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REVIEW ESSAY

Whither Confucian Family Values? New Research on Marriage, Trafficking, and the Things People Do to Survive

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Matthew Sommer. *Polyandry and Wife-Selling in Qing Dynasty China*. Berkeley: University of California Press, 2015. 499 pp. \$80 (cloth/ebook).

Zhao Ma. *Runaway Wives, Urban Crimes, and Survival Tactics in Wartime Beijing, 1937–1949*. Cambridge, MA: Harvard East Asia Monographs, Harvard University Press, 2015. 380 pp. \$50 (cloth).

These two eagerly awaited studies of marriage and family practice among the poor radically alter our understanding of the Chinese family system in late imperial and early twentieth-century China. Read together, these richly documented monographs by Matthew Sommer and Zhao Ma create a provocative and nuanced picture of diverse modes of family formation among the poor that raise profound questions about the reach of state-defined norms—Confucian or modern—and the state’s impact on family life.

Although scholars have long known of the existence of wife-selling and marital prostitution, Sommer’s exhaustive analysis of legal cases involving illegal marriage practices is the first systematic attempt to document their prevalence and grapple with their implications for our understanding of gender order and state-society relations in the Qing. His core argument is that in the context of increasingly skewed sex ratios due to infanticide, widow chastity, and elite polygyny, normative marriage was impossible for a growing number of poor men, the so-called “rogue males” or “bare sticks” he described in his first book (Sommer 2000). At the same time, deepening poverty in many regions, exacerbated by rapid population growth and environmental degradation of land quality, meant that many married men were unable to support their wives.

People living on the margins of society developed a variety of strategies to deal with these problems, including polyandry (the practice of bringing a second husband into the household to share a wife's sexual and domestic labor in exchange for financial support), transactional polyamory (in which a wife provides sexual services for two or more men without co-residence), conditional wife sale, and the outright sale of a wife to a second husband. Sommer draws on hundreds of cases to explain how arrangements for polyandry and wife-selling were made, by whom, who benefitted from them, and how these relationships were handled by judicial officials in the courtroom.

Based on his sampling of central cases reviewed by the Board of Punishments in Beijing and local cases involving minor crimes adjudicated solely by district magistrates, supplemented by early twentieth-century surveys of local customs across the country, Sommer argues that these practices were both common and widely condoned among the poorest strata of rural society in most regions of the country, thus constituting "custom" among the poor. Such illicit, but customary, practices solved problems the state could not solve and implied "an alternative set of values and more-or-less conscious resistance to the state" (396). In this regard, he likens them to illegal land sales in frontier zones, the production of salt outside of the state monopoly, and the proliferation of secret societies that represented the "triumph of the illicit informal realm over the formal one, when imperial control weakened and the dynasty's institutions broke down" (381–382). Like these other examples of routine violation of the law by the poor, he suggests, wife-selling and polyandry rendered normative standards and values of the late empire irrelevant and augured their collapse.

Sommer argues that while the Ming state tolerated most wife sales and much marital prostitution, the more "fundamentalist" Qing state committed to promoting female chastity criminalized both practices and, in effect, poverty. While the Qing state was surely more ambitious about promoting orthodoxy among the masses than its predecessors, I would suggest that the surge in official attention focused on these practices more likely reflected their proliferation in a society that was more destabilized by poverty than the Ming. Putting aside the fact that the paucity of Ming case records makes it difficult to compare widespread judicial practice across dynasties, one could well argue that the lack of discussion of polyandry, transactional polyamory, and wife sale in Ming sources suggests that these arrangements were not

on the judicial radar because they were not nearly as prevalent or visible as they would become in the Qing. Surely Ming judicial officials would have condemned polyandry among commoners, in particular, if the practice were widespread and apparent.

Moreover, as Sommer demonstrates, High Qing officials engaged in a lively debate about the legal status of wife sales and other illegal marriages, a fact that does not fit readily into his paradigm of fundamentalism. While polyandry and other variants on prostitution were consistently punished in accordance with the Qing Code, officials rarely enforced the law on wife-selling to the letter and often deferred to the wishes of the aggrieved wives. Sommer's analysis of the discourse on these subjects reveals that officials were fully aware of the economic conditions that necessitated these practices of serial monogamy and understood the contradictions between ideals of chastity and other judicial and ethical principles. While some advocated a narrow legalist implementation of the law, others demonstrated considerable flexibility and pragmatism, prioritizing concerns for social stability. Although Qing officialdom was clearly flummoxed by the growing incidence of these practices, the variation in official responses can be read not only as signs of judicial system dysfunction (Sommer's inclination), but as efforts to cope creatively with social and economic problems that the Qing Code was not designed to handle.

Complicating the picture of alternative customs among the poor undermining state hegemony is the fact that while polyandry and wife-selling clearly violated the chastity norms that dominated state and elite discourse about respectability and proper family order, Sommer's sources show not the irrelevance of gender orthodoxy but, rather, a more complicated dialectic between these norms and social practice. While his cases certainly demonstrate the very practical priorities that led poor people to choose unorthodox family strategies to survive, his copious evidence of the stigma attached to them and the reluctance with which they were undertaken suggests, in line with much other scholarship (including Sommer's first book), both common knowledge of orthodox norms and their salience in shaping ideas of morality and reputation, even among those who could not aspire to respectability. The notion of stigma implies the acceptance on some level of dominant norms of marriage as aspirational, if unattainable, models.

Polyandry and wife-selling presented very different kinds of challenges to dominant norms, carried different connotations in the understandings of those who lived with them, and were treated very differently by judicial officials. Sommer describes a hierarchy (albeit a fluid one) of

stigmatization with polyandry at the top, followed by wife sale, widow remarriage, and uxori-local marriage. Both polyandry and wife-selling were stigmatized, but while the former was illegal and tantamount to prostitution in many ways, some forms of wife sale were legal. Therefore, magistrates at the local level often allowed “selling of a divorce” to stand even when it was illegal.

Polyandry—“getting a husband to support a husband”—was truly a practice “at the margins” (zhao fu yang fu_招夫養夫) of Qing society, an arrangement taken up because of the inability of a husband to provide minimal support for his wife, usually due to illness or incapacitation. It was not celebrated by anyone since it involved the exchange of sex for money and thus looked a lot like other forms of illicit sex—prostitution or adultery (602, 644). Indeed, Sommer describes it as a “familization of sex work.” While the case record offers examples of communities that condoned a polyandrous family when there was clearly no other means of economic support, most did not. Notably, when lineage authorities are present in these cases they consistently condemn the practice. Most witnesses in these cases understood its illegality and resemblance to prostitution. Arguably, this precluded it from acquiring the degree of social acceptance within communities that we associate with “custom” and was a key factor in the demonstrated instability of these family units.

In contrast with polyandry, wife-selling was much more common and looked a lot more like widow remarriage and compensated divorce, forms of serial monogamy that were licit, if not respectable, and the nuances of distinction between all of the practices that involved trading money for wives meant that many people were honestly confused about what was legal and what was not. More stigma was attached to wife sales than widow remarriage in large part because the former was often illegal while the latter was, in fact, legal (and thus more expensive as well). But Sommer’s argument about custom works well for wife-selling and is supported by the fact that judicial officials at every level, but especially local magistrates dealing with non-major cases, often condoned it, in clear contrast with polyandry, which was always punished as illicit sex (682). Wife sales were typically contracted through a matchmaker, with the assent of senior family members of the wife and husband, and confirmed by a written contract sometimes witnessed by community leaders.

The normative status of wife-selling was also blurred by the facts that marriages contracted with bride price paid by the groom’s family in exchange for a bride and widow remarriages looked

a lot like sales transactions and that women were routinely purchased as concubines (not to mention as servants, who were also often sexually available to their masters). Sommer unpacks the multifarious economic logics entangled with Confucian ideals of marriage. Susan Mann's early work showed how commercialization of the marriage market led to dowry inflation among elite families anxious to avoid the perception that they were selling their daughters (Mann 1991). He takes Mann's insight much further to argue for "the absolute centrality of the traffic in women to the Chinese marriage system" (24). This system linked elite families procuring concubines and servants to poor families buying and selling wives and daughters as part of their survival strategies. The ability to obtain the sexual services of multiple women was a key marker of elite male privilege, while the inability to marry or being compelled to share a wife was a hallmark of male poverty. While elites worked to ensure that their marriages conformed to standards of ritual propriety, the poverty-stricken people in Sommer's cases emphasize the economic logic of marriage.

Sommer implies that because the boundaries between marriage and trafficking and between licit and illicit forms of marriage were clearly ideological constructs and were porous and unstable, they were irrelevant for the poor. Yet as he himself points out, most poor families (the definition of which remains extremely vague) did not engage in polyandry, wife-selling, or even minor marriage (bringing in a bride as a child and raising her to become a wife after puberty) (241). Indeed, one might argue that it was precisely the blurring of these boundaries that fueled the intensification and expansion of the chastity cult across social classes and regions between the Ming and Qing just as the forces of commercialization were transforming culture and family life. As the fulfillment of the role of chaste wife was the essence of normative femininity, so too normative masculinity inhered in a husband's sexual monopoly of a wife. Identifying the parallel logic underlying the dynamics of wife sale and land sale, Sommer notes, citing historian Philip Huang's argument for the coexistence of commercial and pre-commercial thinking about land rights, that men assumed wives, like land, to be fundamental to their dignity and status and thus always redeemable even after sale. Sellers of wives, like sellers of land, frequently demanded more money or tried to reverse the sale. Among the people whose lives Sommer describes, chastity becomes almost a nostalgic value, to borrow Philip Huang's wording, a "pre-commercial

ideal” like the notion of permanence in landholding that became increasingly unobtainable in the marketized economy (194).

It was precisely the tension between the economic and normative imperatives of marriage that made polyandry and wife -selling problematic for those who engaged in them. Precipitated by the failure of husbands and the inability of poor men to find wives, these unorthodox marriages appear to have been inherently unstable, frequently resulting in conflicts that ended up in court. Sommer notes, “Unless the first husband swallowed his pride and accepted a subordinate role, it was difficult to sustain these relationships over time” (380). In some polyandry cases sworn brotherhood between the two “husbands” masked this profound emasculation, but the inability of most husbands to accept their compromised status was a key factor in the instability of both wife sales and polyandrous households. Compounding the insult to masculinity, women often exercised considerable agency in these complex arrangements, leading Sommer to conclude that a victimization paradigm that sees these wives as simply chattel “obscures more than it reveals” (122–123). Wives and their families often opposed these sales, which, because they were illegal, could be reported to a magistrate, guaranteeing a legal mess. Thus, ironically, though women were commodities in these deals, their agreement to the sale of their sexual and domestic labor was essential for success. In many cases, wives themselves initiated the acquisition of a second husband, or their own sale, to deal with a husband who was too incompetent, weak, or incapacitated to provide for the family. It is clear in these cases that Confucian patriarchy could not function if a husband could not support his family economically. Pondering again the difficulty judicial officials had in formulating a coherent response to wife-selling, one might speculate that what bothered them was the complete commercialization of family life. The reality that every one of the core relationships could be formed or torn apart by sale belied the presumption of the relevance of Confucian family values that was the foundation for Qing law and social policy.

Zhao Ma’s study of women’s survival strategies in wartime Beijing reveals the persistence of many of the same patterns of marriage among the poor described by Sommer. However, amidst the social upheaval of the mid-twentieth century, the entrepreneurial dimension of family life is no longer shocking to officials or the general populace. For Ma’s subjects, family was what people made of it and there is little sign of a salient set of fixed norms, let alone orthodoxy. Ma interprets

criminal cases involving runaway wives from Beijing in the context of the complex economic, social, and political changes reshaping that city in crisis during the Sino-Japanese War and the subsequent civil war. Beginning with the Boxer Uprising in 1900, the city was beset with near constant political and military crises culminating in the Japanese occupation from 1937–1945 and followed immediately by civil war and the Chinese Communist Party takeover in 1949. The city's wartime economy was wracked by food shortages and hyperinflation. Most of the wealthier population, including Guomindang (GMD) bureaucrats, had abandoned Beijing by the late 1930s, but the city received waves of migrants displaced by the subsistence crisis (compounded by war) that engulfed the North China countryside in the late Qing and Republican eras. These migrants flooded into overcrowded neighborhoods of tenement courtyards, areas stigmatized by reforming elites as havens of crime and immoral behavior.

Beijing, like Shanghai, was a male-dominated city where men outnumbered women by 60 to 70 percent. But Ma focuses his analysis on the working spaces, tenement neighborhoods, and transportation networks where poor women eked out a living and made families. Within these highly transient communities, women tapped into networks of support forged by female go-betweens who could arrange licit and illicit work and remarriage opportunities. Ma highlights the contrast between an orderly world of state policy and laws—intriguingly, quite similar across the succession of warlord, GMD, and Japanese regimes—and elite reformist projects and the chaotic world inhabited by the poor with their informal economy, neighborhood networks, and criminal activities.

Like their Qing forebears, twentieth-century lawmakers and reformers had ambitions to mold the behavior of the populace to promote modernity and stability but were hampered in their “civilizing” mission by the disconnect between their values and the realities of life for the poor. Reformers who saw vocational education as a key to economic development and social modernization advocated women taking up a *zhiye* (occupation) as a means of empowering them to become independent and productive citizens. Reformist ideals of women's self-sufficiency turned out to be as elusive as old-fashioned Confucian patriarchy. In the context of war and hyperinflation, women could not necessarily rely consistently on spouses or extended family; yet, in an economy with few employment opportunities, they found it extremely difficult to survive on their own. In a city like Beijing with an under-industrialized economy there were very few jobs for

women outside of domestic service, home handicraft production, and the petty trading of goods and domestic services such as sewing and washing that dominated the city's vast informal economy. The flourishing sex and entertainment industries also provided an array of formal and informal work opportunities for women. All told, women continued to rely on their ability to sell their sexual and domestic labor to second husbands, clients, and elite masters as they had in the Qing.

Ma's engaging book narrates the lives and travails of Beijing's poor women with compelling stories that highlight their own understandings of the choices and challenges they faced in a society engulfed in wartime crisis. The resemblance of their predicaments to those of their Qing foremothers is striking. Like Sommer, Ma shows wives struggling to deal with failed husbands without whose support they could not survive. Ma's testimonies show that women expected husbands to provide for them in exchange for deference to their patriarchal authority. Yet wartime economic collapse left many men unable to make a living. He finds that among the copious case files of divorce, adultery, bigamy, and wifely desertion, women often cited a husband's failure as breadwinner to justify their abandonment. Under the GMD Civil Code, which remained in force under occupation, marriage was a civil contract between two individuals, divorce was legal, and wifely desertion was not a crime, as it had been in the Qing (though adultery and bigamy were). Although lawmakers attempted to preclude "non-support" as a basis for divorce, they nevertheless emphasized that mutual economic support was the foundation of marriage, a logic clearly shared by women who deserted or flouted the authority of husbands who could not contribute economically to the family.

With Sommer's work as context, we can see how the emerging modern discourse on the economic function of marriage represented the ascendance of the economic paradigm of marriage prevalent among the poor in the Qing. As with the Qing state, Republican era regimes were compelled to recognize local customs because denying their legitimacy would undermine social stability and make their job harder. Yet while their late imperial predecessors affirmed community-based practices like wife-selling reluctantly and inconsistently, the modern judicial officials who served successive regimes in Beijing routinely and explicitly acknowledged the legitimacy of unofficial marriages. Despite the state's attempt to promote civil ceremonies and an official marriage registration system, most lower-class marriages were not registered; rather, they

were community ceremonies invoking customary rites. In bigamy cases, which often required judicial officials to clarify the status of unofficial marriages, they typically assessed their legitimacy based on evidence of public recognition.

The establishment of modern train and bus transport systems allowed far greater mobility for women (and men) engaged in legitimate and criminal activities—escaping poverty or abuse, running away from unwanted marriages, working as traders, traffickers, or smugglers. Ma argues that the nascent surveillance state implemented a household registration system and issued residence cards to monitor an increasingly mobile society rife with illegal transactions. However, the case record documents the limits of state control prior to the arrival of the Communists. It abounds with wives and daughters who ran away from home, took on lovers or second husbands, or took up prostitution to escape poverty and abuse.

Ma, like Sommer, wrestles with the implications of these controversial practices for women's agency. In some cities under GMD control the war created new opportunities for women to escape the constraints of family authority and engage in factory or relief work outside the home, both of which offered unprecedented opportunities for civic engagement, social organizing, and even leadership for certain classes of women. Ma identifies a very different kind of agency for poor women in the underworld of occupied Beijing, one that offered “endless possibilities for lower-class women to modify the male-dominated city and...to subtly deflect, subvert, and ‘escape without leaving’ the powerful masculine forces of the surveillance state during and beyond wartime Beijing” (5). In other words, like Qing wives who pursued second husbands, Beijing's poor women exercised agency as a survival skill, not as a form of resistance to the state or the emerging set of gender norms it represented.

In contrast with Sommer's vision of local marriage customs challenging state hegemony, Ma invokes anthropologist Clifford Geertz's notion of a “local value system” to argue that the unorthodox behavior of lower-class women “did not represent an alternative ideology that counterbalanced the reformist view or subverted the existing social and cultural norms that reformers strove to remove” (321) but was instead an often spontaneous strategy for survival that led them to redefine marriage and family in practice. Ma astutely argues that these women flouted norms of chastity, wifely obedience, female seclusion, and gender separation not because they were inspired by reformist calls for women's emancipation, but out of economic necessity. As

elites, reformers, and feminists argued for acceptance of women's presence and interaction with men in public, poor women were "the driving force that charted the new relationship between womanhood and urban public space" (286). While feminist values shaped the lives of elite and educated women, the forces of war and modernization made older gender norms irrelevant for growing numbers of women of all classes. For all the rhetoric about ideals of modern marriage, practically speaking there was no functional gender orthodoxy for the poor until the Communists stepped into this ideological vacuum.

After reading these books, one is left with a powerful sense that what endured as custom was the creative and transactional nature of marriage and family formation.¹ Yet while these compelling studies convince us of the widespread familiarity of non-normative family strategies, the actual extent of these practices, their significance in their local communities, and changes in their prevalence over time are not entirely clear. Ma's densely documented study contextualizes these practices within the very particular economic and political space of specific neighborhoods in one city. With more such localized work, we may well discover that the significance of non-normative marriage varied greatly depending on local circumstances. For example, the overwhelming majority of Sommer's local cases come from two counties in Sichuan. While his central cases represent most of the core provinces, most are from north, central, and western provinces, regions with high rates of poverty and highly skewed sex ratios. The lesser presence of Jiangnan and the southeast is intriguing and might suggest that regions where lineage structures were more powerful at the local level had a lower incidence of these practices. These two recent works will provoke many questions and prompt many ideas for future research, but there is no doubt that they have fundamentally altered the landscape of Chinese family history.

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Note

- 1 In her new book, Johanna Ransmeier (forthcoming) further explores the relationship between trafficking and family formation in the late Qing and early Republican period and coins the term "transactional family" to capture the commercial dimension of the Chinese family system.

References

- Mann, Susan. 1991. "Grooming a Daughter for Marriage: Brides and Wives in the Mid-Qing Period." In *Marriage and Inequality in Chinese Society*, edited by Rubie S. Watson and Patricia Buckley Ebrey, 204–230. Berkeley: University of California Press.
- Ransmeier, Johanna. Forthcoming. *Sold People: Traffickers and Family Life in North China*. Cambridge, MA: Harvard University Press.
- Sommer, Matthew. 2000. *Sex, Law, and Society in Late Imperial China*. Stanford, CA: Stanford University Press.