with the sex organs, behaviors that attempted to jeopardize female chastity could lead to severe and dangerous consequences, so the act of attempted rape was punished under the Qing code.[5]

Table 4.1 Frequently Used Terms to Describe Sexual Offenses in Ba County Archive

Offenses	Term*	Translation
霸佔 *ba zhan* Forcibly taking possession of a woman	霸佔 *ba zhan* 佔霸 *gu ba*	Forcibly taking possession of a woman
	奸占 *jian zhan*	Fornicating and taking illegal possession of a woman
	透占 *tou zhan*	Stealing and taking illegal possession of a woman
強姦 *qiang jian* Coerced sexual intercourse	奸奪 *jian tuo*	Raping and robbing
	佔奸 *gu jian*	Committing illicit sex with force
	欺奸 *qi jian*	Bullying and committing illicit sex
通姦 *tong jian* Adultery	誘姦 *you jian*	Seducing women into fornication
	奸透 *jian tou*	Fornicating and stealing
	通姦 *tong jian*	Committing illicit sex
調戲 *tiao xi* Noncoercive sexual proposition	調戲 *tiao xi*	(Unwanted) flirting
	欺調 *qi tiao*	Bullying and flirting

Source: BXA, "Women," 1803–1873.

*Different terms can be used to describe the same kinds of offenses, but the meanings may differ slightly in detail.

Under this definition, Table 4.1 also includes *ba zhan* (forcibly taking possession of a woman) and *tiao xi* (noncoercive sexual proposition), neither of which required direct sexual intercourse, yet each would inevitably lead to the threat to the woman and undermine patriarchal order. In Table 3.2, four types of accusations account for 43.2% of the cases that outsiders were engaged in: adultery (34 cases, or 13.4% of all cases that

[4] Ng, "Ideology and Sexuality," 58; Sommer, *Sex, Law, and Society in Late Imperial China*, 88.

[5] Jones, *The Great Qing Code*, 347.

outsiders were involved in), coerced sexual intercourse (or rape; 44 cases, or 17.3%), forcibly taking possession of a woman (20 cases, or 7.9%), and noncoercive sexual proposition (11 cases, or 4.3%).

The Qing code does not provide any definition of *tiao xi*, but the word was usually used in the fixed context of "unwanted flirting failed to lead to illicit sex" (調戲未成姦) or "sexual proposition failed" (調姦未成). The phrase *tiao xi* itself represented only the act to attempt, and it was implied that the perpetrator had "not succeeded." In practice, the legal plaints would rarely specify whether a *tiao xi* had been successful or not, but the term was supposed to include the meaning of "failed" and "no sexual intercourse consummated." Because of the threat that *tiao xi* might pose to female chastity, in this chapter I also define it as an example of illicit sex.[6]

According to the codified law, *ba zhan* (霸佔, forcibly taking possession of a woman) is far removed from "illicit sex". It falls under the authority of a statute in the chapter on "Marriage" in the *Hu lü* ("Laws on Revenue"), whereas articles and regulations on illicit sex are part of "Laws on Penal Affairs":

> 112.00 強占良家妻女
>
> 凡豪[強]勢[力]之人，強奪良家妻女，姦占為妻妾者，絞[監候]；婦女給親[婦歸夫，女歸親]。配與子孫弟姪家人者，罪[歸所主]亦如之。[所配]男女不坐[仍離異給親]。
>
> Article 112. Forcibly Seizing the Wife or Daughter of an Honorable Family.
>
> In all cases where a person who is influential and overbearing (who is in possession of force) forcibly takes the wife or daughter of an honorable family, and wrongfully makes her his wife or concubine, he will be punished with strangulation (with delay) and the wife or daughter will be returned to her family (the wife returns to her husband and the daughter to her family).[7]

More than one commentator has emphasized that this article differs from the law on rape because it was aimed at offenders; for example:

> 「姦占」二字分看，姦止姦宿，不必為妻妾；占則終為己有。.....如為姦宿而強奪，則依强姦論；如為妻妾而強奪，則依此律。[8]
>
> The two words *jian zhan* should be considered separately: *jian* means having illicit sex and sleeping with a woman, while *zhan* refers to appropriating the woman. […] If a male intends to sleep with the female and seizes her forcibly, he should be punished according to the law

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[6] Women "who feel abashed and bitter because of flirtation and commit suicide" were eligible for imperial canonization; *Qinding libu ze li shangce* 欽定禮部則例上冊 [Regulations and Precedents of the Board of Rites vol.1], Reprint, (Taibei: Chengwen chubanshe, 1966), 310.

[7] Jones, *The Great Qing Code*, 132; Jiang, *The Great Ming Code*, 87.

[8] Shen, *Da Qing lü jizhu*, 277.

> of rape; if he plans to marry her (as wife or concubine) and seizes her, he should be punished according to this article.

In this opinion, the two terms *qiang jian* (rape) and *ba zhan* (forcibly taking possession) can only be distinguished on the basis of the criminals' different intentions: if a man uses force merely to have sex with a woman illegally, he will commit rape; if he intends to marry the woman forcibly, he will be punished for *ba zhan*. Nevertheless, forcibly taking possession of a woman would violate and pollute the chastity and purity of the woman and could be defined as a sexual offense.

The legal files of Ba County sometimes stressed the issue of marriage when ordinary people used *ba zhan* in plaints.[9] However, they also emphasized the status of women who were under the control of others, especially the possibility of one engaging in sexual intercourse with other men.[10] In view of the official representation of offenses and quotidian usage of the phrase, there is no doubt that *ba zhan* could be regarded as a serious breach of control over a woman's body and chastity in both contexts.

Pattern I: Adultery as Cause, Abduction as Result

It was common for outsiders to be involved in "abduction" accusations. This section will show that abduction cases involving outsiders would usually be intertwined with extramarital sex, whereas abduction was entangled with marital disputes in the cases that family members initiated. Though the family members used the same term, "abduction," as their motive for litigation, the distinctions and variations in relationships between plaintiffs and defendants dictated that the abduction cases could not present the same dynamics as were discussed in the previous chapter.

In abduction cases involving outsiders, the phrase "adultery and abduction" (*jian guai* 姦拐), is frequently mentioned.[11] A typical pattern observed in the archives is that a man first engages in adultery with a woman, and then tempts her to run away with him. For instance, in 1868, Chen Liujing filed a plaint to the court:

> 為奸拐透賣，稟懇嚴究事。蚁娶妻呂氏，過門和睦無異。害遭附近痞棍崔和尚，欺蚁愚樸，乘便與妻通奸。蚁知理斥，惡尤不改。蚁迫投團與伊理講，伊知情虧，甘立服約一紙，與街鄰存执。殊伊仍不改非，忽於前月十八，乘蚁未家，胆将蚁妻刁拐出外，並透去衣飾等物。

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[9] For example, this sentence is extracted from a plaint from the Ba County Archives: "he dared to forcibly occupy (*ba zhan*) my wife, Qin Shi, as his wife (*wei shi*)" (Q6-05-04298).

[10] Actually, some *ba zhan* resulted from illicit sex; for example, in 1838, Jin Zhenglun believed that Bai Hengfang illegally occupied his wife because they were adulterous first. See Q6-11-09198.

[11] The phrase *jian guai* was used for five times in pearl words. *Jian* in this dissertation can usually be translated as "illicit sex," but in this part, the character actually refers to adultery.

> To report (a case of) adultery and the abduction, stealing, and selling (of my wife), and to ask for stringent punishment (for the defendants). I married Lü Shi, and we lived in harmony. However, Cui Heshang, a ruffian living nearby, took advantage of my honesty and seized the opportunity to commit adultery with my wife. When I realized what had happened, I excoriated his behavior, but Heshang refused to correct his bad conduct. I had no choice but to resort to the community leaders. Heshang knew that justice was not on his side, so he wrote a contract (to admit his crime and promise never to come to the neighborhood). The contract is proof preserved in the hands of community leaders. However, Heshang did not repent for his past mistakes. On the eighteenth day of last month, he tempted my wife to leave my home and steal clothes and ornaments.[12]

In this plaint, the outsider man Cui Heshang first had an affair with Liujing's wife, Chen Lü Shi; then, when Liujing was not at home, he found a chance to elope with Chen Lü Shi. The narrative clearly shows the close link between adultery and abduction; adultery was the cause, and abduction was the consequence. The story, recounted by Liujing with the testimony of his neighbors, successfully convinced the magistrate, who sentenced Cui Heshang to be beaten with light bamboo.

The case could be labeled as abduction, yet also as adultery since the plaint contains the phrases and plots found in both kinds of accusations. As discussed in Chapter Three, lawsuits over abduction between in-laws and parental families were usually entangled with selling women off in marriage or marital disputes. The focus of attention shifts to extramarital sexual relations when outsiders are involved in lawsuits. With outsiders as defendants, the plaintiffs, usually the husband and in-laws of a woman, would make different choices in their accusations and narratives, and were inclined to focus more on the elements of "adultery" and "abduction" rather than "marriage." The choice had a legal basis: in Qing China, natal family members, and in-laws had the legal right and duty to negotiate a woman's marriage under certain circumstances, and it was difficult for outsiders to gain the power to arrange a woman's marriage.[13] Compared to a story in which an outside man lures a woman into marrying him *without* any family endorsement, a plot in which the man first tempts the woman to have sex with him, and then convinces her to elope with him might better conform to public perceptions.

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[12] Q6-26-07803

[13] Bernhardt, "A Ming-Qing Transition in Chinese Women's History? The Perspective from Law," 52–53.

Ming-Qing vernacular novels display the prevalence of adultery and abduction. Many Ming and Qing fictions contain the plot of "adultery leading to abduction," one of the most famous being the *Plum in the Golden Vase*:

> （来旺儿与孙雪娥）通奸，拐盗财物，走外居住。
>
> (Lai Wanger) fornicated with her (Sun Xue'e), and colluded with her in running off with stolen property, in order to go live together somewhere else.[14]

Some novels even mention that as long as the strange young man and woman stayed together, it might be possible to secure an elopement after adultery:

> （闲汉）见是一男一女两个少年人，认作奸拐，走进来对那老者说道："才来一起一男一女两个少年人，恐其来历不明，老爹需要小心盘问，查查看。"[15]
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> （Some idle people） see two young persons, a man and a woman (sitting together in the restaurant), and think that the two must be running away to commit adultery, and tell the old manager of the restaurant: "We are concerned that the background of the young man and woman who came together is dubious; you should make careful inquiries of them."

It cannot be denied that abduction arising from adultery may have been widespread in late imperial China, as well as in Western China. Yan Ruyi, an officer who used to work near Sichuan, mentions in his articles that on the border between Sichuan and Shaanxi, "adultery and abduction happened every day" (奸拐之事無日不有).[16]

The plots of adultery and abduction in the novels and legal plaints were representational reality. This section mainly analyzes the writing patterns and strategies litigants used in local legal records, instead of discussing the "real" reasons behind

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[14] David Tod Roy, trans., *The Plum in the Golden Vase, Volume Five: The Dissolution* (Princeton, N.J: Princeton University Press, 2013), 190. Many fictions mentioned adultery and abduction, see Jingzi Wu, *The Scholars*, trans. Xianyi Yang and Gladys Yang (New York: Grosset and Dunlap, 1972), 168–69; Yu Li, *Silent Operas (Wusheng Xi)*, trans. Patrick Hanan (Hong Kong: Research Centre for Translation, Chinese University of Hong Kong, 1990), 59–62.

[15] *Huitu Shan'e tu quan zhuan* 善惡圖全傳 [The Chart of Good and Evil] (Beijing: Zhongyang minzu xueyuan chubanshe, 1994), 151–52.

[16] Ruyi Yan, shansheng shannei bianfang lun san 三省山內邊防論三 [The Defense of the Three-province Border Region within the Mountains], in vol. 82 of Changling He, ed., *Huang chao jing shi wen bian*, 皇朝经世文编 [Collected Qing Memorials on Statecraft] 6 (Taibei: Wenhai chubanshe, 1972), 2917. Yan Ruyi was not the only one to mention that "adultery and abduction" (*jian guai*) were common in Qing China. Chen Dashou, the Anhui Grand Coordinator, also reported to the Qianlong Emperor that adultery and abduction were the second most frequent crimes in the area under his administration; Qing shilu 清實錄 (Veritable records of the Qing dynasty), Qianlong Reign, 626-2, "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?@6^1781422186^807^^^7021101100080114000100009^1@@312738466#top.

abduction and adultery.[17] Partly due to popular novels that made adultery and abduction well known, the litigants and their counselors chose to draw on elements of fictional plots as a vital part of their strategy. Though not all of the stories in these plaints were true, they nonetheless entailed a part of representational reality: people who drafted and read the plaints could believe the stories in which adultery led to abduction. The rationale for adopting representational reality in this dissertation is that the concept can reflect both social patterns and litigation strategies: the writing of plaints including fictional factors also reflected social reality and popular perceptions.

A Variant of Pattern: Obscure Polyandry?

This part will discuss a possible variant of the adultery-abduction pattern. One phrase describing the relationship between the plaintiff and defendant has caught my interest: "living together" (*tongzhu* 同住). Unclear statements about "living together" have led to assumptions of polyandry. Polyandry is uncommon and irregular in the context of Chinese history. The marriage system in imperial China was often depicted as "a system of one husband, one main wife and multiple minor wives (concubines)," which was polygyny in a broad sense, regardless of the status distinctions between concubines and wives.[18] In practice, due to the financial burden, men of the lower social strata did not have the chance to own concubines, and most families stayed in generally monogamous marital relationships. However, through judicial records and surveys of popular customs, Matthew Sommer has revealed the tacit existence of polyandry in Qing China. He describes this unusual form of marriage as "the impoverished couple being supported by one or more outside males in exchange for sexual access to the wife."[19]

In the cases I have examined, there is none that clearly mentions polyandry, where a woman has more than one husband.[20] However, "living together" might be a means to

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[17] The motives for extramarital sex can be divided by individual/family choice and social factors. The female's personal choices were driven by family poverty, affection, and domestic violence; in a word, women's unhappy lives with their current husbands and families. Historians have also linked the historical background of overpopulation and agricultural involution with the causes of sexual offences; see Yuesheng Wang, *Qingdai zhongqi hunyin chongtu touxi*, 清代中期婚姻冲突透析 [Marital Conflict in the Mid-Qing Dynasty] (Beijing: Social Sciences Academic Press, 2003), 154–205; Li, "'They Are Expendable' Adultery and Homicide in Late Imperial China"; Lai and Hsu, "Qingyu yu xingfa," 52–61; Hui-Min Lai and Ching-wei Chu, "funü jiating yu shehui: Yongqian shiqi guaitaoan de fenxi 婦女、家庭與社會：雍乾時期拐逃案的分析 [Women, Family and Society: A Study of Abduction and Elopement Cases in Imperial China (1723~1741)]," *Research on Women in Modern Chinese History*, no. 8 (August 2000): 23–32.

[18] "一夫一妻多妾制"; see Tran, "Concubines under Modern Chinese Law," 33.

[19] Sommer, "Making Sex Work," 30–31.

[20] It seems that Sommer also did not find any clear examples of "polyandry" in Ba County, though he mentions

acknowledge the special form of marriage, though fitting the pattern of adultery and abduction, in which polyandry, or adultery approved by the husband, led to abduction. In a case from 1848, the initial plaint depicts a simple case of abduction in which a man, He Zhong, comes home to find his wife (He Luo Shi) missing, and she is eventually found in the defendant's house (Wang Pangzi).[21] The plaint was very short, without any extra information or any mention of the defendant's identity or their bonds to each other. Yet the following testimony reveals a more bizarre side of the case. First, all the testimonies contain statements on the relationship between the two parties: Wang Pangzi used to "live with" He Zhong and his wife. Secondly, the defendant and He Luo Shi had committed adultery while sharing the same house. After Pangzi moved out, He Luo Shi heard about his current address and fled to her adulterer while her husband was working out of town. The magistrate believed the story of adultery and abduction; therefore, the defendant was sentenced to wearing the cangue, and the wife returned home with her husband.

On the one hand, this case represents the simple model in which the initial adultery gave rise to the subsequent runaway and abduction. On the other hand, the subtleties of this case require further analysis. The first mystery is how the participants in the case defined "living together."[22] It seems that they chose these vague words deliberately to obscure how they moved in together. None of them use the more common term "rent" (租 or 賃), which clearly indicates landlord–tenant relations. The people "living together" also never mention whether they had paid money to "live together." If so, how did they build trust in each other? How did they connect with each other? Was there any special relationship between them? The occupations of the two men are unclear, and no clues show they were coworkers. There is no mention of kinship or them being sworn brothers; the confusing bonds render the relationship suspicious. In addition, He Zhong did not mention their prior contact when he submitted the first plaint; there is hardly a good explanation for this, except that he was deliberately trying to hide the fact that they had lived together. Combined with the confession of adultery during the period of cohabitation, a detective might uncover a story about "polyandry" in this case.

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that there are many examples of "Retail Prostitution with Husband as Pimp" in the Ba County Archives; see Sommer, *Polyandry and Wife-Selling in Qing Dynasty China*, 94–140.

[21] Q6-11-09624.

[22] Sommer has mentioned that in a polyandrous family, they "ate together as one family." Although the two phrases were not exactly the same, they indeed showed something in common; see Sommer, *Polyandry and Wife-Selling in Qing Dynasty China*, 33–35.

Sworn brothers sharing the same wife constituted a regular form of polyandry, and the following example contains both factors: sworn brothers and "living together."[23] Unfortunately, the plaints and counter-plaints no longer exist in the archives, so the records begin with statements that the runners had escorted the defendants to court for trial. The testimonies of all parties have an identical storyline: the defendant (Liu Laoqi) and the plaintiff (Wang Wenfu) were sworn brothers and *lived together* for six or seven years, while Liu and the plaintiff's wife (Wang Lei Shi) had been in an extramarital affair for at least six years. In the eleventh month of the previous year, Liu connived with Lei Shi's cousins to abduct the woman when Wang was not home.[24] The magistrate was convinced by the adultery and abduction strategy, and sentenced Laoqi to wear a cangue.

The exact relationship between the plaintiff and the defendant has been lost in the mists of time. The case seems to be a wretched and miserable outcome for the practice of polyandry from all angles: the outside male, cohabitating in sworn brotherhood for a long term, maintained an extramarital sexual relationship with the only female. It is hard to believe that Wenfu had never found out about the affair, since they had all lived together for many years.

There is no direct and concrete evidence of "polyandry" in these two cases, but the inference can explain the ambiguity of the relationships and the extramarital sex between the defendants and the wives point to the inference and help to solve several puzzles in these cases. First, it could help to explain why the plaintiffs did not clarify their relationships at first. As Sommer observed, many couples tried to conceal that they had ever been involved in any form of polygamous marriage, because they would have to face "stigma and shame" as well as "gossip and ridicule."[25] The behavior of the participants in these two cases accords with this possibility.

Additionally, if it was a case of polygamy, this might answer the question of how the outside males in the two cases above could live in others' houses without paying rent. We can assume that this is because the outside males needed to pay more than just rent and embedded themselves in polyandrous families. The sexual resources women could barter

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[23] Sommer, "Making Sex Work," 43–45.

[24] Q6-11-08670. The whole story recounts that after Wenfu returned home and found his wife missing, her cousins told Wenfu that Lei Shi had jumped into the river, and asked the husband to pay to retrieve her corpse. Wenfu eventually found out that his wife had run away, but he had already paid the money, as the cousin had asked, so he accused his wife's cousin in court.

[25] Sommer, "Making Sex Work," 41.

for were not limited to rent, but "labor, income, and whatever other resources the outside male can contribute on an ongoing basis."[26] In other words, the outside men, in exchange for sexual resources, had to contribute everything they had to the family, rather than merely paying rent. Therefore, such cases can also disclose the diverse and complex forms of transactions between sex/sex crime and cash.

Pattern II: Exchange between Sexual Offences and Money

This section will zoom in on conflicts over sexual offense cases and reveal how female chastity had become commodified amid the ongoing process of the Qing government upholding female virtue and the exchange between sex and cash. Besides prostitution, the entanglement of sex and monetary disputes expressed itself in different ways; women's bodies and their sexual and reproductive labor had a large and ubiquitous market in Qing China and could be immediately exchanged for cash. In addition, the scandals and affairs surrounding their bodies and chastity might also have rendered these a sort of capital. When the emperors and court officials formulated their policies, it was impossible to anticipate that the cult of chastity would have a series of unforeseen consequences. As Theiss observes, the cult of chastity stressed a woman's "loyalty and obedience" to her husband more than the interests of the patriline; for instance, Qing judicial officials consistently defended chaste widows' property rights against their husbands' relatives as long as they maintained their chastity, which "starkly revealed the tensions between generational and conjugal notions of patriarchy and the fragmented nature of family authority in practice" – ultimately leading to a weakening of patriarchal authority, in diametric opposition to the original plan.[27] Similarly, this chapter will demonstrate another unexpected result of the chastity cult: how the chastity and honor of a woman became a method and tool for settling economic disputes.

Another point my readers might notice is that none of the "rapists" in the following cases were "strangers" in the community. The current discussion of the "profile of the ideal rapists" in late imperial China more or less was inspired by Philip Kuhn's description of "strangers," who were "people without roots, people of obscure origins and uncertain purpose, people lacking social connections, people out of control."[28] This opinion is, to a certain extent, confirmed by Sommer. He concludes that *guang gun* 光棍 ("rootless rascals"), or marginal men who stood outside the family-based social order, had become

[26] Sommer, 35.

[27] Theiss, *Disgraceful Matters*, 4, 99, 208–9.

[28] Philip A. Kuhn, *Soulstealers: The Chinese Sorcery Scare of 1768* (Cambridge, MA; London: Harvard University Press, 1990), 41.

the rapists in Qing legislative discourse. While Sommer finds that most rapists came from the same village as their victims, the rapists led lives "with little obvious stake in the social order."[29] His findings were challenged by Lai Huimin and Chu Ching-wei, who noticed that roving single men would first try to forge close interpersonal relationships with locals by making contacts in the workplace, common clanship, adoption, and sworn-brother ties, and would then gain access to women (wives of friends).[30] This chapter leans into the view of Lai and Chu because, in all of the following examples, the "rapists" and the victims (or the families of victims) always had certain connections and were involved in economic disputes. Although it cannot be denied that some rapists were strangers and vagrants, the subsequent cases serve to demonstrate that the phenomenon of rape occurring between acquaintances within the same community was commonly acknowledged in nineteenth-century China.

Attempted Rape and False Accusations

This section will discuss how attempted rape was used as an excuse for false accusations in Qing legal practice. Meijer has discovered that during the Qing Dynasty, "every handbook for magistrates contains the warning against false accusations of fornication; it was the easiest subject for committing blackmail, and no magistrate could take such accusations seriously."[31] Japanese historian Gomi Tomoko has examined samples of "to vilify with illicit sex" (誣姦) in the anthology of judgments (*pan du*) produced from the late Ming through the early Qing. She argues it is because "chastity" had been given considerable importance in a society that people chose to vilify others through accusations of sexual offense.[32] It does not matter whether or not people committed the slander in their own actions; they knew very well that chastity was a moral norm highly valued by society, and made good use of the cult of chastity to win a more favorable position in the lawsuit.

The overall aim of using sexual offenses in (false) accusations, as Gomi shows, was to gain an advantage in court. She believes that the specific object could be to frame others or to reduce their own guilt. As a significant part of the strategy, female chastity could also

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[29] Sommer, *Sex, Law, and Society in Late Imperial China*, 101–3.

[30] Lai and Chu, "funü jiating yu shehui: Yongqian shiqi guaitaoan de fenxi 婦女、家庭與社會：雍乾時期拐逃案的分析 [Women, Family and Society: A Study of Abduction and Elopement Cases in Imperial China (1723~1741)]," 12–21.

[31] Meijer, *Murder and Adultery in Late Imperial China*, 42.

[32] Tomoko Gomi, "Jianwu yu zhenjie: yi wanming zhi qingqianqi de pandu wei zhongxin「誣姦」與貞節：以晚明至清前期的判牘為中心 ['False Accusations of Adultery' and Chastity: Official Decisions in the Late Ming and Early Qing]," *Research on Women in Modern Chinese History*, no. 17 (2009): 223–56.

have assumed another function in writing the plaints: namely, to "leverage an opponent." As Philip Huang argues, "the filing of a plaint intensified the efforts of community or kin mediators to work for an out-of-court resolution of the dispute."[33] The importance of female chastity and the severity of sexual crimes could raise the possibility that the magistrates accepted the plaint, which would give a signal to the opponent: if we do not settle the disputes privately as soon as possible, we will have to go to the court, to be interrogated, and endure an expensive process.[34] As discussed in Chapter Two, the plaintiffs would usually not state their purposes straightforwardly in their plaints, so we cannot know which specific aim(s) they had. Nonetheless, the high value of female chastity and sexual offenses could help the plaintiffs in all segments of litigation.

A lack of local archives from the late Ming to the early Qing prevented Gomi from further investigating how people strategically availed themselves of the chastity cult in trivial matters. Ba County Archive makes it possible to observe how people used chastity in the nineteenth century: accusations entangled with vague sexual offenses (whose veracity proved difficult to ascertain) were everywhere in nineteenth-century Ba County. These case records would prove the assertation of the magistrate's handbooks and Gomi's argument at the local level. I will contribute to this discussion by establishing a link between accusations of illicit sex and economic disputes, specifically how commoners used extramarital sex as a strategy to achieve a particular monetary purpose.

The first example is a case of attempted rape. The woman herself is named nowhere in the case records. Instead, her husband, father, and outsiders contributed three different versions of the same story. Although the three male participants had divergent relations to the woman, their narratives pointed to a similar core: the case had nothing to do with

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33 Huang, *Civil Justice in China*, 119, 185, 190–92.

34 In the literature of the Ming and Qing dynasties, there is a great deal of discussion about how expensive litigation can be and how the people involved in litigation used all kinds of techniques to avoid the high fees; see Chenjun You, "Mingqing sifa jingji dui minzhong susong celue de yingxiang: gao'ang songfei yu jiansong fengqi zhi beilun de yige fenxi 明清司法经济对民众诉讼策略的影响——高昂讼费与健讼风气之悖论的一个分析 [Influence of Judicial Economy on Litigation Strategy of the Public in Ming and Qing Dynasties——An Analysis on the Paradox between Expensive Litigation Fee and Atmosphere of Preferring Litigation]," *Law Science*, no. 03 (2019): 118–30. Scholars have frequently discussed the cost of litigation; for example, Li Yanjun divided the expense into two parts: legal, fixed and expected fees, such as money to buy a plaint form on paper, which common peasants could usually bear; yet there might also be unexpected and indefinite expenses, especially bribes to officials. See Yanjun Li, *Cong Mianningxian Dang'an kan qingdai minshi susong zhidu*, 从冕宁县档案看清代民事诉讼制度 [Civil Lawsuits in Qing Dynasty: Research on Mianning County Documents] (Yunnan University Press, 2009), 279–86; Philip C.C. Huang, *Civil Justice in China: Representation and Practice in the Qing* (Stanford University Press, 1996), 181–85.

sexual offenses, but was mostly a financial dispute.

Five leaders of the community (Gong Entan, Gong Shixuan, Wang Zhishan, Wu Yishun, and Zhang Lichuan) initiated suits in the last month of the sixth year of the Tongzhi reign (1867–1868). Their legal plaint starts with an introduction on the "badly behaved" couple, Cui Guo Shi, and her husband, Cui Sihai, who were tenants of Cui Wanliang. A ruffian, Sun Ma'er was trying to rape the woman while she was collecting firewood in the mountains; Cui Shi screamed and struggled to free herself, but then the story took an unexpected and surprising twist:

> 孙介泉詐稱呈禀，串弊孙永乾猶□孙晴齊、楊大等，嚇搕麻二出錢二十釧，私和分吞。拖今，生等查知，...但郭氏在團滋禍多次，若不禀究，麻二出錢得勢，倘再欺□.....
>
> Sun Jiequan and some others pretended to report (the rape case) to the court, intimidated and extorted twenty strings of cash from Ma'er to settle the matter privately, and (Jiequan and his mates) pocketed and shared the money. We found out later […] that Guo Shi had raised a fuss more than once. If we do not report (the situation) and Ma'er pays money and earns support, so if he commits (such crimes) again […][35]

At the end of the paper, besides punishing Ma'er, Jiequan, and the other extorters, the heads of the community also ask to expel the Guo couple from their area. Some information is missing from the fragmentary document. Yet it still shows, from the angle of those holding local power, that the rape itself would not necessarily have caught their attention; instead, it was what might follow – the fury of the victim and her family, the escalating conflict and potential chaos, and the risk they would be even punished by the magistrate – that constituted their central motivation for resorting to court, to avoid drawing fire on themselves.

After the spring festival, Cui Sihai, the husband of the rape victim, submitted a plaint, telling an utterly different story. He claimed that he and his wife were innocent, while Gong Enxun and Gong Shixuan were not heads of the community, and the array of lawsuits originated in the enmity between Sun Ma'er and Sun Jiequan:

> （龔恩覃、龔時軒）去腊胆竊王志山、吳益順等名，平空飛誣，以"搕吞防累"禀孫麻二等在案，株蚁夫婦受害。未訊，今正時，軒以銀二十兩賄蚁，硬誣麻二與蚁妻通姦。蚁妻素以名節爲重，誓不受賄。.....二月初五，差突來鄉四捕，...捉麻二等磨搕。切蚁夫婦□□自耕食力，朝夕在家，□有姦情，蚁豈不知？

[35] Q6-26-07681

> In the final month of last year, Gong stole the names of Wang Zhishan and Wu Yishun, falsely accused Sun and other people on no grounds, and implicated us in the lawsuit. Before the court hearing, in the first month of this year, Shixuan bribed me with twenty taels of silver, asking me to falsely accuse Ma'er of committing adultery with my wife. My wife, who has always put her reputation above all else, vowed never to accept his bribe. […] On the fifth day of the second month, the officers suddenly came to the village […] to arrest Ma'er. […] [36]We plow fields and earn our own living; we stay home together from morning to night. If there is adultery, how could I not know?

One month later, Guo Sanyin, Cui Shi's father, contributed a third version of the story. He confirmed that Ma'er attempted to rape his daughter. Then, the narrative of the conflict takes another direction: Ma'er's father, Sun Deyou, volunteered to be fined and promised to contribute to constructing a road for the community in order to settle the dispute. Deyou later broke his promise and bribed Jiequan and others with twenty strings of cash. At the time when Gong accused Ma'er, Jiequan was harboring Ma'er. However, the identity of Sanyin was also challenged. Another man, Guo Yongwan, claimed that he was the real father of Cui Shi, that somebody had stolen his name, and that there had been no rape.

Unfortunately, there is neither testimony nor a judgment from the magistrate in the case record. Yet combing the records for information can disclose a collection of themes and features well worth considering. Stealing names is one such interesting topic; though works have discussed false accusation as a strategy deployed by people, it seems "stealing names" (*qie ming* 竊名) has not yet been thoroughly investigated.[37] The identities behind the names, and the positions and authority that the names might confer, constituted the primary motivation for the theft. There are two possible instances of "stealing names" in the case record above: the first being that of stealing the names of community leaders. The key opinion leader in rural society could demonstrate the endorsement of the local power holders. Stealing the identity of the woman's father could fabricate espousal by the natal family. The county magistrates did not accept all the opinions of local authorities without question, but they undoubtedly relied heavily on the observations, investigations,

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[36] The meaning of this sentence is not clear.

[37] For example, see Javers, "The Logic of Lies"; Macauley, Melissa. *Social Power and Legal Culture: Litigation Masters in Late Imperial China*. 1 edition. Stanford, Calif: Stanford University Press, 1998.

and reports of those heads of the community to make their adjudications.[38] In this case, if there had been no question of "stealing names," the judge could have had enough reason to believe the rape story, with two plaints respectively from the authorities of the community and the family.

The risk of stealing names might not seem very high; however, without biometric technologies and personal identity documents, authentication poses a challenge. The limited means of verifying identities included having someone close to the defendant recognize him or her, so the magistrate also had to summon witnesses to judge whether it was a case of name-stealing. However, in nineteenth-century China, this first step – finding relatives and neighbors and bringing them to court – was a strenuous task. As shown in the Introduction and Chapter Two, the mass of failed or fruitless summons in the archives attests to this difficulty: the runners might be indolent or bribed, the mountain path was rugged and uneven (this was of particular importance in Chongqing, "Mountain City"), and/or the target group of people could have run away. Whether or not the summons succeeded in its objective, the different parties in the lawsuit could make full use of the time to organize and participate in negotiations and consultations. It was possible that the tumult would subside, and all parties agree on a solution to settle the dispute during the mediation. The identity thief could then drop the lawsuit before the name-stealing was disclosed in court and punished by the magistrate. Almost nobody regarded it as favorable to be embroiled in lawsuits, since it was a waste of their working time and would cause an extra financial burden, as noted above. Many people might thus choose to find a solution privately instead of going to court. In this way, subjects who deployed the strategy of name-stealing and other forms of false accusation were aiming for a chance to allow the various parties to negotiate to solve their problems, just as Philip Huang stresses, with low risks by drawing state power into the conflict as the commoners were evading court.[39]

No matter which version of the above case from the archives was true – if any of them – they all displayed a part of a bigger picture in which all the texts in the record revealed virtually the same heart of the conflict: a trade between sex/chastity and money. In the first story, rape becomes a tool for extortion, of which we will see similar cases later. The second version more directly suggests that the sexual accusations in the archives did not necessarily represent extramarital sex, but they might also simply be means and tactics

[38] Javers, "The Logic of Lies."

[39] Huang, *Civil Justice in China*, 122–30, 195–97; Javers, "The Logic of Lies."

used by people motivated by hatred and economic interests. The third plaint mentions the term *zhe xiu yin* 遮羞銀("silver used to hush up a scandal" or hush money). The Ba County Archive preserve a flurry of such cases: when a scandal (usually adultery or rape) was exposed to the public, the male offender would be required to pay cash to settle the dispute, and what they paid was called *zhe xiu yin*.

All three versions of this one case reveal that sex/chastity and money were closely connected and frequently exchanged. The legal proceedings reveal a representational reality in which people had created a new way to make use of women's purity and chastity

From Rape to Disputes over Rent

The cases in this part will demonstrate that on occasion both the victim and rapist remained silent and invisible in the case records since the sexual offense might never have been the primary focus of the lawsuit. That we hear from neither the male rapist nor the female victim of the "rape" implies that the linchpin of the following case was their conflict over landlord–tenant relations.

Chen Weixian filed this plaint in the spring of 1818 (Jiaqing 23):

嘉慶十九年，有巨戶黃岐山將兩處田業佃蚁耕種，憑中議押佃銀七十兩，每年認給伊租穀三十四石，佃約注明伊執，連年清楚。突去腊月二十二，忽被田主岐山長工劉陞乘蚁妻黃氏在主人宅後山坡上撿樹葉，遭劉陞胆敢目無法紀，□□□兇來山林内扭蚁妻黃氏欺姦，蚁妻當時吶喊，無人□□□□□，鳴岐山之子□□□□□□□□□□□□□□團首劉土順□証.....

In Jiaqing 19, the wealthy man Huang Qishan leased two fields to me to cultivate through an intermediary, the two parties agreed on a rent of seventy taels of silver per year, and paid 34 *shi* of grain, with the deed stating that Huang would keep them, and the accounts for each year were cleared.[40] Last year, on the 22nd day of the 12th month, Liu Sheng, a hired hand of the Huang family, took advantage of the fact that my wife, Huang Shi, was collecting leaves in the hills behind the landlord's house and dared to rape my wife in the mountains. My wife cried out at that time, but no one heard her. […] I went to the community leaders to reason it out […][41]

It is a rather strange way to draft a rape complaint. One-third of the plaint spoke about the rental agreement between Chen Weixian and Huang Qishan, but did not mention why it mattered. Even though we cannot tell what Qishan did in the rape case, Weixian still listed him as the first among the defendants, and the rapist, Liu Sheng, as the second. It seems that the plaintiff wished to demonstrate the importance of their landlord–tenant relations and the guilt and responsibility of his landlord. It makes me wonder what he

[40] 石 here probably refers to weight; each *shi* is equal to around 60 kilograms.

[41] Q6-05-04504

precisely sought: a penalty for the villain who violated his wife, or an ulterior motive?

The landlord, Huang Qishan, instead of the hired laborer accused of the crime, filed a counter-plaint with the title "evil tenant falsely accusing":

> 嘉慶十八年，有蚁堂姪孫壻陳位賢之父，陳朝選佃蚁田耕，租谷均分。殊伊父子奸刁，每至獲谷，隐吞谷不分。至二十一年，蚁向退佃，朝選央伊姪孫陳三福等議明，撝租承保仍耕。至去秋，成惡又估騙蚁谷四石不與。蚁理言斥，惡遂挾仇釘心。
>
> In Jiaqing 18 (1813), the husband of my cousin's granddaughter, Chen Weixian, and his father, Chen Zhaoxuan, rented my field to farm. We shared the grain harvested equally. I had not realized that the father and son were cunning and tricky. Every time the harvest season came, they concealed and embezzled the grain and did not share it with me. In Jiaqing 21 (1816), I asked them to stop renting my land. Chen Zhaoxuan begged me and asked his nephew's son and others to discuss this with me, saying that they were willing to guarantee that Chen would bear the cost of the rent, so the Chen family continued cultivating. Last fall, they again cheated me out of four *shi* of grain. I reprimanded them with reason and justification, so the evil ones held a grudge.
>
> 乘去腊月二十二，位賢之妻，蚁姪孫女陳黃氏來蚁業内□□柴薪。（长工刘陞）見理斥。去後即遭朝選父子設計誣栽劉昇欺□□□□□□兇。投經黃廷秀、劉朝俸、岑建然鄉約、黃國茂、劉朝祿等集□查問，黃氏云稱，因在蚁業砍柴，被阻囬家，遭伊翁姑丈夫責毆，押伊誣姦圖騙等語。衆斥其非，事寢無異。如無位賢不思誣告有條，突前月二十六，架以欺害難容控蚁與劉陞在□轅.....尤敢以蚁孫女誣姦捏控。
>
> In the final month of last year, Chen Weixian's wife, my nephew's daughter, Chen Huang Shi, came to my land to collect firewood. My hired hand, Liu Sheng, saw her, and he reprimanded Chen Shi. After she left, Chen Zhaoxuan and his son plotted to frame Liu Sheng, saying that he had bullied and raped Chen Shi. After being questioned by the community leaders, Chen Huang Shi admitted that because she was cutting firewood on my land and returned home, she was scolded and beaten by her in-laws and husband, who forced her to make a false accusation of rape in an attempt to lay the blame on others. People reprimanded them for doing wrong, and it was no surprise that things ended that way. However, last month Weixian disregarded the law against false accusations and took Liu Sheng and me to court. […] How dare they falsely accused (Liu Sheng and me) of raping my cousin's granddaughter!

The plaint also begins with a description of relations between the two parties; besides being landlords and tenants, they were also distant relatives. Additionally, the plaint gave more details about their conflict over the land lease. The so-called rapist did not play any vital role in the narrative, and the landlord, Qishan, manifestly perceived that it was an attack on him on the basis of their conflict over the share of grain.

The case records contain the outcome of this case. The community leaders filed a plaint and confirmed there had been no rape. Qishan and Weixian respectively handed in

their statements that they would honor the result and be willing to end the litigation. Liu Sheng did not participate in the lawsuit from the outset to the end.

In this chess game, both parties, Qishan and Weixian, realized that rape was just an excuse, and what they cared more about was the tenancy conflict. Both of them went to great lengths to emphasize the tenancy relationship, putting no effort into the account of rape. Weixian made use of his wife's honor and reputation for a chance to resolve the problem, and Qishan knew the other side was trying to resolve the monetary issue.

In this case, the initial accusation of sexual crimes gradually disappeared from the records, and the case turned out to be the outbreak of a tenancy conflict. However, a lack of language about female chastity in the sample could not build a straight link between the value of female virtue and silver. The following case can make up for this shortcoming and highlight the specific manifestation of female chastity.

Similar to the former story, the two parties in this story were also associated with each other in a dual relationship: distant relatives and landlord–tenants. It also began with an accusation of rape. In 1848, an old lady (seventy-one *sui*), Fang Liu Shi, filed the plaints, which mentioned that her son, Fang Baiqi, was doing business and not at home. She and her daughter-in-law, Fang Ye Shi, rented the house of Fang Daiheng (the son of her dead husband's cousin 堂侄 *tang zhi*) and opened an alcohol factory for a living.[42] One day the landlord, Daiheng, attempted to rape Fang Ye Shi. Because she yelled for help, the man ran away. Ye Shi then tried to commit suicide and was fortunately saved by a hired laborer, but this was not the end:

> 今葉氏羞愧莫釋，屢欲自盡，日夜難防。氏情急倒懸。
>
> Now Ye Shi feels too ashamed to forgive herself, and has repeatedly tried to kill herself. It is hard to stop her day and night. I am too anxious.[43]

The first counter-plaint, unexpectedly, came from Ye Shi's natal family. Her brother and two cousins believed that the rape was a pretext because "the rent was not clear," Daiheng and Baiqi had had conflicts before, and Daiheng did not have time to commit rape at that time. More importantly,

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[42] Here Fang Liu Shi says they opened a 漕房 (*caofang*), which might be the wrong word for 槽房 – which in the Sichuan dialect means a place to make alcohol – but Fang Daiheng mentions that it was a 腰店 (*yaodian*), referring to a small shop in dialect; see Shenyi Zhang and Guotai Ji, *Shu Fangyan* 《蜀方言》疏证补 [The Dialect in Sichuan] (Bashu Shushe, 2007), 199–200.

[43] Q6-11-09626

> 蚁妹謹守婦道，素無醜聲，境鄰咸知。突遭效先抗延縮首，聳母捏抵，有玷門風，遺臭後裔。
> My younger sister has always maintained her female virtue and never had a scandal; her neighbors knew it. Suddenly she was forced by her husband to follow her mother-in-law in fabricating a false accusation of rape, tarnishing our family and disgracing our descendants.

Both Fang Liu Shi and Ye Shi's brothers, though having different aims, depicted Ye Shi and her chaste and unyielding character in an elaborate style, since they knew the value of female chastity. Her mother-in-law highlighted the severe harm the attempted rape had caused to a woman who insisted on preserving her purity. At the same time, her brother placed emphasis on the negative influence the rape exerted. Fang Daiheng also filed two plaints to defend himself. Both stressed the parties' conflict over rent and had nothing to do with rape or female chastity. When Fang Baiqi returned, though his plaint mentioned the rape and his wife attempting suicide, he paid close attention to the rent dispute.[44]

In the two cases discussed in this section, the accusations of rape vanished after the crux of the lawsuits emerged: a dispute over a house and land lease. The model worked as follows: the plaintiff would first accuse the opponent of sexual offenses, particularly rape, and demonstrate that the defendant had seriously polluted the chastity of the rape victim; the defendant would claim that they had a conflict over rent or debt; and then the two parties would put more effort into negotiating their economic conflict. The plaintiff's objective was probably to attract the magistrate's attention, using the court procedure to obtain leverage and solve the dispute. A well-established narrative template was thus developed for a wide range of "sexual crime–economic dispute" models.

Links between Female Chastity and Money: Hush Money

In this part, I showcase how the link between sexual offenses and economic disputes could be straightforward. Extramarital sex, as a kind of scandal, is a perfect vehicle for extorting money. For example, in a case (1843) where two men discovered evidence of adultery, they "took advantage of the rare opportunity" (以爲奇貨) and blackmailed both sides of the affair. When the woman's husband returned home, the husband reported the event to the court because his family had been extorted. Although he expressed his indignation at his wife's betrayal, his ultimate claim was directed at his financial loss of one thousand in cash.[45]

Furthermore, concocting a scene of rape and plotting extortion might not have been

[44] There is no document in the archives showing how the case was closed.

[45] Q6-11-09441. The case record does not include the outcome of the conflict.

rare or inconceivable at the time.[46] One father mentions in a plaint that after his son refused to lend money to a neighbor, the neighbor tied up his son and prepared to frame his son for rape in order to extort money.[47]

Hush money is another way to link female chastity and family honor with silver. Zhang Xiaoxia has observed this widespread phenomenon in practice and explains it as a kind of economic punishment.[48] However, the nature of this punishment can be starkly distinguished from the bamboo beating or cangue, which was formally and officially regulated in the codified law. Rather, as the following case shows, hush silver was universally accepted by society.

Seldom did people question the practice of compensating for illicit sex with hush money, but they did frequently disagree over the amount of money. In 1838, Wan Chaozhu and his wife found out that their daughter-in-law, Wan Zhou Shi, had been raped by Ye Kaishou:

> 初十日，投憑張仁才、萬朝鳳、鄒澤厚、涂志元、葉裁縫等講理。開壽自願出錢十四千與蚁子挽和俯理。朝鳳受賄得蚁錢二千。廿二日，蚁子以估姦勒和控伊等於分主。廿七日，沐訊未究。切周氏被惡姦玷污，名難洗雪。
>
> On the tenth day of this month, I went to negotiate with Ye Kaishou, accompanied by my neighbors, Zhang Rencai, Wan Chaofeng, Zou Zehou, Tu Zhiyuan, and others. Ye voluntarily offered 14,000 cash to my son to reach a settlement, while Chaofeng accepted a bribe of 2,000 cash (which should have been mine). On the twenty-second day, my son filed a lawsuit against Ye and others for "being forced to reconcile after (his wife) was raped" in the court of the assistant magistrate. After the hearing on the twenty-seventh day, they were not prosecuted. However, Zhou Shi's reputation remains tarnished due to the evil acts committed against her, making it difficult to restore her honor.[49]

The case record also includes a fragmentary copy of the plaint, in which Wan Yuanheng, the son of Chaozhu, mentioned that most of the hush money had been taken by various persons who participated in the reconciliation. Despite the discrepancies in the details, legal plaints from the father and son expressed their complaints and concerns about the appropriation of their rightful share of the cash. On the other hand, the neighbors and community leaders had confirmed in a plaint that Ye had never committed rape, so it was

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[46] Such tactics had already been mentioned in a book about swindles in the late Ming era; see Yingyu Zhang, 杜騙新書, 2007, https://www.gutenberg.org/ebooks/24021.

[47] Q6-11-09245. Though the magistrate did not believe the story, the judgment did not mention any debt disputes.

[48] Zhang, *Qingdai Baxian hunyin dang'an yanjiu*, 590–93.

[49] Q6-11-09232

Chaozhu and his family who had tried to frame Ye. The same plaint also mentions that Ye and some other leaders pooled money to prevent potential trouble in case the Wan family should create a disturbance.

The case was closed after interrogation. Wan Zhou Shi admitted that she had been caught by Ye when she was stealing beans from his land; then she lied to her husband, saying Ye raped her, so the magistrate punished her with "instruments."[50] However, Wan Chaozhu insisted on his original story in the final testimony, saying Ye had promised to give him hush money; the actual amount of cash he received was less than what was agreed upon, which is why he sued.

It is hard to say whether the legal result of this case reflects the objective truth, but the intricate and tangled records at least reveal some representational reality. Neither the magistrate nor the people ever questioned the legality or rationality of the "hush money," which probably shows it had become a widely recognized custom. The obstinate claim to the money of Wan Chaozhu and the last sentence in his plaint indicates that even though he had realized the damage to his reputation and the pollution of female chastity that a rape accusation would cause, the core of his petition was always about the money it might bring.

To conclude, I would like to briefly introduce one last case. In 1858, Liu Yu Shi, a thirty-two *sui* woman, got pregnant and gave birth to a baby when her husband was not home. Her brother-in-law found out about her adultery with the landlord, and then brought the case to court. The case was settled by mediation, but three months later, she filed a plaint with her brother-in-law as a proxy:

> （鄧思貴）愿給氏遮羞銀百三十兩，請息在卷。詎息侯氏僅得銀八十兩。還給訟費餘银五十兩。..... 屢討不給，慘氏節被玷污，銀被吞鵪，日食無度。
>
> Deng Sigui offered to give me 130 taels of silver as hush money to settle the lawsuit, but subsequently, I got only 80 taels, which I used to pay for the litigation.[51] […] I repeatedly asked for (the remainder), but he wouldn't give it [to me]. My chastity was tarnished, and my silver was swallowed up and cheated from me. I have no money for everyday food.[52]

The plaint shows that a woman of low social status might not subscribe as ardently to the cult of chastity, and the magistrate indeed fiercely criticized her for not cherishing her

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[50] See footnote 97 in Chapter Two.

[51] It may have been expensive to be involved in a lawsuit in the Qing era, but such a high price sounds unlikely. For a discussion of the cost of litigation, see footnote 54.

[52] Q6-20-05494, also see Q6-20-05471 and Q6-21-06737

chastity.[53] The legal consequences of a woman's loss of purity stand in stark contrast to the cliché where women with impurity would be driven out by their lineage and tortured by the detestation of society. Instead of the moral hazards the woman might face, what figured most prominently in her mind were the potential strategies to cope with the pressure of survival.

The Handbooks for Litigation Masters: The Source of Strategy

The cases detailed in the prior sections have proven that in legal practice, when one party, usually a woman's family members, used sexual offenses as a strategy to initiate a lawsuit, the other side (the outsiders) would strike a counterblow with economic disputes. This part will analyze the origin of this strategy and counter-strategy. As Gomi shows, due to the cult of female chastity in late imperial China, litigants used sexual offenses, which always resulted in the pollution of women, as a strategy to attract the magistrates' attention and make sure that their complaints would be accepted by the court. The above-cited quote, observing that there were many adulteries and abductions, may also insinuate that sexual offenses were prevalent in Qing China.[54]

The counter-strategy, that of using economic disputes to fight back, arose from the secret handbooks of litigation masters. As mentioned in Chapter Two, these handbooks usually provided writing samples for both parties: the plaint from the original plaintiff and the counter-plaint from the opposing side. The handbooks offered templates for composing plaints about sexual offenses, though they could not explicitly suggest the function of female chastity in print. More importantly, these manuals incorporate the strategy of responding to sexual accusations with claims of economic disputes.

In general, the handbooks show two ways of reacting to an accusation of illicit sex. One is simply to express the suspects' grievances without detailed stories.[55] More frequent, however, was the second way, which entailed speaking about other conflicts between the

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[53] The magistrate rejected the complaint because the woman's story did not accord with the previous outcome of the case.

[54] Another number can perhaps also help us understand the prevalence of sexual offences. According to Guo Songyi, 250 to 530 homicide cases caused by adultery were reported to the central government every year, see Guo, *Lunli yu shenghuo*, 527.

[55] For example, a male servant used this strategy to react to the charge of raping and killing his female masters; see 新刻法家蕭曹雪案鳴冤律 *[The Legalists Xiao's and Cao's Painstaking Study of the Voicing of Injustice, Newly Carved]*, in Sun and Gong, *Songshi Miben Bazhong Huikan Xia*, 12:402.

two parties, thus illustrating that the accusation of "illicit sex" could be a false one. "Other conflicts" could potentially include domestic violence or quarrels between family members, yet the secret handbooks preferred economic disputes – over debt, rent, property rights, and inheritance rights – as the grounds of defense.[56]

Three examples demonstrate how the suspects of sexual offenses used conflicts over debt, rent, and property rights to defend themselves in lawsuits. In the first example, a charge of raping a widow was countered by stating that the plaintiff's true intention is to repudiate a debt:

> 奸惡某某，逋欠本銀若干，嗔取圖騙，計拴伊嫂居孀，陡捏身強姦誑。切騙銀有券，況拿夜無中。既號聲振，何不聞於四鄰？[57]
>
> The treacherous [name of the defendant], who owed me [x amount of] money, tried to cheat me (and repudiate the debt). He then employed a stratagem, to make use of his sister-in-law, a widow living alone, to make up a story that I had raped [her]. I have proof that he cheated me out of the money, but he cannot show any evidence that I was caught in the middle of the night. If the widow screamed, why did no neighbors hear the sound?

The second instance starts with the accusation that the landlord raped his tenant's wife. The landlord thus tried to stress their conflict over rent:

> 身承稅租若干石，蹇落惡佃某某耕。詎籽粒不交，致稅賦莫辦。[58]
>
> I am responsible for [amount of] taxes. Unfortunately, I rented my field to the vicious tenant [name of the tenant]. However, he did not hand over the grain to me; and so I am unable to pay the tax.

In the final example, a nephew is charged with raping his uncle's wife. The nephew then describes their conflict over land ownership:

> 謀産賴姦事。身有基地一片，界連叔屋，涎謀不就，計問伊妻，賴蟻調姦，粧局誣陷，陰謀基地。[59]
>
> For the sake of seeking to take my property, (my uncle) falsely accused me of rape. I have a piece

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[56] Conflicts within the family were used to respond to charges of illicit sex between family members; see xinjuan fajia toudanhan 新鐫法家透膽寒 [The Thorough Terror of Legalists, Newly Engraved], in Sun and Gong, *Songshi Miben Bazhong Huikan Shang*, 11:90–92.

[57] 新鐫法家透膽寒 [*The Thorough Terror of Legalists, Newly Engraved*], in Sun and Gong, *Songshi Miben Bazhong Huikan Shang*, 85.

[58] 新鐫法家透膽寒 [*The Thorough Terror of Legalists, Newly Engraved*], in Sun and Gong, *Songshi Miben Bazhong Huikan Shang*, 88.

[59] 新刻法筆驚天雷 [*The Heaven-Frightening Thunder of the Legalist's Brush, Newly Carved*], Sun and Gong, Songshi Miben Bazhong Huikan Shang, 254.

> of land that is connected to my uncle's house. My uncle had always coveted my land but had been unable to get it. He conspired with his wife and falsely accused me of raping her in a plot to get my land.

In this example, the nephew makes it explicit that the purpose of his uncle's false accusation was to wrest the piece of land from him, but it does not reveal precisely how the uncle would achieve this aim. Was it a threat that the uncle would file a rape charge if the nephew did not surrender the land to him? This is one possibility; the secret handbooks do not offer an answer. As in many other case records in the archives, the defendant accused of the sexual offense claimed that the opponent's charge was motivated by financial gain. Then the plaintiff and defendant might reach an agreement to settle the dispute out of the court, and it was possible that the plaintiff realized the purpose of money in this process; this, however, would not have left much trace in the case records.

These examples from the litigation masters' secret handbooks provided ideas on how to defend oneself against the charge of a sexual offense, which was to invent an economic conflict between the two parties. The relationship between the two parties was the basis for the type of financial excuse used in the story. If the two parties had a tenancy relationship, the landlord could claim that the tenant had been trying to repudiate the rent; if they used to be friends or business partners, there might be a debt dispute that the suspect could make use of.

Unlike the "sexual crime" strategy, which rested on the official cult of female chastity, the counter-strategy of economic disputes did not have an ideological endorsement. The examples in the handbooks can answer the question of where the litigants and their consultants learned the strategy, but still cannot tell us why the authors of these books put forward such ideas. According to current research, the examples in the handbooks for litigation masters could have been sourced from both the authors' own works and the transcriptions of official case records.[60] Therefore, instead of seeking the birth of this strategy in one thinker's bright idea, it could be better understood as arising from cumulative experience; the act of exchanging women's chastity for economic benefits, like repudiating debts or settling tenancy disputes, was well within social perceptions and formed an element of representational reality, though it caused severe damage to the reputation of a woman's purity.

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[60] Rufu Gong, *Mingqing songxue yanjiu*, 明清讼学研究 [Litigation Knowledge in Ming and Qing Dynasty] (Beijing: The Commercial Press, 2008), 116–20.

Conclusion

This chapter focuses on lawsuits between women's family members, particularly husbands, in-laws, and outsiders in nineteenth-century Ba County. According to the narratives of the plaints, outsiders participated in many abductions. In order to abduct a woman, an outside male would usually first commit illicit sex with a woman. Husbands were inclined to combine sexual offenses and abduction when planning to charge an outside man. The pattern constitutes an element of representational reality, namely that outside men and married women would first engage in adultery, and then elope together. Compared with the cases in Chapter Three in which a marital family would usually insert marital disputes into abduction charges when accusing the natal family, they would compose the plaints in a different way when the defendants were outsiders. Even though the purpose of the charges remained largely consistent and the marital family always aimed to resume or maintain control over the woman, husbands and in-laws would choose divergent accusations and construct corresponding plots whether attacking someone from the Inner or Outer tier.

In consideration of the prevalence and impact of the chastity cult in Qing China, subjects realized the value of chastity and acquired the ability to wield it for legal ends. Therefore, the impact of the female chastity cult manifests in an unexpected form: the analysis of sexual crimes in this chapter intends to reveal this commodification of female honor and chastity. The plaints are fraught with depictions of women's resolute efforts to maintain their chastity, especially their (attempted) suicide in the face of a threat to their purity, and the extreme pain they experienced after being violated and polluted. Sexual offenses and female chastity were crafted into a strategy in the litigation masters' secret handbooks, which at the same time also provided the counter-strategy, namely defending oneself through economic disputes. In legal practice, the litigation masters and litigants learned this template, so the archives show direct but nuanced links between sexual offenses and money.

Charging a sexual offense, based on the current literature, could have two purposes: attracting the magistrate's attention and compelling the defendant to solve a dispute with the plaintiff. Nevertheless, the pattern constituted another element of representational reality: female chastity seemed a good bargaining tool in economic disputes, and had been objectified just like female bodies, sexual resources, reproductive labor, and the right to marry in the Qing Dynasty. The cult of female chastity had become a part of the dominant discourse, which was too authoritative and too influential to avoid. Therefore, the subjects made use of the chastity cult, leading to a consequence that the policymakers could not expect.