State and Family in China

In Imperial China, the idea of filial piety not only shaped family relations but was also the official ideology by which Qing China was governed. In *State and Family*, Yue Du examines the relationship between politics and intergenerational family relations in China from the Qing period to 1949, focusing on changes in family law, parent–child relationships, and the Chinese state during this period. This book highlights how the Qing dynasty treated the state-sponsored parent–child hierarchy as the axis around which Chinese family and political power relations were constructed and maintained. It shows how following the fall of the Qing in 1911, reform of filial piety law in the Republic of China became the basis of state-directed family revolution, playing a central role in China's transition from empire to nation-state.

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Filial Piety and Its Modern Reform

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The official serves the ruler, the son serves his father, the wife serves her husband. If these three are done then all under Heaven is ordered, if these three are not done then all under Heaven is in chaos.

—Han Fei Zi

Those who behave filially obediently towards their parents and submissively to their elder siblings seldom show a disposition to resist the authority of their superiors. And as for such men starting a rebellion, no instance of it has ever occurred.

—The Analects of Confucius

When the great Way is abandoned, there are benevolence and righteousness. When wisdom and intelligence come forth, there is great hypocrisy. When the six familial relationships are out of balance, there are kind parents and filial children. When the state is in turmoil and chaos, there are loyal ministers.

—The Daodejing of Laozi

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Preface

When I visited Sichuan provincial archives in Chengdu, China, for the first time in summer 2015, I brought with me a research topic on concubinage and motherhood in the Qing (1644–1911) that I envisioned would develop into my dissertation. I had no idea that randomly browsing over some case files would eventually transform my dissertation into a very different project. A filicide case caught my attention. Huang Xingren and his wife brought their infant girl when visiting and trying to borrow from Huang's maternal uncle. After the uncle refused, the girl was thrown to the ground in front of the uncle's home and died. The magistrate, upon receiving a report from the uncle on Huang's filicide, investigated the case personally. He allowed the testimonies to be changed several times. Eventually, all involved agreed that the girl was accidentally dropped from the bosom of Huang's wife and died despite great efforts from all parties to save her. The case was closed as an accident, which, as the magistrate's legal advisor commented, required no further review. The file, including the contradictory testimonies produced during the investigation, was not intended for anyone outside the Ba county administrative-judicial complex, certainly not for twentieth-century historians like me.

With prior knowledge on the existence of a statute in the Qing code assigning punishments for those "who killed their children or grandchildren in order to falsely accuse others," the historian in me noticed the potential for fascinating narratives if I could find more cases like this. However, the more intentional filicide cases I identified, the more the mother in me, which I often purposefully separated from my "historian self," cried out. Day and night, I terribly missed my two-year-old, whom I left behind in New Jersey. I was so grateful for my loving mother, who was selflessly taking care of my little one on my behalf, and for my husband, who had grown so much by shouldering the responsibility of fatherhood. Why were there parents who valued their children, especially little girls, so little that they saw killing them as a small price to pay if the bodies could be used to frame others or extract money? Why were there neighbors and

relatives who saw no problem in collaborating with the parents to cover things up? Why were there judicial officials who tended to record filicide cases as accidents, and who meted out light punishments even when parents were convicted? Why did the Qing code attach so little weight to filicide, while designating extremely harsh penalties for children who slightly offended their parents? Both the historian and the mother in me realized that these questions obliged me to reorient my dissertation.

I knew and believed that emotions and self-perceived interests were socially constructed. But I now felt it more than ever. I needed to explain why something I took for granted – care and love between parents and children – materialized in the Qing so differently, at least where state regulation was concerned. In the years that followed, the project developed into something beyond my wildest imagination. Filicide and its light punishment have become a very small part of the narrative. The book now shows how the Qing state employed a large range of tools to buttress parents' supremacy over adult and minor children – punishing children who accused parents even when the accusations proved to be true, beating and canguing children publicly upon parental requests, executing parricides by slicing despite mitigating circumstances, accepting parents' testimonies against children while ignoring contradictory evidence, and assigning little or no punishment to parents who abused or falsely accused their children. The degree of instrumentalization of parent–child relations in the Qing is stunning, but the cold logic underneath such instrumentalization is not difficult to figure out – the emperor, who described himself as being the imperial subjects' father-mother, and the magistrate, who was literally referred to as the people's father-mother-official, drew strength from a parallel structure that demanded unquestioning obedience from children toward parents, both real and metaphorical.

What stimulated me to think deeper was propaganda images on the "China Dream" sponsored by the current Chinese government. I encountered these images at airports, in the street, and on televisions during my archival trips. Many of them featured themes that appeared to deeply resonate with the imperial past, such as "filial piety comes first"; notions that seemed to be a combination of modern and traditional elements, such as "unlimited debt toward the motherland"; and expressions that connected family values with patriotism, such as "state is family." Something is going on in contemporary Chinese society and politics that allows my project, while rooted in history, to speak to the present. I could not fully understand state-sponsored revival of filial piety in today's China without stepping into unfamiliar research realms – culture, politics, and the twentieth century. Yes, researchers change their topics and extend their fields of expertise. But was it too ambitious

for a PhD student to do so for her dissertation? To tell a story about not only law in the Qing but also the trajectory of state and society in China in its empire-to-nation transformation, even if only through the lens of filial piety and its modern reform, would make it impractical for me to collect statistically meaningful data to show representation of my cases. At the same time, such an approach would oblige me to read and engage a much larger literature, and to address the waves of reforms in the twentieth century that were harder to pin down than Qing situations. All needed to be accomplished within the time and space limits a junior scholar faced in finishing her first book-length project. While part of me was deliberating the pros and cons of taking the risk, the other part of me already knew the right answer. Since its conception, the project developed a life of its own. My task was to nurture it, to guide it to its full potential, and to let it shine when the time came. The author did not own the project. The author shouldered the responsibility of a guardian – the role Chinese law assigned to parents in the modern era. During the past seven years, the project has grown and matured. I am sincerely grateful for the journey I have spent with it, a journey that has made me a better historian and a better person.

I sometimes feel that the role I have played in the life of *State and Family in China* is mostly channeling the spring of wisdom and care from mentors, friends, and larger intellectual communities whose help has been indispensable. I owe deepest gratitude to my advisor, Joanna Waley-Cohen. When I started at NYU as a PhD student in 2012, I was a shy girl who was excited about but also scared of what lay ahead of me. When I left in 2018, I was a confident young professor and a proud mom. Joanna was instrumental in this magic transformation, guiding me with patience and trust as well as providing me with the best role model of a historian, a teacher, and a citizen of the world. Madeleine Zelin has been a great mentor who, with her meticulousness and intellectual breadth, has left deep marks on me and on many promising young scholars who have studied with her at Columbia University. I owe many thanks to Leslie Peirce and Rebecca Karl, who inspired me to advance my theoretical thinking and narrative skills. And I am thankful for Zvi Ben-Dor Benite and Eugenia Lean, who have been supportive of my intellectual and career development.

Mentors and colleagues at Cornell University have given me support on all fronts. Sherman Cochran read the entire manuscript of *State and Family* twice. His detailed marks and thoughtful suggestions reminded me of what Joanna once did on my dissertation. John Barwick, Judith Byfield, Larry Glickman, TJ Hinrichs, Tamara Loos, and Aaron Sachs read whole or part of the manuscript. Their comments have been vital in

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Throughout the years, I have had the good fortune to receive help and advice from many mentors and friends. Li Chen (University of Toronto) and Shuang Chen (University of Iowa) have been mentors for me ever since my first years in graduate school. Their references enabled me to gain precious access to county-level archives newly available to researchers. And their suggestions on publication, book manuscript, and career development benefited me greatly. I owe thanks to Edward McCord (George Washington University), Tobie Meyer-Fong (Johns Hopkins University), Steven Miles (Washington University at St. Louis), Matthew Sommer (Stanford University), and Peter Zarrow (University of Connecticut) for the indispensable help they gave me during the early development of my research in legal and cultural history, and to Jenny Huangfu Day (Skidmore College), Yanjie Huang (National University of Singapore), Ling-wei Kung (Academia Sinica), Hoyt Tillman (Arizona State University), and Margaret Tillman (Perdue University) for their friendship and advice. I am thankful for Xiaoping Cong (University of Houston), Frédéric Constant (Université Nice Sophia Antipolis), Jing Fenghua (Sichuan University), Lai Junnan (Fudan University), Ling Ma (SUNY Geneseo), and Taisu Zhang (Yale University) for the intellectually inspiring exchanges they had with me. Special thanks go to Johanna Ransmeier, who shared with me her suggestions on narrative writing in a most frank and stimulating conversation. I am deeply indebted to Norman Kutcher and Maram Epstein. *State and Family in China* would not have been what it is without their excellent works on filial piety that have laid the foundation for discussing parent–child relations as a key to understanding Chinese history. Last, but not least, this book would not have been what it is without contributions from Ursula Acton, Rachel Blaifeder, Lucy Rhymer, and Melissa Ward at the Cambridge University Press and the two anonymous readers who gave me extraordinarily engaging comments and suggestions.

I thank my high school teachers, Li Qingsheng and Wang Dai, and my advisor at Peking University, Deng Xiaonan, for opening up the vast frontiers of intellectual exploration to me. I chose teaching as my future career and history as my field of study because I aimed to evoke the same excitement of discovery that I felt when I studied under their guidance. My husband, Chen Yang, has given me love, understanding, and support during the course of my archival research, dissertation writing, and book manuscript revision. Our son, Andrew, has been a constant blessing to us in the last nine years.

Before *State and Family in China* leaves its "natal home," I beg to leave my last mark on it by dedicating it to my late father, Du Degang, and my mother, Gao Qing. Their unconditional love and friendship are the evidence that true love transcends any ethic notions such as parental benevolence and filial piety. Love never fails.

Abbreviations

BMA	Beijing Municipal Archives.
BXDA	The Ba County Archives at the Sichuan Provincial Archives.
DLCY	Xue Yunsheng. *Du li cun yi* (lingering doubts after studying the substatutes). 5 vols. Edited and punctuated by Huang Jingjia. Taibei: Chengwen chubanshe, 1970 [1905].
DQXXLLFZLHB	Gao Hancheng, ed. *Daqing xinxinglü lifa ziliao huibian* (a legislative data corpus of the Qing dynasty's new criminal law). Beijing: Shehui kexue wenxian chubanshe, 2013.
DQXXXL	*Daqing xianxing xinglü* (the current criminal code in effect of the Qing). *Xuxiu siku quanshu* (sequel to the complete collection in the imperial four treasuries), vol.864. Shanghai: Shanghai guji chubanshe, 1995.
HICCRC	The Chinese Cultural Revolution Collection at the Hoover Institution at Stanford University.
JDWX	Qing and Republican Contracts at Shanghai Jiaotong University.
JJDA	Jiangjin County Archives at Shanghai Jiaotong University.
LFZZ	Extra copies of Palace Memorials at the First Historical Archives of China.
LQDA	Longquan County Archives at Zhejiang University.
MF (1929–1930)	*The Civil Code of the Republic of China* (1929–1930). In *A Compilation of the Laws of the Republic of China*, edited by David C. C. Kang, vol.1. Taibei: Sanmin shuju, 1967.
NBXDA	The Nanbu County Archives at the Nanchong Municipal Archives.

SCDA	The Shuangcheng Subprefectural Archives at the Shuangcheng District Archives.
SMA	Shanghai Municipal Archives.
SLCCRC	The Chinese Cultural Revolution Collection at the East Asian Library at Stanford University.
STFDA	Shuntian Prefectural Archives at the First Historical Archives of China.
XAHLQB	*Xing'an huilan quanbian* (a conspectus of judicial cases). 15 vols. Beijing: Falü chubanshe, 2008.
XF (1935)	*The Criminal Code of the Republic of China* (1935). In *A Compilation of the Laws of the Republic of China*, edited by David C. C. Kang, vol.2. Taibei: Sanmin shuju, 1967.
XKTB	The Routine Memorials of the Board of Punishments at the First Historical Archives of China.
XSSSF (1935)	*The Code of Criminal Procedure of the Republic of China* (1935). In *A Compilation of the Laws of the Republic of China*, edited by David C. C. Kang, vol.2. Taibei: Sanmin shuju, 1967.
ZPZZ	Palace Memorial with Imperial Vermilion comments at the First Historical Archives of China.