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*State and Family in China* opens with the case of Wang Dacai, a barber from Guizhou who committed suicide in 1815 after his son was sentenced to death for causing Wang a slight physical injury at Wang’s own command. Wang’s story vividly illustrates one of Yue Du’s central arguments: that filial piety (孝) as institutionalized in late imperial China was less about implementing the will of particular parents than it was about maintaining abstract hierarchical relations of power between parent and child, as an explicit parallel to the hierarchy between ruler and subject. This was a manifestation of “ruling the empire through filial piety” (孝治天下), a governing mechanism which, Du argues, had its own logic that differed in important ways from the ideal of filial piety as embodied in classical Confucian texts and in subsequent elite cultural production.[1] As Du shows in this wide-ranging and deeply researched book, conceptualizing filial piety as a legally institutionalized governing mechanism contributes to our understanding not only of what it meant to the Qing state and its Republican successor, but also to the ordinary people who were governed by these states.

The book is divided into two parts, with the first part focusing on how filial piety functioned as a governing mechanism in the Qing and the second part tracing how the relationships between state and family and between parent and child were reconfigured following China’s transformation from empire to nation-state. The first chapter, “Parents Can Never Be Wrong,” identifies three legal structures through which parental supremacy was institutionalized in the Qing: the obligation that children conceal their parents’ crimes; the provision of coercive instruments—specifically beating, canguing, and caging in the county hall—to parents who sought to discipline their adult children; and the execution of those who committed parricide by slicing, carried out in the conspicuous presence of the imperial insignia. Through an analysis of how these mechanisms functioned, Du demonstrates the Qing state’s overriding concern with maintaining parental authority and providing a context for its didactic performance. She goes on to show that, while Qing legal reasoning could not avoid acknowledging that children who tried to dissuade their parents from evidently immoral or illegal acts were in some sense right to do so, when it came public-facing judgments, magistrates nevertheless still maintained the principle that “parents can never be wrong” (天下無不是的父母).

The second chapter, “Policies and Counter-strategies,” moves from legal structure and reasoning to everyday practice, exploring how ordinary people used the cult of filial piety to advance their interests in financial and property disputes.
The first part focuses on the issue of household division, demonstrating that widowed mothers could rely on the state’s enforcement of the parent-child hierarchy to maintain control over property to which, as women, they could not have a legal title. The second and third parts both concern practices of false accusation that were made possible by the Qing state’s institutionalization of parental supremacy. The first of these, the killing of one’s own child or grandchild in order to frame others, was a sufficiently distinct pattern of behavior that it was recognized as such by the Qing law (under the category “shahai zisun tulai ren” 殺害子孫圖賴人). Such “instrumental filicide,” as Du terms it, called for slightly more severe punishment than non-instrumental filicide, but both kinds of crime were dealt with much less seriously than other kinds of homicide. Indeed, they weren’t always recognized as being homicide at all, for magistrates would sometimes knowingly allow such killings to be reframed as accidental death, which was convenient for them as such cases didn’t have to undergo judicial review. The second practice involved false accusations of unfiliality. The invocation of unfiliality could transform a trivial economic dispute into a matter of “fundamental human ethics” (人倫), and would thereby virtually guarantee official attention, since a magistrate’s entire career could be jeopardized by a failure to deal with such a matter. This chapter adds to scholarship on how Qing subjects used the legal system to pursue their material interests while also contributing to Du’s broader argument that when the parent-child hierarchy came into conflict with other values—whether the gender hierarchy, Confucian norms of benevolence, or a commitment to factual truth—the Qing state and its representatives would prioritize the former.[2]

The third chapter, “Parenting All Under Heaven on Behalf of Heaven,” turns to the relationship between the legally institutionalized parent-child hierarchy explored in the first two chapters and the broader Qing imperial order. Du argues that the family was one part of a larger “hierarchy of hierarchies” that extended all the way through the imperial bureaucracy to the emperor, and ultimately to heaven (p. 110). In general, the duty of those at each level was to obey those directly above them; the principle of “united under the most revered” (統於所尊), which became prominent in the late imperial period, served to resolve conflicts between levels. As a result of this logic, a child was justified in informing on a parent who had harmed the child’s grandparent, or on a parent who was involved in rebellion or treason; a wife was justified in disobeying her husband in the interest of her parents-in-law;[3] and the Ji-aqing emperor was justified in wearing auspicious garments on the second anniversary of the Qianlong emperor’s death, as these were required for the correct performance of sacrifices to heaven that the date coincided with. The third section contrasts the archetypal Western form of parental authority—the Roman paterfamilias, a male presiding over an autonomous household—with the notion of the father-mother 父母 in late imperial China. The authority of the latter was not limited to the household, since it extended to adult children who had formed their own households. Nor did it serve to protect the autonomy of the head of household, as illustrated by the case with which the book opens—Wang Dacai’s son was executed for having slightly injured Wang, despite having done so at Wang’s command. And perhaps in greatest contrast with the Roman paterfamilias, it was a form of authority that was held by mothers just as much as it was by fathers. The bi-gendered nature of parental authority made sense from the perspective of imperial rulers, since, in describing themselves as acting as the “father-mother of the people” (為民父母), they could draw on the emotional force of special bond between mother and child. In the fourth and final section, Du discusses the relation between rites (禮) and law (法) to further her argument that the principles embodied in classical Confucian texts, while more than a mere rhetorical veneer, are nevertheless best understood as a resource from which the
late imperial state selected elements to buttress its own rule, rather than as what actually regulated the state’s functioning.[4]

In the second half of the book, Du turns to how the Republican state in its early post-Qing and Nationalist iterations reconfigured the relations between parents and children and between the state and the family. The fourth chapter, “Reorienting Parent-Child Relations,” examines the transition from a legal system that prioritized parental authority in parent-child relations to one that emphasized parental obligations and children’s rights. Du carefully traces how the relevant civil and criminal laws were reformed by late Qing, early Republican, and Nationalist lawmakers, and then demonstrates how the Republican state emerged as a protector of minor children against abusive parents, and how it gradually strengthened its support of adult children who took legal action against their parents—both roles entirely at odds with those of the late imperial state. Du takes care to note the gradual nature of these changes in the domain of law and their uneven manifestation in social life, while emphasizing the fundamentally transformative nature of the detachment of the parent-child relation from the political legitimation of the state that accompanied the fall of the last dynasty.

The fifth chapter, “Reconceptualizing Parent-Child Relations,” turns to the implications for two central issues of civil justice, namely marriage and property. Du traces the difficulties and contradictions caused by the early Republican state’s decision to retain the revised Qing civil code while introducing concepts from Western jurisprudence. Thus, marriage now required the consent of those to be married, but it remained a matter for parental arrangement; and the unit of property ownership became the individual rather than the household, yet adult children still had to obtain parental consent for decisions about property under their own names. Such contradictions were eliminated by the 1929-30 Nationalist Civil Code, which reconceptualized marriage as a freely entered agreement between adults, and acknowledged the right of adult children to dispose of property under their name—with the concept of “legal majority” functioning to demarcate the transition from the period of parental guardianship to independent adulthood. The transformed property regime, and the absence of automatic state support for parental demands on children, then gave rise to new issues concerning support for elderly parents, which the Nationalist legislation addressed by stipulating that parents and children were obligated to support each other in order to ensure basic subsistence. In addition to in-depth analysis of numerous cases, the chapter emphasizes two broader points: first, that the transformations in question were understood and justified primarily not in terms of individual freedom or well-being but in terms of the health of the nation; and second, that the state’s undermining of parental authority in these domains of intergenerational distribution had major implications for social cohesion more broadly.

The sixth and final chapter, “A Constitutional Agenda,” addresses the relation between the transformations explored in the previous chapters and the nature of the Nationalist state. Du begins by tracing the emergence, in the late Qing, of the ambition to forge a direct relation between state and individual unmediated by the institution of the family, and continues by showing how the Nationalist legal regime did in fact partly fulfill this ambition—in decriminalizing filial disobedience and supporting children’s rebellion in a number of domains, it made a substantial contribution to undermining the foundations of parental authority, thereby clearing the way for the establishment of a direct link of loyalty and control between state and citizen. Du argues, however, that this direct link remained largely theoretical, as it was both “ideologically incoherent and practically ineffective” (p. 238). It was ideologically incoherent because the state that was supposed to step in as the primary object of citizens’ loyalty was por-
trayed as the ultimate parent—as well as the guardian of the as-yet immature nation—personified in the figure of Sun Yat-sen. But this meant that the Nationalist state tried to harness the notion of parental authority to tie citizens to the state while at the very same time undermining the normative force of the parent-child hierarchy. Practically, in the unstable political and socio-economic context of the Republican era, there was no way to ensure that the dismantled structures of authority would in fact be replaced by those desired by Nationalist state-builders. The result was “Nationalist rule over its citizens that was conceptually direct but practically impotent” (p. 223).

As should be clear from the foregoing, State and Family in China is an extremely rich volume that amply repays careful reading—and indeed requires it, for its numerous arguments and subarguments are supported with fascinating and often complex legal cases, mostly from county-level archives. It is highly recommended to anyone interested in filial piety and its modern fate, or in the legal, political, social, and intellectual history of Qing and Republican China generally. My only criticism concerns how the conclusion portrays the trajectory of filial piety in the People’s Republic. While Du indicates that it was specifically during the Cultural Revolution (1966-76) that filial piety came under relentless attack, she nevertheless implies that, until recently, notions of filial obligation were basically absent from PRC law and official discourse. This overlooks the fact that the 1950 Marriage Law included an obligation that children “provide for and support” (赡养与扶植) their aged parents, symmetrically to parents’ obligation to provide for their children; that the mid-1950s saw a major effort in official discourse to establish respect and care for elderly parents as an element of socialist morality, even including attempts to reconstruct the concept of filial piety in socialist form; and that such notions of filiality, centered around respect and care in old age, rapidly reemerged as positive values in early post-Mao discourse.[5] It is true that filial piety as hierarchical submission was quite consistently portrayed as “feudal” and incompatible with socialism, but ideals of filial respect and care were mostly endorsed in the period before and after the Cultural Revolution.[6]

This criticism does not, however, undercut Du’s argument that the contemporary Chinese state is carrying out a major transition in promoting the hierarchical aspect of filiality and seeking to reestablish an analogy between filial and political submission. To this reader, one of the most fascinating issues raised by State and Family in China is the relation between filial piety as a governing mechanism that emphasizes hierarchical relations between parents and children as a parallel to those between rulers and subjects, and filial piety as a set of ideals centered around care and gratitude, which are based on notions of reciprocity as much as on notions of hierarchy.[7] As Du notes (pp. 120-121), the principle of “ruling the empire through filial piety” gained part of its force precisely through its naturalization of the political order by analogy with the parent-child (and especially mother-child) bond, thereby drawing on a set of exceptionally deeply rooted ethical and emotional ideals. It should therefore probably not come as a surprise that, as Du suggests, the postrevolutionary and postsocialist Chinese state would want to draw on these resources to strengthen its rule.

Notes

[1]. Scholarship on intergenerational relations in late imperial China, based mostly on elite cultural production, has foregrounded emotional and social bonds between parents and children, in contrast to May Fourth-era portrayals emphasizing the oppression of children in general and the particular plight of daughters (see for example Weijing Lu, “‘A Pearl in the Palm:' A Forgotten Symbol of the Father-Daughter Bond”, Late Imperial China 31, no. 1 [June 2010]: 62-97). Most recently, Maram Epstein has argued, based on a range of literary works, for a conceptualization of
filial piety as a genuine emotion central to the identity formation of men and women in late imperial China (Orthodox Passions: Narrating Filial Love during the High Qing [Cambridge, MA: Harvard University Asia Center, 2019]). Du acknowledges the importance of this scholarship, while suggesting that it does not tell us enough about “the state, with its coercive legal machinery, or non-elites, who constituted the greatest part of society” (p. 4). Du’s own focus on filial piety as a legally institutionalized governing mechanism is very productive, but, as I suggest at the end of this review, it may occasionally lead her to overlook the multivalence of the concept of filial piety, in particular its reciprocal (rather than hierarchical) aspect.

[2]. See Melissa Macauley, Social Power and Legal Culture: Litigation Masters in Late Imperial China (Stanford: Stanford University Press, 1998); and more recently, Quinn Javers, “The Logic of Lies: False Accusation and Legal Culture in Late Qing Sichuan,” Late Imperial China 35, no. 2 (December 2014), 27-55.

[3]. As Du notes (p. 110), the one type of conflict that this principle could not readily resolve was between the interests of a married woman’s husband or parents-in-law and her natal parents.

[4]. This is in contrast to the influential idea of the “Confucianization of Chinese law” that originates from Qu Tongzu’s Law and Society in Traditional China (Paris and the Hague: Mouton & Co., 1961).

[5]. The most concentrated discussion in the 1950s appears to have occurred in the pages of Zhongguo Qingnian, the publication of the Communist Youth League, in late 1956 and early 1957; but see also the remarkable article by minister of the interior Xie Juezai 谢觉哉 published in Renmin Ribao (爱父母 [On loving one’s parents], December 24, 1956, 4. From the post-Mao period, see, for example, 可怜天下父母心 [Pity all the parents’ hearts], Renmin Ribao, February 5, 1985; and Li Yin 李音, “孝敬父母是传统美德 [Filiality towards parents is a traditional virtue],” Renmin Ribao, January 20, 1995.

[6]. In this context, Du writes that “the Chinese word for filiality (xiaoshun) ... has a strong connotation of obedience (shun)” (p. 251). However, as Du’s own subsequent translation of the title of a 2016 China Central Television series indicates, xiaoshun is perhaps better translated as “filial obedience” rather than simply “filiality”; other words in which the character xiao appears, such as xiaojing (孝敬), xiaoyang (孝养), or xiaoxin (孝心), have stronger connotations of respect, care, and concern (respectively) than of obedience.

[7]. It is worth noting that the texts from the mid-1950s mentioned above are often remarkably explicit about this duality, and make sophisticated arguments about the importance of preserving notions of filial care and gratitude while eliminating “feudal” notions of hierarchical submission. A duality of this kind is also reflected in a model in the field of cultural psychology, which distinguishes “reciprocal” and “authoritarian” aspects of the concept of filial piety (Kuang-Hui Yeh and Olwen Bedford, “A Test of the Dual Filial Piety Model,” Asian Journal of Social Psychology, no. 6 [2003]: 215-28), as well as in anthropological work on China in the reform era (Charles Stafford, "Chinese Patriliny and the Cycles of Yang and Laiwang", in Janet Carsten (ed.), Cultures of Relatedness: New Approaches to the Study of Kinship (Cambridge: Cambridge University Press), 41-43; Yan Yunxiang, Private Life under Socialism: Love Intimacy, and Family Change in a Chinese Village, 1949-199 (Stanford: Stanford University Press, 2003), 171-78; and Harriet Evans, The Subjects of Gender: Daughters and Mothers in Urban China (Lanham, MD.: Rowman and Littlefield, 2008), 169-75).
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