## **Eight Cases and Rulings from the Qing**

Translated by Ming-te Pan History Department State University of New York at Oswego

### **Contents:**

- Case 1: A Bondservant Scolds His Master and Threatens to Kill Him.
- Case 2: A High Ranking Official Beats His Bondservant to Death and Forces the Bondservant's Daughter to Marry Him as a Concubine
- Case 3: Kong Chuanli Kills His Daughter, Woman Kong, Who Committed Illicit Sexual Intercourse and Ran Away
- Case 4: The Governor General of Jiangsu, Jiangxi, and Anhui Reports a Case of a Pawnshop Clerk Stealing from the Pawnshop
- Case 5: Zhang Yong Strangles His Son, Zhang Xiao'er, Because of Xiao'er's Stealing
- Case 6: Han Ruifang Kills His Aunt in Revenge Case 7: Wang Taicang Follows His Mother's Order to Injure His Married Sister, Woman Wang of the Zhu Family, and the Injuries Causes her Death.
- Case 8: The Elder Brother Wanted to Commit Suicide, and the Younger Brother Abetted His Brother With Words To Do So.

## Case 1: A Bondservant Scolds His Master and Threatens to Kill Him

Source: Zhongguo Renmin Daxue Qingshi yanjiusou and Danganxi Zhongguo zhengzhi zhidushi jiaoyanshi, et. al., eds. *Kang Yong Qian shiqi chengxiang renmin fankang douzheng ziliao* [Source materials on urban and rural population's anti-government struggles during the reigns of Kangxi, Yongzheng, and Qianlong]. Vol. 1. Beijing: Zhonghua Shuju, 1979. Pages 494-450.

On the third day of the fifth month of the lunar calendar during the sixth year of the Kangxi Reign (1667), the Minster of the Ministry of Punishment, Duihana, memorialized:

### Mengku testified:

During the tenth month of the lunar calendar of the fourth year of the Kangxi reign [1665], after drinking strong whisky, Dalaqi [Mengku's bondservant] yelled hysterically in the courtyard for no reason. My mother told him, "Are you a bondservant without a master?" "Why are you running wild here?" Dalaqi picked up a stone and t hrew it through my window. My mother rushed out of the room and intended to beat Dalaqi. Dalaqi also rushed toward my mother and hit my mother once with his fist.

In the second month of the lunar calendar of last year [1666], Dalaqi again yelled and cursed in the courtyard for no reason. I reprimanded and scolded him. He [Dalaqi] carried a knife and yelled back, "You son of a bitch."

In the fourth month of the lunar calendar of this year [1667], because my younger brother Maxi beat Dalaqi's wife, Dalaqi cursed my younger brother. While I disciplined him by beating, he cursed my parents. As a result, I expelled him [from the household] to [work in] the fields and prohibited him from returning to my household.

On the twenty-sixth day of the fourth month of the lunar calendar, Dalaqi returned to my household without my permission. I reprimanded him, saying, "Dalaqi, why did you return without my permission?" Dalaqi said to me, "to stab [you] with a bright [clean] knife and pull it out red [meaning to kill you]." I quickly ordered the soldiers Keshilei and others to tie him up. At this moment, Dalaqi yelled at my mother and me again, "You son of a bitch. Your mother is a lewd woman."

### Ruling:

According to the statute concerning bondservants who assault their masters, Dalaqi should be decapitated immediately.

## Translator's Explanation:

According to Qing social hierarchy bondservants were lower than their masters; thus they would be punished more severely for committing a crime against those who were above them.

### Case 2:

## A High Ranking Official Beats His Bondservant to Death and Forces the Bondservant's Daughter to Marry Him as a Concubine.

Source: Kang Yong Qian shiqi chengxiang renmin fankang douzheng ziliao, vol. 1, pp. 398-400.

\_\_\_\_\_

In the second month of the lunar calendar in the forty-ninth year of the Qianlong reign [1785], the Ministry of Punishments memorialized [as follows]:

Mandou is a royal bondservant of the most prestigious yellow banner and a brigade commanding officer of the royal guards. In the second month of the lunar calendar of the forty-eighth year of the Qianlong reign [1784], having Chen Heizi as the guarantor, [Mandou] spent twenty-five *taels* of sliver to obtain... a total of four individuals as bondservants: a commoner from Daxing county, Zheng Rong; his wife, Woman Liu; his son-in-law, Gao Shou'er; and his daughter, Erniu.

Mandou ordered Erniu to live in the master's quarters so that she could be on call for duty. Mandou intended to rape Erniu and forcibly take her as his concubine. Erniu resisted, and thus Mandou often looked for reasons to beat or scold Zheng Rong and his wife. Zheng Rong could not endure the abuses. In the fourth month, he took Woman Liu, Gao Shou'er, Erniu, and ran to the home of Chen Heizi, his guarantor. Zheng planned to raise money to buy back his freedom.

Mandou ordered his servant Xiao'er to search for the four runaway bondservants. Gao Shou'er learned of the manhunt and fled. On the twelfth day of the fifth month, Zheng Rong, Woman Liu, and Erniu were apprehended. Mandou used his fists and feet to beat and kick Zheng Rong, Woman Liu, and Erniu. Then, he took a club and severely beat Zheng Rong's legs and buttocks, which caused bleeding. On the thirteenth day, because Mandou saw Zheng Rong was gravely wounded, he ordered Xiao'er to transport Zheng Rong and Women Liu by cart to [dump Zheng Rong in] a cemetery outside the city. On the same day, Mandou forced Erniu to have sex and made her his concubine.

Zheng Rong died from his injuries on the subsequent day [the fourteenth]. Xiao'er informed Mandou, and Mandou immediately ordered Xiao'er to do the following: first, to wrap the corpse with a straw mat and bury it, and second, to bring Woman Liu back to the household. Mandou cautioned the doormen to be on high alert while guarding the door in order to prevent Woman Liu from leaving his compound. Mandou also ordered the female bondservant in his house to keep a close watch on Woman Liu. Until the eighteenth day of the first month of this year [1785], the doorman on duty, Xiao'er, was not on duty because he was ill. Woman Liu took the opportunity to escape. She went to the Capital Infantry Unit Commanding Office (*bujun tongling yamen*) to present an accusation.

We impeached Mandou, dismissed him from his position, and interrogated him. Mandou said that "he was old and his mind was not clear, and thus he committed such a shameless crime." He admitted that he had committed all the charges—beating Zheng Rong to death, and raping and forcefully taking Erniu as his concubine.... We interrogated the bondservants in Mandou's household, Xiao'er and Cui Fu. Their testimonies matched with that of Woman Liu. It was unlikely [that Woman Liu] lodged a false accusation or was evasive regarding the facts.

### Ruling:

According to statute, if a master forcefully seizes and rapes his bondservant's wife without consummating the act, beats the bondservant to death, and then confesses and does not conceal the facts, regardless of whether the master is an official or a commoner, he shall be sentenced to exile and hard labor in Heilongjiang [in far northeastern China].

Furthermore, statute indicates that if a criminal is above 80 years of age and his or her offense is subject to capital punishment, officials involved in the case should memorialize the recommended punishment to the emperor and wait for the emperor's final decision. If the offense is not subject to capital punishment, the convict should be allowed to redeem [i.e. pay a fine as a substitute for] his punishment.

According to a statute concerning a case that arose when a Manchu beat his bondservant to death, if the bondservant's parents, wife, and offspring are commoners in origin, they should be released and should regain their commoner status without compensation to the master.

Mandou should be exiled to Heilongjiang, but since he was a high-ranking official, he should be sent to Yili [in Xinjiang Province (northwestern China)] to perform services according to the precedents set [in the cases of] Shu Ning and Zu Shangde. The convict [Mandou] is over 80 years old. The statute says that, because he did not commit a capital crime, he should be allowed to pay a fine as a substitute to the punishment that he would have received. However, he was a royal servant and a brigade commander of the royal guards, and has received deep royal favor. Thus, he should not be recommended to receive the same punishment as a commoner would. He should be punished by the statute concerning those over 80 years of age who commit crimes that warrant capital punishment. We memorialize this recommended punishment and wait for emperor's brilliant decision of whether Mandou should be allowed to pay a fine as a substitute....

Woman Liu and Erniu shall be released to resume their commoner status. Mandou shall not demand compensation for the [original] purchase payment. When Gao Shou'er is found, he shall feel free to resume his relationship with Erniu [as a couple].

When Cui Fu was subpoenaed to testify, he testified against his master about Mandou's criminal acts of beating and raping. If he continues to stay at Mandou's home as a bondservant, he could be subject to vengeful abuses. He should be handed over to the

Bureau of the Royal Household for sale. The price gained from the sale will go to the Bureau's treasury.

Since Xiao'er testifies that he did not assist in the beating, he should remain [in Mandou's home].

On the 9th day of the second month of lunar calendar of the 49th year of the Qianlong reign, an imperial edict ruled: Mandou should be exiled to Yili, but because he is over 80 years old, [His Majesty] gave him an exceptional favor to let him pay a fine as a substitute for the punishment that he would have received. This is according to the precedent by which an official whose rank is higher than the third level who has committed a crime subject to exile can pay 7,200 *taels* to buy himself out of punishment by exile. Mandou should pay that amount in full. His superiors in the Bureau of Imperial Household Affairs (*neiwufu*), such as the Director, Deputy Director and Assistant Director, should watch and discipline him closely. [Mandou] is ordered to stay at home and mind his business, and prohibited from going out and making trouble. Mandou should pay 20 *taels* to Zheng Rong's family as punishment. As for the other individuals involved in this case, the recommendations of the Ministry of Punishment should be followed. Let us respect this decision.

### Case 3:

## Kong Chuanli Kills His Daughter, Woman Kong, Who Committed Illicit Sexual Intercourse and Ran Away

Source: Zhu, Qingqi ed. *Xing'an huilan* [Conspectus of legal cases]. Vol. 44, 1a-b. Shanghai: Shanghai tushu jichengju, 1886. Reprint, Taipei: Chengwen Chubanshe, 1968.

The Governor of Shandong Province requests instruction on the ruling in the case of Kong Chuanli who killed his daughter Woman Kong after she committed illicit sexual intercourse and ran away (1826 memo).

Kong Chuanli had a daughter, Woman Kong, who had illicit sexual relations with Zhou Guang. Woman Kong seized an opportunity and ran away from her husband's household with Zhou. Kong Chuanli's son, Kong Jichang, searched for and discovered Woman Kong. Because it was such an embarrassment, Chuanli and Jichang kept this to themselves. Afterwards, Woman Kong ran away from her husband's household again because her husband was too poor, and asked other people to help her find another household to marry into. Kong Chuanli learned of his daughter's behavior, which had disgraced the reputation of Kong's ancestors, and made [Kong Chuanli] furious. He forced his son [Jichang] to kill Woman Kong.

## Ruling:

[For an explanation of mourning relationships, see "Mourning Relationships in the Ming and Qing Dynasties," which is available from the ExEAS teaching unit "Your Honor I am Innocent: Law and Society in Late Imperial China."]

According to statute, if a child is so disobedient that he causes his father to beat him irrationally and kill him, the father will be punished by 100 strokes of heavy bamboo. In addition, according to statute, if a senior family member kills a junior family member whose conduct has brought disgrace to the ancestors but does not warrant capital punishment, then regardless of whether it is premeditated, the punishment will be reduced by one degree based on the mourning relationships...

If the victim is a sexually licentious child, then the victim's crime is more severe than disobedience. If a parent kills such a child in a fight, then the parent cannot be considered irrational, nor can he or she be compared to a senior family member of lower than second mourning relationship who kills a junior family member. According to an 1820 precedent, the case of Liu Yulin, who strangled his daughter who had committed illicit sexual intercourse, the investigation indicated that [Liu] was enraged by his daughter's shameless behavior and killed her; thus, he was to be spared. Furthermore, the precedent of Zhao Zhongyuan, who strangled his daughter for committing illicit sexual intercourse, also indicates no punishment for the parent....

The recommendation by the governor of Shandong to punish Zhou Guang (Woman Kong's partner) with military exile and to punish Kong Jichang [the senior family

member who killed a junior family member] with beating by heavy bamboo are in line with precedent. Only the case of Kong Chuangli, in which he was enraged and forced his son to kill his daughter because his daughter's illicit sexual behavior brought disgrace to the ancestors, is different from cases in which parents irrationally kill a child in a fight. The provincial governor's recommendation of punishment according to [precedents concerning a] senior family member who kills a junior family member who brought disgrace to the ancestors is incorrect and should be amended. (1826 memo).

### Case 4:

# The Governor General of Jiangsu, Jiangxi, and Anhui Reports a Case of a Pawnshop Clerk Stealing from the Pawnshop

Source: Xing'an huilan, vol. 18, 14 a-15b.

[For an explanation of mourning relationships, see "Mourning Relationships in the Ming and Qing Dynasties," which is available from the ExEAS teaching unit "Your Honor I

am Innocent: Law and Society in Late Imperial China."]

The governor general of Jiangsu, Jiangxi, and Anhui Provinces reported [the following case]:

Tao Yuchun, a tribute student (*gongsheng*) from Suhui county [Jiangsu Province in southeastern China], owned a pawnshop. He ordered Tao Renguang, who is two generations lower than him in the clan and is outside the circle of mourning relationships, to take charge of the jewelry section in the shop along with another clerk, Zhou Jishuang. Tao Renqing [Renguang's elder brother] was in charge of processing pawned items.

Zhou Jishuang reprimanded and scolded Tao Renqing, who forgot to enter pawned items [in the records]. Tao Renguang disagreed and was angered with Zhou's reprimand, so he plotted to steal property from the shop and run away. He stole gold jewelry and money, fleeing to Jingzhou in Hubei Province. Tao Yuchun and others looked all over for Renguang. Before Tao Yuchu reported the loss of property to the local authorities, Tao Renguang's sudden disappearance had caused a rumor to spread among villagers that he had committed suicide by hanging himself in the shop.

Chen Huang, the county magistrate, went to the countryside to conduct official business and heard the rumor. He felt that since this was a matter concerning a person's life, he had to investigate the matter thoroughly. When he returned to the *yamen* [the magistrate's office], he subpoenaed Zhou Jishuang for interrogation. Zhou Jishuang indicated with evidence that Tao Renguang had stolen things and fled. [Zhou testified] that no one knew where he went, and that [Tao] Renguang had not committed suicide by hanging himself.

Chen Huang reasoned that if Tao Renguang had stolen a large sum of valuable property from the shop and Zhou Jishuang had been his co-worker in charge of the jewelry section, Zhou Jishuang would have reported the event to the authorities to avoid being implicated in the case. Zhou looked suspicious because he kept the event to himself by not reporting it to the authorities. Furthermore, if Tao Renguang had indeed fled, there should have been leads regarding his whereabouts. It was impossible that there would be no leads whatsoever regarding his whereabouts. Chen suspected that the rumor of [Tao's] suicide by hanging might not be groundless, and decided that he needed to interrogate Zhou Jishuang vigorously.

Because Zhou Jishuang did not defend himself clearly and effectively in his testimony, Chen Huang immediately interrogated Zhou Jishuang with pressing sticks [the most cruel form of torture]. Zhou Jishuang was afraid of being tortured [again], and so he made a false confession that [Tao Renguang] had hanged himself. Chen Huang pressed on for the location of the corpse. Zhou Jishuang gave misleading testimony that Mou Mingtai and others had carried the corpse away and buried it. When [Chen Huang] summoned Mou Mingtai and others for interrogation, they all had fled because they were afraid of being implicated. This reinforced Chen Huang's suspicion that [Tao Renguang's] suicide had actually taken place. [Chen Huang] further summoned Tao Renguang's elder brother, Tao Renqing, and Rui Hongzhu, a worker in the shop, for interrogation. Their testimony seemed evasive because neither of them could provide leads to where Tao Renguang actually went, and the corpse could not be found. Thus [Chen Huang] tortured Tao Renqing and Rui Hongzhu by slapping their faces and forcing them to kneel on chains. However, [Chen Huang] did not obtain a convincing confession.

While the investigation was in progress, the person whom Tao Yuchun dispatched to search for [Tao Renguang] arrived in Jingzhou and found Tao Renguang. Tao Renguang was apprehended and sent to the prefecture office for interrogation. The total value of the property [that Tao Renguang had stolen] was 369 *taels* of silver.

### Ruling:

[For background information and an explanation of the system of Autumn Assizes, see "Law and Society in the Qing, which is available from the ExEAS teaching unit "Your Honor I am Innocent: Law and Society in Late Imperial China."]

On the 15th day of the sixth month of the 58th year of the Qianlong Reign [1793], His Majesty ordered:

Shu Lin [the Governor General of Jiangsu, Anhui, and Jiangxi Provinces] and others memorialized the trial and recommended... [the following:] "Tao Renguang should be executed by strangulation according to the statute for stealing property worth more than 120 *taels*. And because he and Tao Yuchun were relatives outside the circle of mourning relationship, the punishment should be commuted by one degree. Thus, he should receive 100 blows of heavy bamboo and exiled by 3,000 *li* (1,500 km) [from his home]. According to the investigation, Chen Huang did not commit blackmail for by launching an unwarranted investigation. Because he has been impeached and fired, there is no need for further deliberation....

All these recommendations are not just.... As opposed to stealing from commoners, stealing from relatives deserves commutation because according to the principles of filial piety, fraternity, harmony within in-laws, and helpfulness, [one] is responsible to provide relief [to relatives] in emergencies. If an older member or a member in higher generational hierarchy of a clan ignores the fact that a younger clan member or a clan member lower in the generational hierarchy is too poor to survive, and if the younger

member therefore steals money or goods, then [it] is a circumstance in which elements deserving leniency are to be found. The commutation is thus reasonable.

Now, Tao Renguang is a youth who is two generations lower in Tao Yuchun's clan and is outside the circle of mourning relationships. Their relations were minor and remote. Tao Yuchun gave him a job in charge of the jewelry at his pawnshop. There is no comparison here to situations in which [elders] do not take care of [younger family members]. However, Tao Renguang dared to steal the jewelry and money and fled to Hubei Province. This resulted in his co-worker, clerk Zhou Jishuang, and his brother, Tao Renging, being brutally tortured. Furthermore, a pawnshop in a village or a town only operates on a sum of capital slightly over 1,000 taels of silver, while the amount that Tao Renquang stole was over 300 taels. Tao Chuyuan, as a result, had to compensate the loss of his customers' property in full and was implicated in a lawsuit. Is it not true that these events were going to force a person with moderate wealth to lose all his assets? If this kind of crime deserves a commutation according to statute [from death by strangulation] to exile, how can [the law] punish thieves and robbers and assure the peace of mind for law-abiding subjects? From now on, stealing from relatives within the circle of mourning relationships should receive commutation according to the statute. Those who are outside the circle of mourning relationships and whose act of theft exceeds 100 taels should be recommended to receive the death penalty by strangulation after the Autumn Assizes.

But, considering that they are the offspring of a common ancestor, there is a solid reason for the case to fall into the "no check off" category during the Autumn Assizes. The criminal, Tao Renguang, should be treated in the above-mentioned manner. The purpose of an unambiguous and just punishment is to enhance civility. The reason I ordered [Tao's] punishment to be more severe ... is to put the principles of filial piety, fraternity, harmony [with in-laws], and helpfulness on the right track. On the other hand, [I] suggested a recommendation of death by strangulation, but will not check it off during the Autumn Assizes.

As for Chen Huang, the magistrate in the larceny of Tao Yuchun, on the basis of groundless rumors, and although the victim had not pressed charges with the authorities, Chen hastily extracted confessions by torture from Tao Renqing and Zhou Jishuang, both of whom were innocent. Furthermore, Tao Yuchun was an owner of a pawnshop [i.e. he is rich]. It is clear that the magistrate intended to use this case to commit blackmail for extortionate gains. In the governor general's report, it says that the magistrate employed torture to extract confessions because it was an event concerning human life and involving suspicious circumstances, [and thus] the launching of unwarranted investigations and torture was not for extortionate gains. These [words] only indirectly absolve him from his guilt and are totally unconvincing. Firing a mediocre official as greedy and cruel as [Chen] is not sufficient for his crime. Chen Huang should be exiled to a remote military garrison to provide services as a way to pay for his crime. Let us respect this edict.

### Case 5:

## Zhang Yong Strangles His Son, Zhang Xiao'er, Because of Xiao'er's Stealing.

Source: Xing'an huilang, Vol. 44, 1b-2a.

\_\_\_\_

From the Department of Zhili Province [of the Ministry of Punishment]:

...In this case, Xiao'erzi [age 11], was Zhang Yong's son. [He] stole radishes from the field of Yang Jin. Yang Jin went to Zhang Yong demanding compensation. Due to the fact that his son had been stealing frequently in the area, and when [Zhang Yong] admonished his son, his son never listened, the thought of just killing his son came into Zhong Yong's mind. He strangled Xiao'erzi with a rope made of hemp. (1800 memo).

## Ruling:

Your servants checked the statutes according to your order and found the following. The law says, when a child is guilty of disobedience, and the parents, instead of punishing the child according to the law, kill the child by irrational beating, [the parents] shall be punished by 100 blows of heavy bamboo. When the child has not shown any disobedient behavior and the [parents] kill the child intentionally, [the punishment] shall be 60 blows of heavy bamboo and exile for one year.

The parents shall not be prosecuted in either of the following situations: in a case where a child beats or scolds his or her parents and the parents beat the child to death because he or she is guilty [of disobedience]; or in a case in which a child is guilty of disobedience and the parents punish the child according to the law and kill the child by accident. In the annotation [to the statute], it says that the parents shall not be prosecuted because, by beating or scolding the parents, the child is guilty of a crime subject to the death penalty...

In this case, Zhang Yong used a rope to strangle his son, Xiao'erzi, who was only 11 years old, because his Xiao'erzi stole frequently. Although Xiao'erzi was not an innocent son, he did not commit a crime warranting capital punishment... He was only guilty of being disobedient. If Zhang Yong punished him according to the law and killed him by accident, he certainly would not be prosecuted under the statute. Now, [Zhang Yong] strangled [Xiao'erzi] with a rope; this was no a doubt killing by irrational beating.

The governor general omitted the phrase "beat and scold parents" in the statute and adopted the language in the annotation [to the word] "guilty" and recommended that Zhang Yong not be prosecuted; this is not in accordance with the essence of the statute. The department recommended 100 blows of heavy bamboo, according to the punishment in cases where a child who is guilty of disobedience is beaten to death irrationally by his or her parents. This carefully applies the essence of the statute and seems to be much more fair and balanced. (1800 memo). [In the end, as punishment Yong was beaten with heavy bamboo].

## Case 6: Han Ruifang Kills His Aunt in Revenge

Source: Xing'an huilan Vol. 45, 10b-11a.

\_\_\_\_\_

[For background information and an explanation of the system of Autumn Assizes, see "Law and Society in the Qing." which is available from the ExEAS teaching unit "Your Honor I am Innocent: Law and Society in Late Imperial China."]

From the Department of Shanxi [Ministry of Punishment]:

...In this case, Han Ruifang killed Woman Xu, who is the wife of his father's younger brother, Han Jinchun. [Han Jinchun] bought Women Xu from her ex-husband, who had divorced her. She was a rude, shrewish woman who often bullied and abused Ruifang's mother, Woman Su of the Hans.

Woman Xu picked a quarrel with Woman Su of the Hans and beat and yelled at her. Because of this, [Women Su] was very upset, and committed suicide by throwing herself into a large ceramic water barrel. [As a result], [Ruifang's] father's heart was filled with indignation, which caused him to have difficulty swallowing food and as a result he died.

The criminal [Ruifang] plotted revenge because both his parents died as a result of the bullying of Woman Xu. He used a knife to kill Woman Xu, and then he went to surrender himself at the county magistrate's office. (1830 memo).

### Ruling:

...We carefully pondered the precedent of killing for revenge in the case of the son of Wen Ren., which specifically refers to revenge for parents' murder. Indeed, a murderer should be killed to atone for the crime of killing someone's parents, and [from the son's perspective] there is an absolutely irreconcilable enmity [toward the murderer]. Therefore, the son shall receive pardon and commutation when he avenges the murder of his parents by conducting an unauthorized killing. The statute does not specify, however, what to do in the case in which a son avenges his parents who were intimidated and committed suicide....

The Governor of Shanxi Province requested instruction from the Ministry of Punishment on this case for the following reasons. [The governor] felt the circumstances of this case indeed deserved sympathy. Han Ruifang was determined to avenge his mother's death. He refused to marry and lived in agony for years. After he killed the enemy, he went to report the crime, surrendered himself to the authorities, and was willing to [be executed] to atone for his crime... Because there was no specific statute governing this crime and [citing different statutes] resulted in different degrees of punishments, [the Governor] would like to request the Ministry to give instruction....

[The Ministry of Punishment] reviewed the case and found Han Ruifang's mother committed suicide due to the intimidation of Woman Xu, but she was not killed by Women Xu. If [Ruifang] regarded this as the same as killing his mother, then he should have reported it to the authorities.... [He] should not have killed because of his personal enmity, which made him violate the criminal law. Although Woman Xu caused the Woman Su's suicide and deserved to be punished, because her crime was not adultery or robbery, it was not appropriate to cite unauthorized killing for sentencing...

Now, Woman Xu is the wife of the criminal's father's younger brother, who purchased her from her divorced ex-husband. Their relationship is the same as that between commoners. The criminal [Ruifang] committed premeditated murder. There was no precedent to pardon him. [He] should be sentenced according to the statute of premeditated murder. The so-called circumstances of his grief over his beloved parents should not be cited here to invoke [statutes concerning] a son's revenge [for the killing of parents], unauthorized killing, or voluntary surrender to force an analogy between different crimes; [the ruling], therefore, deviated from the established precedents. It can only wait until the Autumn Assizes to be considered as a less severe premeditated murder case and be finalized accordingly.

### Case 7:

Wang Taicang Follows His Mother's Order to Injure His Married Sister, Woman Wang of the Zhu Family, and the Injuries Causes her Death.

Source: *Xing'an huilang*, Vol. 41, 6a-b. (The case is cited in an 1825 memo from the Ministry of Punishment; the homicide took place in 1823).

\_\_\_\_

...Your humble servants carefully examined the case of Wang Taicang. The cause of this case is as follows. [His] married elder sister of the same mother and father twice ran away with her lover. When Woman Xia of the Wangs [Woman Wang's and Taicang's mother] encountered [her daughter, Woman Wang of the Zhu family, in a ferry when crossing the river], Woman Xia scolded her. Woman Wang did not admit she did anything wrong, and talked back [to her mother] and made a big fuss. Woman Xia was furious, and she ordered Wang Taicang to beat [Woman Wang]. Wang Taicang dared not act. Woman Xia claimed, "If you do not beat her, I will jump into the river to commit suicide." Wang Taicang was desperate, thus [he] used his fist to hit both the right and left sides of his sister's upper back [the upper rib cage] three times. Woman Wang was rolling on the floor of the cabin and cursing hysterically. Woman Xia was extremely outraged and forced [Taicang] to beat [his elder sister] further. Wang Taicang again beat [his elder sister's] left upper back four times. Woman Wang died that night.

## Ruling:

Woman Wang was licentious, shameless, and guilty of disobeying and talking back to her mother from the beginning. Woman Xia first threatened to commit suicide by jumping into the river, then she forced [Taicang] to beat [his elder sister] with full strength two times. Although Wang Taicang used his fists to inflict ten injuries [on Woman Wang], [the coroner] examined and found the injuries were only bruises. They were all minor or light injuries. Considering the circumstances, in which he had no choice [but to beat her], and considering that the death was beyond his expectations, Wang Taicang should be sentenced to exile based on the precedent concerning one who is forced by a senior's threats and acts reluctantly, causing a death by accident. Woman Xia did not violate the law and shall be free from prosecution.

#### Case 8:

The Elder Brother Wanted to Commit Suicide, and the Younger Brother Abetted His Brother With Words To Do So.

Source: Xing'an huilang, Vol. 23, 18a-19b.

This case took place around late 1830, and officials completed the investigation and acquired testimony on the twelfth day of the first month of the lunar calendar of the eleventh year of the Daoguang Reign (1831).

The Department of the Huguang [Hunan and Hubei] of [the Ministry of Punishment memorialized]...

In this case, Li Shangyou and his elder brother, Li Shangqi, were begging to make a living. Li Shangqi was blind in his left eye. One day, Bao Xinzheng threw a banquet to celebrate the birth of a grandson. Li Shangqi and others went to beg. Bao Xinzheng gave each of the beggars nothing but a bowl of cold rice. Li Shangqi and his fellow beggars were not satisfied. They made a big fuss and quarreled [with Bao Xinzheng]. Bao Xinzheng threatened that he would tie Li and his associates up and send them to the authorities. [Then, Bao pushed Li Shangqi out of the main gate, broke his rice bowl and closed the gates]. Li Shangqi lay on the ground, rolling around hysterically. As a result, he scratched his left chin and face. Li Shangyou helped his brother stand up and was about to help his brother go to the place where they stayed. Li Shangqi claimed that he intended to fight tooth and nail with Bao Xinzheng, and did not care about his own life. He [Li Shangqi] said he would die in Bao's home to make Bao pay for his coffin. Only this, he said, could vent his rage. Li Shangyou was also outraged by Bao's meanspiritedness, and claimed, "If you die in Bao Xinzheng's home, I will redress your grievances for you." Then, [Li Shangyou] went back to his shed together with his fellow beggar Ou Yingsheng, and they slept. To everyone's surprise, [after they left] Li Shangqi hanged himself on the arch of the main gate of Bao Xinzheng's home.

The next morning, Bao Xinzheng found [that Li Shangqi had committed suicide] and reported it to the county magistrate. Li Shangyou fled when he learned [that his elder brother had died, and that Bao had reported it to the authorities]. The authorities quickly apprehended him.

### Ruling:

[For an explanation of mourning relationships, see "Mourning Relationships in the Ming and Qing Dynasties," which is available from the ExEAS teaching unit "Your Honor I am Innocent: Law and Society in Late Imperial China."]

There is no statute that specifically indicates how to punish an offender who abets an elder relative to commit suicide. The governor recommended Li Shangyou be punished according to the statute that requires the death penalty by strangulation for offenders who

coerce an elder relative, resulting in suicide. Then, the sentence should be commuted [according the circumstances] to exile. Ou Yingsheng should be punished by beating of heavy bamboo.

[The officials in the Ministry of Punishment disagreed with the recommendation of the governor and issued the following comments.] We reviewed and looked into the case. Li Shangyou failed to persuade his elder brother [to give up the idea of committing suicide] when his brother intended to go all out with [Bao Xinzheng] with no regard for his own life. Instead, he abetted his brother by saying, "If you die in Bao Xinzheng's home, I will redress your grievances for you." This kind of situation is the same as knowing the plot in advance and letting the murderer commit the murder...

Furthermore, [we] examined the coroner's report that indicated the eyes of Li Shangqi's corpse were slightly open. This is contrary to what is recorded in *Xiyuanlu*, an authoritative coroner's handbook first published in the 13<sup>th</sup> century, which says the corpses of those who commit suicide by hanging should have their eyes closed. We carefully examined the testimonies; if the defendant said he would redress [his brother's] grievances, why did he flee? [We] cannot rule out the possibility that they could not get what they wanted [from Bao Xinzheng]. Thus, they [Shangyou and Yingsheng] helped Li Shangqi commit suicide and intended to swindle [money from Bao Xinzheng]. They confessed that it was Li Shangqi who initiated the action of committing suicide. This is totally unconvincing. Furthermore, when the defendant abetted his elder brother's suicide, Ou Yingsheng was there. Why did Ou not say anything? In his testimony, the defendant says that when Li Shangqi committed suicide, the defendant and Ou Yingsheng had returned to their shed to rest, and they did not assist the suicide. This is particularly untrustworthy.

The statute for coercing an elder relative [to commit suicide] refers to a situation in which the death of the elder relative is caused by the younger relative's coercing act, but in which the younger relative does not intend to force the elder relative to commit suicide. In this case, [the defendant's] brother indeed intended to go all out with no regard for his life, and [the defendant] abetted his elder brother's quick death. How can [the governor] refer to the statute of coercing the elder relative and causing the relative's death, yet then commute the punishment? [In the governor's recommendation], the name of the offense was lightened, and the description of the facts was not accurate. It is inappropriate for the Ministry of Punishment to reply to such a judicial opinion. The governor should be ordered to select wise officials to investigate the true facts carefully, and then memorialize the recommended punishment. [The Ministry of Punishment] will deliberate the case when the memorial arrives.

...The governor respectfully followed the rebuttal opinion [of the Ministry of Punishment], carefully retried the case, reversed the recommended punishment, and submitted a memorial. Li Shangyou neither assisted in his elder brother's suicide, nor was he present to witness the suicide. However, [because Li Shangyou encouraged his brother's death the punishment should be in accordance with cases of murdering a relative,] punishment shall... follow the recommendation of the governor that Li

Shangyou shall be executed immediately by decapitation according to the statute concerning the murder of a relative, [which requires that] regardless of whether the act has been carried out, and regardless of whether the victim was injured, [the defendant] shall be executed by decapitation.