



The Mandate of Heaven
and *The Great Ming Code*

JIANG YONGLIN



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The Mandate of Heaven
and *The Great Ming Code*

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For Jiang Zhe (Elizabeth) and Jiang Hao (Angela), with love

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Abbreviations

BLPX	Jiao Hong, <i>Biaoliu panxue xiangshi</i>
BX	Zhu Yuanzhang, <i>Baoxun</i>
CHC7	Mote and Twitchett, <i>The Cambridge History of China</i> , vol 7
CHC8	Twitchett and Mote, <i>The Cambridge History of China</i> , vol 8
DGSB	Zhu Yuanzhang, <i>Yuzhi Dagao sanbian</i>
DGXB	Zhu Yuanzhang, <i>Yuzhi Dagao xubian</i>
DLSY	Lei Minglin, <i>Du lü suoyan</i>
DMB	Goodrich and Fang, <i>Dictionary of Ming Biography</i>
ER	Mircea Eliade, <i>The Encyclopedia of Religion</i>
HJAS	<i>Harvard Journal of Asiatic Studies</i>
HMZL	Zhu Yuanzhang, <i>Huang Ming zhaoling</i>
HMZS	Zhang Lu, <i>Huang Ming zhishu</i>
HMZX	Zhu Yuanzhang, <i>Huang Ming zuxun</i>
HWYZQS	Zhang and Mao, <i>Hongwu yuzhi quanshu</i>
JAS	<i>Journal of Asian Studies</i>
JHXZ	<i>Da Ming lüli juhui xizhu</i>
JJFL	Gao Ju, <i>Da Ming lü jijie fuli</i>

JMBW	Zhu Yuanzhang, <i>Jiaomin bangwen</i>
JS	Wang Kentang, <i>Wang Kentang jianshi</i>
LFQS	Gong Ju, <i>Da Ming longtou biandu pangxun lüfa quanshu</i>
LJBY	He Guang, <i>Lüjie bianyi</i>
LMBJ	Su Maoxiang, <i>Da Ming lüli linmin baojing</i>
LSFL	<i>Da Ming lüshu fuli</i>
LTSY	Zhang Kai, <i>Lütiao shuyi</i>
MHD	Shen Shixing, <i>Ming huidian</i>
MHY	Long Wenbin, <i>Ming huiyao</i>
MLSY	Ying Jia, <i>Da Ming lü shiyi</i>
MS	Zhang Tingyu, <i>Mingshi</i>
MTJ	Xia Xie, <i>Ming tongjian</i>
SSJZS	Ruan Yuan, <i>Shisan jing zhushu</i>
TLSY	Liu Junwen, <i>Tanglü shuyi</i>
TS	Huang Chang-chien, <i>Da Ming Taizu Gao Huangdi shilu</i>
TSPZ	Xu Changzuo, <i>Da Ming lüli tianshi pangzhu</i>
TZTG	Fang Linggui, <i>Tongzhi tiaoge jiaozhu</i>
XSJH	Peng Yingbi, <i>Xingshu juhui</i>
XTFL	Xiao Jingao, <i>Xingtai falü</i>
XXBJ	Dong Yu, <i>Da Ming lüli zhushi xiangxing bingjian</i>
YDZ	<i>Da Yuan shengzheng guochao dianzhang</i>
YS	Song Lian et al., <i>Yuanshi</i>
YZDG	Zhu Yuanzhang, <i>Yuzhi dagao</i>
YZWJB	Zhu Yuanzhang, <i>Yuzhi wenji bu</i>
YZWJ	Zhu Yuanzhang, <i>Ming Taizu yuzhi wenji</i>
ZJQS	Zhu Jingxun, <i>Da Ming lüli zhijun qishu</i>
ZPZZ	Yu Yuan, <i>Santai Minglü zhaopan zhengzong</i>
ZSTX	Zhu Yuanzhang, <i>Zishi tongxun</i>

The Mandate of Heaven and *The Great Ming Code*

I | Introduction

Religion and Chinese Legal Cosmology

Early January, 1368. Zhu Yuanzhang (1328–1398),¹ the future founding emperor of the Ming Dynasty (1368–1644),² had already eliminated most of his rival warlords in contending for the realm. When his followers vigorously exhorted him to take the throne, however, Zhu hesitated. He dared not make the decision on his own, he said, but would have to invoke Heaven for a judgment. He set up an altar to worship the supreme cosmic deity and prayed that if the Lord on High approved the new ruling house, January 23—the appointed day of enthronement—would be a bright day; otherwise, anomalies would appear. When the scheduled day arrived, the sky did clear up after several consecutive days of snow. Upon receiving this propitious sign sanctioning the new regime, Zhu happily claimed to have obtained the Mandate of Heaven (Tianming) and thus announced the founding of the Ming dynasty (TS, 429–30, 477–82).

Subsequently, in his strenuous efforts to rebuild the Chinese empire, Zhu initiated a series of social programs, for which *The Great Ming Code* (Da Ming lü, promulgated first by the end of 1367 and finalized in 1397) stood out as an essential blueprint for reform.³ Indeed, in order to promote their reform pro-

grams, the early Ming ruling elite produced a tremendous number of legal documents that constituted what Edward Farmer calls the “Ming Constitution,” “covering every facet of imperial concerns” including governmental institutions, cultural orientations, and social customs (Farmer 1995, 10). As an integral part of the early Ming social reform efforts, *The Great Ming Code* not only set forth the value system and social norms of the Ming empire for several centuries, but also had a profound impact on the legal cultures of the Manchu Qing Dynasty (1644–1912) and China’s neighboring countries, Korea, Japan, and Vietnam.

The early Ming claim of having received the Mandate of Heaven, accompanied by this momentous legislation, raised intriguing questions concerning the nature and function of law in imperial China: What was the relationship between the legal establishment and belief in the cosmic order? Was the concept of the Mandate of Heaven merely a tool manipulated by the ruling elite to justify state power, or was it an essential aspect of the belief system shared by the ruling elite that became the intellectual foundation of Ming legal culture? What role did law play in imperial efforts to carry out social reform programs? Was it simply a device utilized by the imperium to exercise oppressive power, or was it intended to educate the people and transform society as well?

This book addresses such questions, examining the making of *The Great Ming Code* in terms of its transformative role in educating the people and its religious nature in carrying out the Mandate of Heaven, and arguing that the early Ming ruling elite headed by Zhu Yuanzhang did not see law merely as a tool for behavioral control. More significantly, they viewed law as a concrete embodiment of the cosmic order. They based *The Great Ming Code* on “*tianli*” (Heavenly principle, i.e., the ultimate origin and fundamental pattern of the cosmos) and “*renqing*” (human sentiment, i.e., human compassion based on Heavenly principle). Thus, they considered the law code to be a moral textbook,⁴ which “all under Heaven” (*tianxia*) should study in order to be transformed and exist harmoniously within the cosmic order. This goal is illustrated by three groups of regulations in *The Great Ming Code*: rituals for communicating with the world of spirits, especially Heaven and Earth, the cosmic parents of human beings; norms for structuring and purifying the human realm; and rules for rectifying the ruling elite’s behavior in mediating between the world of spirits and the human realm. These legal regulations reflect and give meaning to early Ming legal cosmology.

On the basis of their understanding of the cosmic order, the early Ming ruling elite endowed *The Great Ming Code* with religious meaning. Like ruling

groups in other Chinese imperial dynasties, the Ming envisioned the superhuman world as a dynamic realm where Heaven and its subordinate spirits possessed the power to intervene in human affairs. If the ruler violated the cosmic order, Heaven would send down a warning and might eventually revoke the emperor's mandate to rule. Therefore, it was the ruler's mission to follow Heavenly principle and preserve harmony both within society, and also between human beings and superhuman spirits. One way to achieve this goal was to establish law by following heavenly principle. Law, in other words, served as a cosmological instrument to transform human beings.

CHANGING PARADIGMS OF CHINESE LEGAL HISTORY

The argument for the educational function and religious nature of *The Great Ming Code* laid out in the present work challenges the conventional assumption—that law in imperial China was used as an arm of state, serving the ends of social control and as a secular instrument for exercising naked power. Indeed, law in imperial China has long been studied from Western perspectives, and many perceived characteristics of traditional Chinese law reflect Western conceptual frameworks (Alford 1997). Charles Montesquieu (1689–1755), “the codifier of the concept of ‘despotism,’”⁵ maintained that the foundation of Chinese law is “fear,” the primary recourse of a despotic state (Montesquieu 1990, 174). Georg Hegel (1770–1831) perceived a Chinese society where change and freedom did not exist and law supported despotism (Hegel 1956, 104, III, 116). Max Weber (1864–1920), explaining the emergence of capitalism in the West (Weber 1951; Eisenstadt 1983), also asserted that China lacked an independent and rational legal system.

These classic viewpoints have continued to influence recent Western scholarship, which has primarily depicted Chinese imperial law as an obstacle to social progress. John K. Fairbank (1907–1991), one of the leading Sinologists in the West, attributed the nondevelopment of capitalism and an independent business class in old China to the “nondevelopment of Chinese law” (Fairbank 1976, 117–23). Joseph Needham (1900–1995) argued that Chinese legal culture lacked the notion of genuinely universal law, which was critical in promoting the rapid growth of new science in the West, and thus hindered the emergence of “laws of nature” in China (Needham 1956, 518–83). Roberto Unger, in analyzing Western legal order, utilizes the non-autonomous and nongeneralized “bureaucratic” Chinese law as a negative example (Unger 1976, 86–109). Within these and other similar theoretic-

cal frameworks, law in imperial China has generally been assessed on the basis of Western legal culture. Therefore, the Chinese legal system has been regarded as unjust or arbitrary because no due process evolved and because it emphasizes duties and collectivity rather than rights and the individual. Chinese law is subordinate to political authority because there has been no separation of power and no independent legal profession—from the emperor down to local magistrates, one single person possesses all of the governmental powers within his jurisdiction. Chinese legal culture is less developed, for it has not been differentiated into fields such as constitutional, criminal, and civil law, and its law has never been separated from morality.⁶

In line with such assessments, law has also been viewed “as little more than an instrument of authoritarian control throughout pre-twentieth-century Chinese history,” as critiqued by William Alford (1997, 402). For Roberto Unger, Chinese law is a set of “mere devices of state policy” or “devices of political control” (Unger 1976, 65, 87). John K. Fairbank argued that contrary to Western tradition, where the individual has access to legal protection, “the law in Chinese life has not been similarly developed to protect the individual either in his political rights or in his economic position” (Fairbank 1976, 117). Jerome A. Cohen also views Chinese “law and legal institutions . . . principally as instruments for maintaining the power of the state rather than enhancing the sense of security of its citizens” (Cohen et al. 1980, 7–8). Clearly, a broad agreement among Western scholars has been reached that Chinese imperial law has been manipulated as an arm of the state, only serving the end of social control.

Interestingly enough, almost all of the characteristics noted by Western scholars are shared by most of their post-cultural-revolution counterparts in mainland China, who try either to justify the Chinese revolution or to promote modernity. For example, the concept of “oriental despotism” has been used to criticize the emperorship (Zhang 1982a). Major law codes (*lü*) are considered less advanced than modern Western law since they encompass various kinds of rules; i.e., they contain criminal, civil, procedural, administrative, family, and other laws in one textual body. The feudal administration of justice has not been “modernized” because separate legislative, judicial, and executive bodies never evolved (Zhang Jinfan 1990, 3).

A dramatic example of this form of literature is provided by a group of young scholars headed by Liang Zhiping and Qi Haibin who followed the example set by Montesquieu in his *Persian Letters* (1721), written to criticize French society (Montesquieu 1990, 55–84). Montesquieu wrote his book in the form of letters from Europe penned by two Persians; these Chinese

scholars finished their work in the form of letters from China by five French visitors, and entitled it *New Persian Letters* (*Xin Bosiren xinzha*). According to Liang and his collaborators, Western legal culture is based on the principles of rights, equality, contract, and individual value, whereas Chinese law emphasizes power, hierarchy, and collectivity (Liang and Qi 1988, 11). As exclusively a set of imperatives attached to certain penalties, Chinese law advocates the fundamental principle of obligation, which is completely different from the Greek theory of justice and the Roman principles of contract and rights (*ibid.*, 20, 131–37). Hence, the Western concepts of freedom, liberty, equality, and democracy are alien to China; Chinese law cannot provide individuals with necessary protection (*ibid.*, 53, 86). For these authors, Chinese law limits itself to the punishment of crime; it is a violent tool utilized by the state for eliminating dissidents, suppressing the people, maintaining social order, and carrying out the personal will of despotic rulers.⁷

Since the 1980s, however, more and more China scholars have challenged these misconceptions. They have critically appraised the intellectual bias that equates “modern” with “Western” and “Western” with “important,” calling for a “China-centered history of China” that would begin with Chinese problems set in a Chinese context (Cohen 1984, 2, 149, 154). In the field of legal history, William Alford attacks the “conceptual frameworks that are products of our own values and traditions, and that are often applied merely to see what foreign societies have to tell us about ourselves” (Alford 1986b, 946). He examines certain aspects of the formal criminal justice process in late imperial China and argues against some of the prevailing stereotypes prevalent in American scholarship, such as what is seen as a lack of separation of power and due process. Thus, he contends, “we ought not to assume that the process was then seen only as a tool of state control little concerned with the attainment of individual justice” (Alford 1984, 1243). One of these Western intellectual frameworks, according to Alford, can be seen in Roberto Unger’s abuse of the Chinese past. Unger appraises Chinese traditional law only in terms of whether or not it possessed qualities shared by Western tradition—“his focus is far more concerned with why China did not follow Europe’s course than with the course it actually did follow” (Alford 1986a, 962).

Karen Turner makes comparisons between the Chinese and Greek legal-philosophical traditions. Besides noting their differences, she also observes certain traits common to the two different legal cultures. Classical Chinese legal philosophers, for example, were as concerned with the problem of “rule of law” as their Greek counterparts. They both respected law as “a means to

curb the arbitrary, personal element in rulership,” although Chinese thinkers stressed a more flexible balance between the certainty and impartiality of the written law and the discretion of sage-rulers and their worthy ministers (Turner 1990, 86–87, 111). In her recent articles, Turner maintains that the “rule of law ideal” is not exclusively a product of Western legal culture—it is also advocated by the Chinese, and that “laws of nature,” a set of higher principles embodied in the Dao, served as universal and normative standards in legitimizing laws and punishments in China’s past (1993a; 1993b). R. P. Peerenboom studies natural law theory in early China by examining silk manuscripts on government found in a Han tomb at Mawangdui, and contends that the Huang-Lao school (Huang-Lao *xuepai*) of Han China espouses a foundational naturalism in which “humans are conceived of as part of the cosmic natural order understood as an organic or holistic system or ecosystem,” and the Way (Dao)—a set of natural principles or natural laws—generates and guides human laws (Peerenboom 1993, 27, 62). These scholars have made noteworthy efforts in identifying the values governing Chinese imperial law.⁸

CHANGING PERSPECTIVES ON RELIGION AND CHINESE LAW

The aforementioned negative assumptions regarding the role of Chinese law go hand in hand with assessments of the secular nature of Chinese legal culture. To most Western scholars, imperial Chinese law is a secular instrument serving the purpose of naked power. For some scholars like Roberto Unger, Chinese law is secular simply because, as a set of “imperatives of instrumentalism,” it solely serves as “a tool of the power interests of the groups that control the state” (Unger 1976, 64–65). One of the major reasons that China failed to develop a Western-style legal order, he asserts, is that the Chinese have not conceived “a ‘higher’ universal or divine law as a standard by which to justify and to criticize the positive law of the state” (ibid., 66, 76–83). Although he finds “a body of religious precepts” accompanying secular law, he sees them only as an expedient employed by the state to ease the tension between instrumentalism and legitimacy within Chinese law. As William Alford criticizes, religious elements were manipulated by Chinese rulers “to cloak their instrumental use of law with an appearance of legitimacy, rather than imbuing law with what he sees as a truer legitimacy derived from genuine consensus” (Alford 1986a, 921–22).

Other scholars characterize the secularity of Chinese law on the basis of

the Judeo-Christian interpretation of religion. For instance, in *Law in Imperial China*, Derk Bodde and Clarence Morris examine the close connection between law and religion in several major civilizations of the ancient world, and contrast it with Chinese legal culture. They conclude:

The contrast of the Chinese attitude to the belief in a divine origin of the law is indeed striking, for in China no one at any time has ever hinted that any kind of written law—even the best written law—could have had a divine origin. (Bodde and Morris 1967, 10)

Bodde and Morris are correct—the Chinese have never envisioned a transcendent lawgiver who handed down divine laws to a Chinese “Son of Heaven” like God did to Moses in the Judeo-Christian tradition. But the question still remains: Does this deny the religiosity of Chinese legal culture in the past, or do the Chinese have some legal beliefs and practices that are different from those of Judeo-Christianity or Islam, yet still of a religious nature? Furthermore, how shall we assess the religiosity of a given culture: shall we judge it only on a Judeo-Christian basis (e.g., believing in and worshipping a single transcendent God), or can we use other standards? Evidently, Bodde and Morris conceptualize religion within the Judeo-Christian worldview. Therefore, in assessing certain cosmic principles such as yin and yang and the Five Phases (*wuxing*) (ibid., 43–48), they do not conceptualize them as religious, but rather as examples of the “naturalization” of Chinese law (ibid., 44–45).

This stance of judging the secular nature of Chinese law on the basis of Judeo-Christian tradition can also be found in works by other Sinologists. John K. Fairbank, for instance, also denied the existence of higher law through divine revelation in Chinese legal culture. For him, the religiosity of a legal system is solely determined by a divine origin. He further separates religion from morality and maintains that Chinese legal rules are an expression of morality rather than of religious beliefs. He concludes that “the breaking of such rules was a matter of practical expedience rather than of religious principle” (Fairbank 1976, 118–20).

Some Chinese scholars share ideas about the secular nature of Chinese legal culture with their Western colleagues. Ch'en Ku-yuan, a leading legal historian in Taiwan, maintains that although Chinese law originated at a time when the concept of divine authority was predominant, it had little to do with religion. What made Chinese law secular was that the Chinese upheld a polytheistic worldview that prevented any single deity from dominating the

legal order. The concepts of “heavenly way” and “heavenly punishments,” Ch’ên further asserts, indicate the prevalence of the notion of natural law in Chinese history (Ch’ên Ku-yuan 1969, 30–40). Ch’ü T’ung-tsu, an influential legal historian from the Mainland, also argues that “legal sanctions [in Chinese history] were independent of religious or ritual sanctions.” Although he tries to articulate the functional relationship between religion and law, his findings are limited to that of “magic and law,” including ordeal, supernatural recompense, taboo in punishment, and black magic (Ch’ü 1961, 207–25). And it is noteworthy that, as he himself acknowledges, Ch’ü’s understanding of the secularity of Chinese law has been deeply influenced by the English jurist Sir Henry Maine (1822–1888), who asserts that imperial China had long passed the stage in which law was closely associated with religion.⁹ Zhang Jinfan also claims that, contrary to laws in Islamic and Indian societies where religion plays a dominant role in legal culture, Chinese law has little to do with religion; instead, it is overwhelmingly influenced by Confucian ethical codes (Zhang Jinfan 1982b, 13, 35, 78).

Zhu Yong (1991), greatly influenced by Derk Bodde and Clarence Morris, examines legal practices such as “making law by imitating heaven,” “meting out punishments according to seasons,” and “granting amnesties when anomalies occur.” He characterizes these as manifestations of naturalism (*ziran zhuyi*) in Chinese law. For him, one of the reasons why naturalism became a striking feature of Chinese legal culture is that religion and theology were not fully developed and religion was never closely associated with temporal polity. Law in ancient China, he concludes, was a product of the concept of “using evil against evil”; it had the function of promoting the good without itself comprising the good, and was always arbitrarily employed as an instrument by rulers. And the concept ‘naturalism’ justified the use of the legal instrument and made it mysterious and flexible. In short, scholars in both China and the West, regardless of their intellectual backgrounds, share a remarkable consensus in their discourse on the nature and role of Chinese law. Their assumptions undoubtedly muddle our understanding of China’s history in general and her legal culture in particular.

Since the 1990s, a few scholars have begun to reconsider the “secularity” hypothesis of Chinese legal culture. In his study of the *Collected Statutes of the Great Ming* (Da Ming huidian), Romeyn Taylor observes an encompassing cosmic pattern in that official document. The imperial law, he argues, “was not merely the will of the emperor, but it was his will insofar as it faithfully expressed the heavenly patterns” (Taylor 1993, 47). In his recent work on the official religion of the Ming, Taylor also points out the close connec-

tion between *The Great Ming Code* and Ming religious policies: the Ming state “established the sanctions of law to uphold the official religion and to suppress religious activity that was held to be an intolerable danger to the state and society” (1998, 891). In his study of the concepts of purity and pollution in early China, Robin Yates (1997, 507–12) also observes religious dimensions in legal culture. But these insightful findings have not received sufficient scholarly attention.

THE PROBLEMS PERSIST

The presumptions concerning the repressive function and secular nature of imperial Chinese law have been so deep-rooted that they are still enormously influential among Chinese law specialists, even those intending to revise the West-centered Chinese history at the turn of the twenty-first century. Regarding the repressiveness of Chinese law, for example, Karen Turner, in her recent study of the legal regulation of the body in early China, maintains that “the state aimed to deter crime rather than to reform individuals deemed guilty of deviance.” A major difference between the legal cultures of China’s imperial government and her contemporary socialist state is that modern China witnessed a “shift away from viewing the criminal’s body as a means to exact retribution through labor service to its importance as a vehicle for reeducation” (Turner 1999, 237, 252).

In her study of Chinese cosmology, Chinese religion specialist Julia Ching makes the following assertion:

The evolution of law in China may be described as the *devolution* of ritual (*li*) into law (*fā*) and of law into punishment. For this reason, law is regarded as having played a mainly penal role in Chinese society, protecting the rights of the rulers and enjoining passive obedience on the part of subjects. Until today, the Chinese fear law, because law has been an arbitrary instrument in the hands of the rulers. . . . Throughout history, Chinese law served public interest only insofar as it also served the interests of the government. (Ching 1997, 240)

Concerning the secularity of Chinese imperial law, Liu Yongping states in his recent work on Chinese law (1998, 13) that “unlike Western and Islamic law, even in its early days Chinese law was not significantly influenced by religion or religious thought. Although since Shang and Western Zhou times China’s rulers had asserted that they had received the mandate to rule

from Heaven, few attributed the law they used to a divine origin.” Clearly, like Bodde and Morris, Liu equates religiousness with a divine origin.

In his brief survey of law and religion in East Asia, Denis Twitchett does describe some religious elements in Chinese legal culture and stresses that China was not “a purely secular state.” But when assessing the overall relationship between religion and imperial law, he maintains that

the penal law did not embody many provisions directly concerning religious belief and practice. In general, the law confined itself to the proscription of magical practices, especially black magic, to the prohibition of heterodox doctrines (which in effect meant doctrines potentially hostile to the state or social stability and capable of provoking rebellion), and to preventing private persons from performing religious functions proper to the state. The lawmakers were particularly anxious to ban predictions and prophecies and the making of charms and amulets. (Twitchett 1987, 470).

Thus, Twitchett sees Chinese imperial law primarily as a tool of the state to impose social control.

This line of argument is echoed by Randall Peerenboom in his most recent essay “Law and Religion in Early China.” Like Twitchett, Peerenboom observes that some legal rules and practices incorporated and reflected religious ideals, values, practices, and norms. “For the most part, however, the state sought to control religion by limiting the formation of religious sects, the spread of religious ideas and particular religious practices,” which displayed the “Chinese state’s distrust of religion.” While Peerenboom acknowledges some religious elements in Confucianism and the concept of transcendent natural law in Huang-Lao thought on a theoretical level, he emphasizes that “such religious cum normative concepts played a limited role with respect to particular institutions, rules or practices,” and concludes: “Whole areas of positive law had little if anything to do with religious beliefs, even broadly construed” (Peerenboom 2002, 91–92, 99, 102). In addition, he reiterates the fundamental assumption underlying standard views on Chinese law: it is an oppressive tool for furthering the political interests of the state. For him, the purpose of the legal system in imperial China “was to serve the state. There was, for instance, no notion of individual rights.” And the concept of Mandate of Heaven “rarely if ever served as the rallying cry for the disgruntled, oppressed masses. Rather, it simply served to legitimate whatever warlord or faction was able to vanquish its rivals and rise to power” (*ibid.*, 99).

Apparently, up to the present time, a great number of China scholars and specialists have still held to the conventional presumptions of repressive

function and the secular nature of Chinese imperial law. This study on *The Great Ming Code* integrates the new intellectual trends advocated by scholars such as Paul Cohen and William Alford and goes one step further to argue for the cosmological foundation and educational purpose of Chinese legal culture, including the dynastic law codes—the fundamental form of “positive law” in imperial China. Chinese imperial law, as the making of *The Great Ming Code* indicates, did not serve as a punitive tool for controlling society without any provisions for protecting people; rather, it was perceived as a powerful device for maintaining social boundaries, even for restraining the arbitrary forces of the emperor and his civil and military representatives. Furthermore, envisioned as an instrument to manifest the Mandate of Heaven, the Chinese law code served as a moral textbook to educate the people and transform society. In their efforts to achieve these ends, then, the early Ming ruling elite endowed law codes with religious meaning; religion and law were unified as indispensable components of their social practices and belief system. By looking at these problems holistically, this study sheds new light on China’s social, political, intellectual, and legal history during the early Ming in particular and throughout imperial times in general.

RELIGION: A WORKING DEFINITION

For the purpose of this discussion of the unity of religion and law and the legal role of social transformation in pre-Republican China, a working definition of religion is required. The criteria by which religious phenomena are judged in any given society are by no means simply a matter of nomenclature; they constitute a serious issue concerning the perspectives from which we observe different peoples’ beliefs and practices. Although it is almost impossible to reach a consensus regarding the essence of religion, some trends in the intellectual discourse surrounding it can still be identified, from which workable concepts that will be of use in this study can be derived.

As noted above, China scholars who argue for the suppressive role and secular nature of Chinese imperial law have been fundamentally influenced by the Judeo-Christian tradition. This tradition, espousing a personlike, transcendent God, emphasizes the intrinsic difference between creation and Creator and the separation of the sacred from the profane. Its doctrinal elements and ecclesiastical or synagogical model, including the ban on magic and strict membership within only one religious community, also contrast with other religious beliefs and practices.¹⁰ Based on this tradition, some

scholars define religion as the belief in supernatural beings, especially of a single transcendent God. The English ethnologist Edward B. Tylor (1832–1917), one of the pioneer anthropologists who extensively studied religious behavior and belief, defined religion as a belief in spiritual beings ranging from souls of the departed dead to the gods of the universe (Tylor 1958, 8).

Tylor's classic proposition is shared by many present-day scholars. Melford E. Spiro, for instance, asserts that the belief in supernatural beings and their ability to aid humans is the "core variable" of religion. Religion, according to him, is "an institution consisting of culturally patterned interaction with culturally postulated superhuman beings" (Spiro 1966, 94, 96). And this definition of religion is even "standardized" in *Webster's Third New International Dictionary*: "Religion is the personal commitment to and serving of God or a god with worshipful devotion, conduct in accord with divine commands esp. as found in accepted sacred writings or declared by authoritative teachers" (Gove 1986, 1918). This stance apparently precludes many practices from being termed "religious," such as those in which rituals or immanence are given precedence over ethical values and transcendence. It also makes it difficult to study the relationship between religion and law in non-Western societies. Therefore, when scholars like Derk Bodde, John Fairbank, Ch'ü T'ung-tsu, and Zhu Yong compare the legal culture of China with that of other countries, they must address themselves to the question of whether or not there is belief in a transcendent God who made a body of divine law that guided but was separate from human-made positive laws. When they find no evidence of this sort of higher law, they can only come to the conclusion that Chinese legal culture is secular; and that magic within a Chinese context counts as superstition rather than religion.

The "suppressive" and "secular" interpretation of Chinese law might also have been influenced by the Marxist viewpoint on religion. According to Marxism, religion has two fundamental problems. First, it is a nonscientific (and thus backward), superstitious, and distorted understanding of the universe and human life. Second, viewed as "the opiate of the people," it has been manipulated by the ruling classes to legitimize their governance and to dupe the people.¹¹ According to this Marxist perspective, Chinese law in the past was much more advanced and civilized than any other nonmodern legal culture because it was secular or naturalistic. The religious influence on imperial Chinese law, if any, was the result of intentional, rational manipulation of religion by "sober" rulers to fool the "ignorant" people (e.g., Zhu Yong 1991, 145–46).

Other sociologists and anthropologists have proposed alternative ways of defining religion that are useful in our reevaluation of Chinese legal culture.

The French sociologist Emile Durkheim (1858–1917), for example, argued that religion played an all-important role in primitive societies by creating social solidarity and shared categories of human experience. The core element of religion is not the worship of divine beings, but the expression of the collective values and function of social differentiation (Durkheim 1915).

In her *Purity and Danger*, Mary Douglas tries to reunite some disparate elements of human experience, and argues for a broader approach to religion. In order to understand religion, according to her, one should not be limited to considering belief in spiritual beings; rather, one should address “all extant beliefs in other beings, zombies, ancestors, demons, fairies—the lot” (Douglas 1991, 28). More importantly, she maintains that belief in spiritual beings is not a key issue in understanding religion. Even if the entire spiritual population of the universe were duly catalogued, the essentials of religion might still elude us (*ibid.*). In challenging the separation of religion from magic and superstition, she extends the idea of ritual as symbolic of social processes to include both religious and magical beliefs, and suggests that none of the so-called hygienic rules are devoid of social symbolism (*ibid.*, 22). Furthermore, she notes a close relationship between magic and moral codes and asserts that “the magic of primitive ritual creates harmonious worlds with ranked and ordered populations playing their appointed parts. . . . [I]t is primitive magic which gives meaning to existence” (*ibid.*, 72). Hence, Chinese geomancy (*fengshui*), considered by most China historians as superstitious or “magical” behavior, is treated by Douglas as a religious affair that ties the whole universe to the lives of human beings (*ibid.*, 84–85).

The holistic and undifferentiated worldview articulated by Durkheim and Douglas initiates a new understanding of religion. Since they emphasize “instrumental, expressive, symbolic, and cultural” as fundamental characteristics of religion, their proposition challenges the “spiritual being” argument and includes many non-Judeo-Christian and non-Islamic religions. And they have certainly altered the way we look at Chinese religion in particular.

In his challenge to the emphasis on the supernatural factor, C. K. Yang defines religion as

the system of beliefs, ritualistic practices, and organizational relationships designed to deal with ultimate matters of human life—such as the tragedy of death, unjustifiable sufferings, unaccountable frustrations, uncontrollable hostilities—that threaten to shatter human social ties, and the vindication of dogmas against contradictory evidences from realistic experience. (C. K. Yang 1961, 1)

Like Durkheim, Yang suggests that “the essential function of religion was to provide a collective symbol” within a given community (ibid., 81). In defining religion, although he acknowledges the supernatural factor as an important component, he is equally interested in including “religious phenomena without supernatural expressions” (ibid.).

While these sociologists and anthropologists have contributed valuable insight on religion, they leave some questions unanswered. When they challenge the narrow sense of belief in spiritual beings,¹² they have not suggested any other unique qualities that can distinguish religion from other cultural and social phenomena. Indeed, shaping the form of social relations and controlling human experience are the social functions of most cultural institutions, and expressiveness and instrumentality are not unique to religion. In studying religion at the turn of the twenty-first century, what can serve to distinguish religious activity from other issues such as morals, politics, and kinship in human society?

More recent scholarship on Chinese religious experience has shed more light on the issue in question. In his study of fortune-tellers in traditional Chinese society, Richard Smith (1991) reviews a variety of Qing dynasty divination techniques, such as geomancy, physiognomy, and dreams. Building on Emile Durkheim’s notion of collective representations and William Skinner’s theory of hierarchical regional systems,¹³ Steven Sangren demonstrates a holistic Chinese culture by looking at the concept of and rituals associated with “*ling*” (spirit, magical power). In doing so, he understands the power of supernatural entities “as a function of their mediating order and disorder with reference to the entire set of cosmological categories” (Sangren 1987, 230). In her recent study of the mid-Qing imperial ritual, the grand sacrifice, Angela Zito (1997) emphasizes the relationship between the emperor and cosmic forces such as Heaven and yin-yang as a focal point in understanding the nature of imperial sovereignty. Julia Ching examines the relationship between kingship and mysticism in Chinese history, and argues that the concept of human harmony with the cosmos “lie[s] at the very *heart of Chinese wisdom*,” a concept that represents “an integrated whole, an all-encompassing unity” (Ching 1997, xi). To be sure, these scholars have not put forth a definition of religion in their works, but they share a common assumption: while they do not limit their studies to superhuman beings, they primarily base their research on the existence of a superhuman world and the relationship between the spirit world and human beings. This preoccupation with superhuman force distinguishes their area of research from other social phenomena and scholarly disciplines.

In line with the work of these scholars, then, it can be argued that the essence of religious life is the belief in “superhuman force”¹⁴ and practices based upon this belief. This superhuman force, which might include either superhuman beings or non-beings, is believed capable of producing strong effects in human affairs. It is invoked by means of certain ritual patterns to achieve or prevent transformations in humans and their environment. In general, this concept of religion is composed of three fundamental elements. One of these elements is a belief system, a worldview that defines the cosmos and formulates meaning; the second is ritual practice, a set of repeatable, symbolic actions defining the normative human place in the cosmos; the final element is the relationship between superhuman forces and human beings, a pathway for human transformation.¹⁵ This approach prevents an overly narrow understanding of religion (as argued by Tylor and Spiro) or one that is too broad (as articulated by Durkheim and Douglas), and thus provides a workable conceptual framework for analyzing law and religion in Chinese history.

When Chinese history is observed on the basis of the foregoing definition of religion, rich religious meaning becomes readily apparent in Chinese cosmology, worldview, and practices that address fundamental structures and relationships within the cosmos.¹⁶ While cosmology has been envisioned rather differently by a variety of individuals and religious schools throughout Chinese history, Chinese legal cosmology—the belief system and practices that were promoted and endorsed by the imperial legal apparatus—presents the ruling elite’s understanding of the origin, structure, and function of the cosmos, including an envisioned world of spirits, the ruler’s role as Son of Heaven in mediating between Heaven (Tian) and human beings, and the dynamic interaction between the world of spirits and the human realm.

OUTLINE AND SOURCES

In order to make a systematic study of *The Great Ming Code*, this book first explores early Ming legal cosmology (chapter 2)—the ruling elite’s understanding of the nature and role of law in the cosmos—as the general intellectual background for law in the early Ming worldview. It illustrates how the ruling elite viewed law as a concrete embodiment of the cosmic order and based the *Code* on what they understood as heavenly principle and human sentiment. Violating the law, therefore, would be a transgression against “principle” (*li*), and law codes were considered moral textbooks with the dual function of education and transformation.

Chapters 3 to 5 illustrate how *The Great Ming Code* replicates the cosmic order; they include an analysis of the three major cosmic entities—the world of spirits (the cosmic parents), the realm of human beings (the cosmic children), and officialdom (representatives of the Son of Heaven who serve as mediators between spirit and human domains). Chapter 3 focuses on the world of spirits, touching upon official sanction for the worship of spirits such as Heaven and Earth, state control over popular religions like Buddhism and Daoism, and the prohibition of “heretical religions” like the White Lotus Sect. The differential treatment accorded these belief systems indicates that *The Great Ming Code* regulated ritual issues not only for behavioral control, but also to modify the spiritual orientation underlining human behavior. By promoting, regulating, and prohibiting different categories of ritual behavior, the early Ming ruling elite intended to provide spiritual guidance for their subjects, as well as to acquire political legitimacy.

In chapter 4, the second cosmic element, the human realm, is discussed. Borrowing anthropologist Mary Douglas’s concept of “social pollution,” this chapter introduces legal efforts seen in *The Great Ming Code* that were intended to create physical and cultural boundaries for human beings, and to suggest profoundly religious overtones in the prohibitions against transgressing those boundary lines. In this chapter, the official creation of boundaries based upon a cosmological worldview is examined, revealing a three-realm division of all under Heaven—i.e., “Zhongguo” (the Central Kingdom), the Ming empire, and the whole world. The Ming court redefined China in geographical and cultural terms: the former was identified with the Ming empire, and the latter, or “Zhongguo,” was only the territory where the Han Chinese resided. Hence, the Ming ruling elite conceptualized Zhongguo and the Ming as two separate geographical and cultural entities. Next, stipulations in the *Code* that construct a world order are examined. For geographical China, the Ming empire—the *Code* was designed to defend national borders, guarding against outside danger that threatened the purity of Chinese civilization. For cultural China, Zhongguo—the law aimed at extending Han values across regional boundaries to the entire Ming empire, so as to bring non-Han subjects in line with Han civilization. These legal projects reflect the worldview shared by the early Ming ruling elite: the superior Han Chinese and Ming empire (the yang force) versus the inferior non-Han ethnic peoples and foreigners (the yin force) in the cosmic order. The Ming saw it as their mission to uphold the yang force by shielding off, in Mary Douglas’s words, danger “pressing on external boundaries” (foreigners outside the Ming empire) and “in the margins of the lines” (non-Han ethnic groups within Ming territory).

In chapter 4, another dimension of early Ming efforts to establish boundaries is analyzed: the structure of Han society, “the internal lines of the system.” Here, a case study is presented on the purification of social customs as expressed in legal rules concerning marital relations; it is argued that while the ruling elite claimed to eliminate foreign-influenced customs with “the stinking smell of mutton” and to restore Chinese civilization to its former purity, they in fact extensively borrowed Mongol rules on marriage. This chapter shows that for the early Ming ruling elite, the concept of a Mandate of Heaven was not an abstract philosophical term; instead, it designated a concrete intellectual orientation with a social agenda primarily devoted to establishing a harmonious cosmic order, especially one that would positively affect the human realm. And *The Great Ming Code* served as an important instrument for transforming the human realm in accordance with these cosmic principles.

Chapter 5 deals with stipulations in *The Great Ming Code* designed to rectify the behavior of officials. In early Ming cosmology, the ruler served as a mediator whose task it was to maintain cosmic harmony between the spiritual and human realms by organizing human society. But the ruler could not see to everything himself; so he must rely on officials in order to care for “all under Heaven.” As the “arms and legs” of the ruler, officials were charged with responsibilities of cosmological significance. This chapter examines the duties prescribed for officials from Zhu Yuanzhang’s imperial perspective. According to Zhu, officials did not receive their posts from Heaven, but from the ruler who represented Heaven in order to govern the realm. A good official should, first, repay the ruler who granted him authority and wealth; second, he should repay any local deities who have bestowed superhuman blessings; third, he must repay the parents who gave him life; and his final task is to repay the common people, who support him with food and clothing.

By way of conclusion, chapter 6 recapitulates the religious nature and educational function of *The Great Ming Code*. It first reiterates the cosmological significance of the *Code*, and again contests the popular assumption that law in pre-Republican China was merely used as an arm of the state serving the end of social control, and that it was a secular tool to exercise naked power. Based on a holistic viewpoint, it argues that the Ming ruling elite envisioned the cosmos as an integrated unit; they saw law, religion, and political power as undifferentiated, which is remarkably different from the “modern” compartmentalized worldview. In serving as a cosmological instrument to manifest the Mandate of Heaven (to educate the people and transform society),

The Great Ming Code is replete with religious meaning. The final chapter sets forth the view that Chinese official cosmology was the philosophical foundation of legal culture throughout imperial Chinese history. An expression of cosmic principles, the legal apparatus endorsed, implemented, and protected the official interpretation of cosmic order. Law in pre-Republican China was not secular; rather, it represented a powerful religious worldview.

Before proceeding to the body of this study, three points on sources should be raised. First, this is a reinterpretation and reconstruction of the official legal cosmology reflected in *The Great Ming Code*. In analyzing this dynastic law code, both the *Code* and its commentaries are utilized. Since the texts of the three extant versions of the *Code* are nearly identical,¹⁷ the final version of 1397, which has been published in various editions (Langlois 1998, 211–13; Franke 1968, 184–87) and translated into English (Jiang Yonglin 2005), has been selected. Wherever a specific article from the *Code* is cited, the English translation is used. Two types of commentaries on the *Code* are employed here. One is the conventional exegesis of the historical background, intellectual context, and semantic meaning of the legal text (e.g., DLSY; JJFL; LJBY), the other is written in the form of either “*panyu*” (model verdicts) or “*gaoshi*” (model notices), which are often attached to various editions of commentaries on the *Code* (e.g., BLPX; LMBJ; ZPZZ).¹⁸ To be sure, most extant commentaries on the *Code*—except for He Guang’s *Code with Commentaries and Explication of Questions* (Lüjie bianyi)—were composed long after the *Code* was finalized; and, occasionally, the commentators did not concur as to the exact meaning of certain legal phrases. On the whole, however, these commentaries can be taken as valuable sources for comprehending the fundamental law of the Ming.

Second, this work represents a social and historical study of early Ming legal cosmology, which was the intellectual foundation for legal institutions designed to educate the people and transform society. Cosmology, nevertheless, is by no means a mere cluster of ideas; more significantly, it entails specific ways (e.g., ritual practices) of manifesting and realizing these ideas and visions. Therefore, on one hand, this study will not provide an extensive examination of early Ming legal practice; although there is some discussion of the enforcement of the *Code* (including Zhu Yuanzhang’s harsh penalties) in the work, the primary aim is to examine the worldview of the ruling elite. On the other hand, although this book does not focus on the enforcement of the *Code* or its impact on Chinese society, it still includes law cases and other materials collected from sources like dynastic records, official histories, and case collections that offer lively accounts of the dynamic legal process involved in manifesting the Mandate of Heaven.

And third, this is a study of the cosmic and social order envisioned by the early Ming ruling elite—government officials headed by the Ming founding emperor Zhu Yuanzhang. The focus is on materials that recount the words and deeds of members of the upper class rather than commoners. To discern collective viewpoints on law and cosmology, individual writings as well as other sorts of materials are examined, including privately published notes and observations known as “jottings” (*biji*). This kind of study of collective mentality runs the risk of ignoring different voices among the ruling party and different meanings that a single person’s ideas might bear at different times and places. Nevertheless, in the wide range of documents collected there is clear evidence that common themes exist in the ideas shared by Zhu and his officials, and that these shared ideas were often forcefully expressed in their disputes over government policies and law case judgments. It is the ruling elite’s common beliefs and identity that established the intellectual background for *The Great Ming Code*.

2 | Early Ming Legal Cosmology

Embodying Heavenly Principle and Human Sentiment

In April 1384, Zhu Yuanzhang decided to restructure his capital city, Nanjing, to correspond more closely with the heavenly pattern.¹ The imperial capital was imbued with tremendous cosmological significance, not only signifying the center of the human realm, but also serving as a sacred place connected to the superhuman world.² By this time in the early Ming, a whole set of buildings with cosmological significance had already been in use for about two decades.³ The imperial city was situated under the polar star representing the pivotal point between the temporal and spiritual domains. Facing south in the Hall of Service to Heaven, the emperor displayed his cosmic status as Son of Heaven and father to his subjects. There was the newly built Hall for the Great Sacrifices, within which seventeen altars were devoted to major deities such as Heaven, Earth, the Stars, Wind, Clouds, Thunder, and Rain. The Imperial Ancestral Temple and Altar of Soil and Grain, where the imperial ancestors and Gods of Soil and Grain were worshipped, flanked the pathway to the Forbidden City (Romeyn Taylor 1998). Even the Hongwu emperor's mausoleum assumed the shape of the Big Dipper; and the city wall was built to symbolize the northern and south-

ern dippers (i.e., Ursa Major and Ursa Minor), with thirteen gates signifying the thirteen stars in these two constellations.⁴ Everything seemed in place. What, then, would the emperor add to the existing system?

Zhu focused on the connection between celestial patterns and imperial judicial offices. He ordered that all nine government agencies that administered punishment—that is, the Ministry of Justice, the Censorate, the Court of Judicial Review, the Punishment Review Office, and the judges of the Five Chief Military Commissions—be removed from the palace and rebuilt outside the (northern) Taiping Gate and on the northern side of Zhong Mountain, since the northern direction was associated with the yin force identified with winter, punishments, and suffering. In order to model it on a celestial pattern, Zhu named the judicial complex “*guancheng*” (string city) to duplicate the celestial constellation “*guansuo xing*” (a string of stars) in Heaven. According to Zhu, there were seven stars in this group, exactly matching the number of human judicial offices.⁵ By forming a ring of stars, these seven stars constituted the image of a “Heavenly jail” (*tianlao*) symbolic of law enforcement in the human realm. The absence of stars within the star ring showed that judicial officials in the empire did not have selfish or evil interests, the administration was just, lawsuits were properly handled, and hence there were no prisoners in jail. The presence of several stars within the star ring meant that judicial officials had been wrongly chosen. A bright star in the ring indicated that an innocent nobleman had been imprisoned. Zhu Yuanzhang admonished his judicial officials to act wholeheartedly in accordance with the Way of Heaven to achieve the heavenly condition “the star ring is empty” and its corresponding human condition, “legal cases are handled justly and everything is at peace.” The judicial offices were moved to Guancheng in winter, a time with cosmic implications appropriate for the application of law in the realm (TS, 2487; HMZL, 160–62; YZ WJ, 125; MS, 2305).

This institutional restructuring reveals the early Ming concept of the philosophical basis of law. Indeed, “What does law stand for?” is a fundamental question addressed in legal cultures across the world. Throughout history, people have tried to base their legal apparatus on a variety of factors, including human reason, God’s will, national spirit, sovereign command, the will of the ruling class, or the will of the people (Kelly 1992). When the early Ming ruling elite endeavored to establish a legal order, what did they perceive to be the philosophical foundation of law? This chapter attempts to answer that question by examining how Zhu Yuanzhang and his key law compilers understood law within the cosmic order, and how they perceived crime and the role of punishment within their legal cosmology.

The founding of the Ming Dynasty, as was noted at the beginning of the preceding chapter, was closely associated with the conviction of divine endorsement. Subsequently, in their efforts to reconstruct the empire, the early Ming interacted with what they envisioned as a powerful superhuman world. To the ruling elite, the cosmic order was an organic entity. Zhu Yuanzhang, the architect of this empire-building enterprise, envisioned a dynamic cosmogonic process: The Supreme Ultimate (Taiji) first engendered Heaven and Earth during the times *zi* (11 P.M.–1 A.M.) and *chou* (1–3 A.M.), respectively, and left an empty place between them called *huanyu*. Subsequently, human beings were created there at the time of *yin* (3–5 A.M.), thus completing the cosmos with Heaven and Earth (YZWJ, 176). In this triadic cosmos, Heaven, Earth, and subordinate deities and spirits all belong to the superhuman realm; they scrutinize and govern human affairs, and are the ultimate source of human authority. As the children of Heaven and Earth, human beings must behave in accordance with the principles manifest in the cosmos (ZSTX, 1476). Throughout his life, as John Dardess notes, Zhu Yuanzhang took this “classical religion” (the belief in and worship of Heaven, Earth, and a variety of spirits) with the “greatest seriousness” (Dardess 1983, 221).

The dynastic founder’s belief in the superhuman world is also clearly illustrated in his attitude toward ghosts. In an essay that specifically discusses “whether or not there are ghosts and spirits,” he challenges the argument that upon death a human’s spirit-soul (*hun*) scatters into the atmosphere and his body-soul (*po*) becomes mud, and therefore ghosts do not exist. He maintains that ghosts and spirits do exist and that this was why the sage-kings of antiquity established the “sacrificial statutes” (*sidian*). Ghosts and spirits are sometimes visible and sometimes hidden, he further explains, because some people die a timely or worthy death, while others die an untimely or unworthy one. Superhuman beings govern the blessings or misfortunes that befall to human beings. Only if the sacrifices to ghosts and spirits are appropriately carried out would weather be favorable, harvests abundant, and potential disasters be averted. In the end, the ruler ridicules the questioner: “If you, sir, say there are no ghosts and spirits, then you are not going to stand in awe of Heaven and Earth and will not offer blood and food to your ancestors. What kind of man are you?” (YZWJ, 160–61; Dardess 1983, 222; Langlois and Sun 1983, 111–12)

Based on such a conviction, therefore, when the meritorious general

Zhu Liangzu (d. 1380) memorialized that hundreds of ghosts marched in the wild countries with torches scaring local people, the emperor sent an imperial rescript to question the ghosts: What kind of ghosts are you? Are you orphaned ghosts who need to be worshipped? Separated family members who need to be reunited? Innocent people who were killed and demand redress of injustices? Or are you not being worshipped because of official negligence? Zhu explained to the ghosts that no matter who they were, he could only perform sacrifices according to the dynasty's sacrificial statutes. He urged them to harm the people who should be harmed and bless those who should be blessed, but not to bring calamity to the innocent recklessly and thereby violate the "heavenly constitution" (*tianxian*) (TS, 1924–25). This imperial appeal evinces a deep-rooted belief in spirits—not only in the emperor's worldview, but also in the minds of other members of society. At the same time, it indicates that the ruling elite were confident about their cosmic authority/obligation to establish and observe the hierarchy of the spirits. After all, the emperor considered himself to be the son of Heaven, and hence could claim precedence over the spirit world.

How did spirits interact with human beings? The most important event in the dynasty's history, according to the early Ming ruling elite, was when heavenly sanction was accorded to the new ruling house. Having ascended the throne from an extremely humble background (Langlois 1988), the dynastic founder seems sincere in his belief that he could pacify the world with the Lord on High's blessing, along with the sanction of August Earth and all other celestial and terrestrial deities and ancestor spirits (TS, 392, 482, 486, 599, 635; YZWJ, 21, 175). He evidently attributed the founding of the Ming to heavenly will rather than to human effort.⁶ On numerous occasions, therefore, Zhu claimed that it was the "Mandate of Heaven" (TS, 482, 486, 635, 1935–36), the divine approval to govern and transform the human realm,⁷ which had established the dynasty.

The Mandate of Heaven was to be observed in celestial or terrestrial omens, evil or auspicious, that delivered messages from superhuman forces. While Zhu was pleased to see favorable signs such as multi-eared wheat, sweet dew, melons growing from a single stem, and five-colored clouds, anomalies were a cause for concern since they were warnings from the deities. Any such signs in the empire, he ordered, should be swiftly memorialized (TS, 880, 922–23, 1031, 1280, 1370, 2872). Standing in awe of the Mandate of Heaven, he anxiously observed heavenly phenomena; a single disordered star would cause him tremendous anxiety (TS, 1882). In order to understand portents more accurately, he had two books compiled: one for himself—

Records of a Constant Heart-and-Mind (Cunxin lu), a collection of historical events of cosmic consonance relating to rulers; and another for his ministers—*Records of Self-Reflection* (Gongxing lu), which catalogued portents regarding officials from the Han dynasty to the present (TS, 2684). Heeding potential bad omens constituted an essential part of Zhu's daily life.

From time to time, Zhu admonished his heir apparent Zhu Biao (1355–1392) (DMB, 346–48) and other princes to work diligently and honor Heaven, the ancestors, and other spirits; negligence and disrespect would lead to loss of the Mandate of Heaven and dynastic collapse (TS, 879, 1913). In the eighth month of 1391, for example, Zhu sent the heir apparent on an inspection tour to Shaanxi. During the tour, two conflicting celestial signs caught the emperor's attention: while the heir apparent was crossing the Yangzi River in a northeasterly direction, the "heavenly way" (*tiandao*) suddenly changed and thunder began to rumble in the southeast. Thunder, according to the emperor, symbolized heavenly majesty. By following the heir apparent across the river, it showed heavenly support for their mission. On the other hand, for ten days during the tour it had been cloudy but had not rained; divination concerning this sign indicated that illicit plots were afoot. The emperor worried about how his son would respond to these omens, and warned him that he could not solely rely on the thunder while ignoring the cloudiness. To alter the "heavenly will," he should act with extreme circumspection, cultivating a benevolent nature and showering grace upon his subjects.⁸

In 1397, toward the end of his life, Zhu Yuanzhang still worried that his sons did not understand the movement of heavenly bodies. In the third month of that year, the planet Mars entered the celestial region Taiwei, staying there for eighty days. Taiwei was the symbol of imperial and princely palaces. Any brief intrusion of Mars into this important area would indicate grave danger, let alone an eighty-day conjunction.⁹ Taiwei belonged to the constellations *yi* and *zhen* that governed the human territory of Chu, so Zhu sent a messenger to his son Zhu Zhen (1364–1424), the Prince of Chu. Zhu inquired whether the prince had reviewed the *Book of Astrology* (*Tianwen shu*) that he had recently sent him, and alerted him that no one could protect both territory and people unaided by knowledge of the close relationship between deities and humans. He further asked: "Now, your son has just died of illness. Doesn't that show that heavenly phenomena are believable?" The emperor urged his son to examine himself and correct any errors so as to change the "heavenly heart" (TS, 3634–35).

The emperor was not talking nonsense. In both cases, he saw poten-

tial threats to the new government. The heir apparent had been assigned his particular mission because the Prince of Qin, Zhu Shuang (1356–1395), the emperor's third son, "had committed many errors" in performing his princely duties (MS, 3560). An envoy to the Prince of Chu had to be dispatched because the emperor's sixth son, as the commander of an expeditionary army to quell a local rebellion, had neglected his duty by not personally commanding the troops (MS, 3570). Shielding the core Han Chinese cultural territories, both Shaanxi and Huguang were strategic areas for the Ming; hence, Zhu could by no means allow any "mistakes" to happen there. His sons' failure to heed divine messages and take the appropriate precautions was a grave danger threatening the security of the empire that might even lead to loss of the Heavenly Mandate.

Indeed, the Mandate theory seems to have played a key role in the early Ming dynasty-building enterprise. It not only provided a divine foundation for the government, but also influenced and guided imperial actions. On his road to the throne, Zhu Yuanzhang relied heavily on prophecies showing heavenly sanctions or warnings. One day in the eighth month of the Yuan regnal year Zhizheng 21 (1361), he personally led troops to attack the then-powerful Chen Youliang (1320–1363) (DMB, 185–88). The campaign was initiated in part because Zhu had obtained information that Chen's troops lacked unity. According to the *Veritable Records*, however, the campaign was directly caused by an alignment of the planets observed by both Zhu and the well-known strategist and astrologer Liu Ji (1311–1375) (DMB, 932–38). Venus was standing in front, with Mars behind—a portent of military victory (TS, 117–18). In a series of battles against Chen Youliang, Zhu even consulted the casually-encountered Buddhist Meng Yueting and two Daoists: Crazy Zhou the Immortal and Iron-Cap Master Zhang Zhong.¹⁰

After seizing the realm, Zhu continued using portents to examine his personal behavior and government policies. If the weather suddenly changed, he would leave the main hall of the palace, a sign showing his modesty and humbleness. He insisted that he should not return to the hall until he had corrected his mistakes and thus moved the "heavenly heart" (TS, 2099). When sunspots appeared, he ordered court officials to examine and correct ritual worship (TS, 953–54); a thunderstorm was interpreted as a heavenly warning, leading to the termination of construction projects so as not to exhaust the laborers (TS, 2123–24). On many occasions, Zhu served as a mediator to invoke blessings from deities in times of drought or floods. He believed that such disasters resulted from human acts that had damaged the harmony of the cosmic atmosphere. One way to ward off disaster was for the ruler to cul-

tivate virtue. Zhu would therefore restrict his food intake as an attempt to appease Heaven (TS, 339, 1350), personally act as a rainmaker to pray for rain (TS, 53.1033; Langlois and Sun 1983, 109), or exempt calamity-stricken people from taxation (TS, 2543). Once, when rain did pour down and the empress Ma approached to congratulate him, Zhu humbly expressed his modesty: it was Heaven on high that had sent down blessings, therefore the sweet rain had fallen (TS, 1350).

One essential component of the Mandate theory is the concept of sage-hood. Zhu Yuanzhang believed that he was a sage-ruler who had appeared to restore China (TS, 1046–48, 1752). A sage-ruler was created by Heaven to nourish the people: “When a multitude of people were generated [by Heaven], they could not be ruled without a ruler. [Therefore,] Heaven created rulers to establish the lives (*liming*) of the people” (YZWJ, 176). People as well as Heaven occupied a prominent position in early Ming cosmology. The cosmic pair, Heaven and human beings, was the philosophical foundation of imperial rulership. A sage-ruler’s mission was to connect Heaven on high with the people below. Only by dreading Heaven and fearing the people would he not violate the heavenly will and lose the people’s hearts, causing heavenly rage and the people’s anger (TS, 572, 1981, 2290). In short, holding the people in reverence and standing in awe of Heaven were indivisible cosmic duties for a sage-ruler.

Serving the people entailed both material and spiritual responsibilities for the ruler, one of whose main objectives was to transform people’s hearts and minds. John Dardess (1983, 183–253) has convincingly noted that Zhu saw his role as both ruler and teacher. As a ruler, he sought to foster the people and to organize creation on behalf of Heaven (HMZL, 48; TS, 756; Langlois and Sun 1983, 111). Zhu Yuanzhang claimed that a ruler’s sacrifices to spirits like Heaven and Earth were enacted to request happiness for the “living beings under Heaven,” rather than for any private gain (TS, 806): a ruler should secure material benefits for his subjects (MS, 44).

In the role of teacher, the ruler’s goal was to purify people’s minds so they could achieve spiritual transformation, i.e., changes in their thinking or worldview. Present-day scholarship shows that the ruler’s role as teacher had long existed in Chinese cosmology. In describing Confucianism as essentially “apolitical,” Robert Eno (1990, 42) argues that the core of early Confucianism (which he calls “Ruism”) was perfecting the self and transforming society. This tradition was reformed by Han Confucians, who modified the idea of human nature, and by Song Neo-Confucians, who linked heavenly principle with human nature (Tu 1990). In addition to the individual’s responsibility

for cultivating his own Heavenly nature, the ruler was also responsible for correcting the “essential waywardness of humankind.” At times, as Romeyn Taylor (1990, 127) suggests, the necessary cooperation between human beings and Heaven and Earth could only be achieved if humankind were taught and even compelled to act rightly.

Zhu carried on this intellectual tradition. As a matter of fact, he had laid guidelines for the two imperial roles of ruler and teacher even before founding the dynasty. In 1367, having reviewed the reports submitted by Censor-in-Chief of the Right Deng Yu (1337–1377) (DMB, 1277–80) and others, Zhu told them:

In governing the realm, the more important and urgent things should be done first, while less important things should be done later. Now that the realm has just been pacified, what is urgent is food and clothing; what is important is education and transformation (*jiaohua*). When food and clothing are supplied then the people’s livelihood can be gained; when teaching is done then customs will be beautified. (TS, 387–88)

Here, material benefits and spiritual cultivation are categorized as important and urgent tasks that a ruler should accomplish. Only when these were done could human beings be transformed and exist in harmony with Heaven and Earth in the cosmos.

The founding emperor’s views on cosmic structure and the ruler’s two-fold role were shared and to a great extent shaped by other members of the ruling elite. John Dardess (1983) has shown convincingly that the powerful Confucian profession, especially the Confucian elite in east Zhejiang, made a profound impact on Zhu Yuanzhang in his quest for world salvation in a time of chaos. In one of his essays, for example, the Jinhua Confucian advisor Hu Han (1307–1391) (MS, 7310) emphasized the three fundamental principles of government. The first principle was Heaven and its Mandate that was conferred upon the ruler; the second was Earth and earthly boundary lines between the Chinese and barbarians; the third was the Five Constant Virtues (*wuchang*) within the Chinese world (Dardess 1983, 173–74). Hu apparently envisioned a cosmic trinity of Heaven-Earth-humans, and identified Confucian ethical principles with the cosmic order. To him, the sage’s mission was to transform people’s minds in line with the cosmic order (*ibid.*, 178).

In 1368, when the government was just about to establish law and create rules, Wang Yi (1323–1374) (DMB, 1444–47)¹¹ another key Confucian advisor to the emperor, memorialized that Zhu should “imitate the Way of Heaven

and follow the human heart” (TS, 603–4). Even facing death at Yunnan at the hands of the Yuan Prince of Liang, he still believed that the Mandate of Heaven had been transferred to the Ming and that heavenly troops would soon exterminate the Yuan remnants (MS, 7415). Like Hu Han, Wang Yi also stressed the emperor’s ruler-teacher role:

In ancient times, emperors all undertook the missions of ruler and teacher. From the Three Dynasties onwards, rulers knew government but did not know education. Today, your majesty’s injunction is no different from a strict teacher instructing his disciples. What a magnificent grace! This is indeed what is called the way of combining government and education. (TS, 965–66)

For Hu Han and Wang Yi, then, Heavenly principle and human nature were an indivisible whole. In addition to bringing order and prosperity to the human world, the sage-ruler should also be committed to transforming people’s hearts and minds and to establishing a state of cosmic harmony.

How did the compilers of *The Great Ming Code* view the cosmic order? Throughout the Hongwu reign, dozens of high officials and court advisors participated in the compilation and revision of this legal document.¹² Due to a dearth of historical records, however, we know very little about where most of those law compilers stood on this issue. This study will focus on the cosmological ideas of Song Lian (1310–1381) (DMB, 1225–31) and Liu Ji, two leading Confucians of the early Ming who played a key role in creating the *Code* in 1367 and 1374 respectively.¹³

Regarding Song Lian, Langlois and Sun (1983, 101) note that his works “are a vast store of information about late-Yuan beliefs in spirits, magic, immortals, and ghosts.” Indeed, as a cosmologist, Song’s thinking revolves around the triad of Heaven, Earth, and human beings in the cosmos and the “resonance” between Heaven and the human world (Song 1968, 4). He states that “the emperor acts by following Heaven” (ibid., 379). In his *Records of the Imperial Government during the Hongwu Reign* (Hongwu shengzheng ji), the first chapter is “Seriously Performing Sacrifices” (Yan jisi) (Song 1967, 9–15). His viewpoint on the relationship between cosmology and legal institutions, as will be seen in section five of this chapter, is vigorously reflected in his memorial on *The Great Ming Code*.

In Liu Ji’s view, Heaven takes material force (*qi*) as its substance (*zhi*), and principle (*shanli*) as its mind (*xin*). Principle is essentially good; material force, which is incarnated as the myriad things, has two forms: healthy (*zheng*) and perverse (*xie*). Human beings are Heaven’s children; they are produced by

means of material force and take principle as their mind. Since material force takes different forms, people become either good or evil. It is the sages' role to correct or eliminate evil and to protect and promote the good.¹⁴

Liu Ji's life vividly reveals his cosmological visions. Langlois and Sun (1983, 101) note that Liu Ji's professional competence as a diviner was greatly revered by Zhu Yuanzhang. Even in his early years, Liu Ji had mastered astronomy, astrology, and divination from various sources.¹⁵ When Liu and the Daoist master Iron-Cap Zhang were ordered by Zhu Yuanzhang to simultaneously but separately reconnoiter possible sites for a new palace, it is said that they presented maps of the same location without knowing about each other's work (Lu 1987, 117). In 1367, Liu was appointed as the Director of the Astrological Commission (*Taishi yuan*), a strategic office tasked with observing the interaction between cosmic order and human realm.¹⁶ In this capacity, he was in charge of drafting the *Calendar of the Great Unification* (*Datong li*) (MS, 3779). Not only was he frequently called upon to perform divination prior to military campaigns (Langlois and Sun 1983, 101), he also actively applied his knowledge of correlative cosmology to governmental policies. When the planet Mars entered the lunar mansion *xin*, Liu Ji petitioned Zhu Yuanzhang to issue an edict blaming the emperor himself for maladministration (MS, 3779). Even on his deathbed, Liu Ji remembered to ask his son to submit the *Book of Astrology* (*Tianwen shu*) to the throne (MS, 3781).

It is ironic that while Liu Ji rose to political prestige thanks to his astrology-based strategies, he fell into disfavor with the emperor due, directly or indirectly, to events with cosmological implications. After the founding of the dynasty, three cases that particularly affected Liu Ji's political career and personal life were all related to the envisioned connection between humans and superhuman forces. The first case occurred in the fourth month of 1368. When Liu and the grand councilor Li Shanchang (1314–1390) (DMB, 850–54) were entrusted by Zhu to administer the capital city, Nanjing, Liu insisted on punishing the corrupt office manager Li Bin of the Secretariat despite a request for leniency from Li Shanchang, the head of the Secretariat. When imperial approval for the execution arrived, Liu and Li Shanchang were preparing for a ceremony to pray for rain. The grand councilor again requested that the execution be suspended: "Today we will pray for rain—can we kill people?!" Liu Ji angrily replied: "After Li Bin is executed, it will certainly rain." Eventually, the execution was carried out and it did rain. But after Zhu Yuanzhang returned to the capital, Li Shanchang accused Liu Ji of "irreverence" for conducting an execution in front of the sacrificial altar and thus offending heavenly will.¹⁷

The second case took place four months later in the same year. When a serious drought occurred and government officials had obtained no response after praying to the deities, Zhu Yuanzhang blamed judicial officials for causing the drought by wronging innocent people, and instructed other high-ranking officials to present advice. In a memorial to the throne, Liu Ji, the vice censor-in-chief, proposed that three factors leading to the drought be corrected. First, widows of deceased military personnel were forced to live together in camps, generating a strongly depressed *yin* atmosphere. Second, corpses of deceased laborers were not buried. And third, the surrendered army leaders of Zhang Shicheng (1321–1367) (DMB, 99–103), one of chief rivals of Zhu Yuanzhang during his campaign to reunify China, were in military exile. All of these factors, according to Liu, had caused an inharmonious atmosphere. The emperor believed Liu and decided to modify these policies. After ten days, however, it still did not rain. The emperor became enraged; and Liu Ji took the pretext of his wife's death and begged leave to return home (MS, 3780; MTJ, 199–200; Liu Chen 1993, 98).

The third case happened at the end of Liu's life. After he retired from government office in 1371, Liu Ji returned to his hometown, Qingtian, Zhejiang. In 1374, grand councilor Hu Weiyong (d. 1380) (DMB, 638–41), Liu's recent political antagonist at the imperial court, had one of his underlings accuse Liu of seeking a gravesite at Tanyang, some fifty miles south of Qingtian, averring that through knowledge of geomancy, Liu had deduced that Tanyang was where a future ruler would emerge who, as a member of his own family, would replace Zhu's dynasty. The emperor was influenced by the accusation and suspended Liu's stipend, and Liu Ji was so frightened that he went to the capital to beg for forgiveness. Liu did not return home until the third month of 1375, and died one month later.¹⁸

These three cases illustrate the strong cosmological beliefs held by Liu Ji and other key members of the ruling elite that influenced their fierce political struggles. Indeed, cosmological beliefs were utilized as political tools in all three cases. In case one, the desire for certain cosmological consequences justified both Li Shanchang's practice of nepotism and Liu's enforcement of law. In case two, Liu's cosmological claims were intended to reform harsh imperial policies. And in case three, geomancy served as an effective weapon for attacking a political enemy. Nevertheless, the fact that cosmological ideas were used as political tools does not necessarily preclude the political actors' belief in these ideas. For example, Liu Ji's cosmological beliefs seem firm regarding his suggestions to reform government policies and end the drought; otherwise, why would he risk his career—or even his life—

by “playing tricks on” the unpredictable emperor? Similarly, when he was accused of seeking an auspicious gravesite, he came straightaway to the capital to prove his innocence. The emperor must have shared the same belief—that human actions elicit celestial response and that geographical locations determine human fate—when he accepted Liu’s advice to change his policies and suspended Liu’s stipend. Similarly, when Li Shanchang and Hu Weiyong accused Liu of irreverence and disloyalty, their logic reflects an intellectual milieu in which cosmological beliefs prevailed. In fact, other sources show that both Li and Hu believed in the interaction of humans and superhuman forces. As an architect of official religious rituals who opposed “heretical” practices (MS, 3770; DMB, 851–52), Li recommended Song Lian to Zhu in part because Song had “mastered astrology and divination”;¹⁹ he also accused artisans who were constructing the imperial palace at Fengyang of practicing black magic—“capturing spirits” (MS, 3973). It is said that Hu Weiyong plotted rebellion because he believed to some degree in auspicious omens: the sudden emergence of a stalagmite in an old well at his hometown, and leaping flames that lit up the sky above his ancestors’ graves (MS, 7906). Hence, when Li and Hu attacked Liu for political reasons, it is quite possible that they themselves also held firm cosmological convictions.

In sum, the early Ming ruling elite shared the vision of a dynamic cosmic order in which the superhuman domain and human world were in dynamic correspondence. Acting as the more powerful cosmic force, deities—especially Heaven and Earth—supervised and guided human affairs. In order to govern the myriad masses on earth, Heaven created sage-rulers who were authorized by the Mandate of Heaven. As a mediator between Heaven and human beings, the ruler was endowed with the cosmic mission of bringing harmony and prosperity to the human world and transforming the hearts and minds of his subjects. This mission was the *raison d’être* for the Mandate of Heaven. And law, as will be shown next, was considered a key instrument in manifesting the Mandate of Heaven and completing the ruler’s double-faceted mission.

HEAVENLY PRINCIPLE AND HUMAN SENTIMENT: THE COSMOLOGICAL FOUNDATION OF LAW

In mediating between Heaven and human beings, Zhu Yuanzhang and his law compilers placed great emphasis on the role of law. Even before ascending to the throne, Zhu had frequently discussed the urgency of establishing

a legal system with his officials. One lesson they drew from the collapse of the Mongol Yuan dynasty (1271–1368) was that its legal system was lax and its “net-ropes” (*jigang*, i.e., principles of government) were not shaken.²⁰ One of the most important things for the new regime to do was compile strict laws to eliminate “evil practices” (TS, 211). In enacting a great number of legal regulations during the Hongwu reign,²¹ what constituted the nature of law for the early Ming ruling elite?

The nature of law, according to Zhu Yuanzhang and his law compilers, lay in manifesting *tianli* and *renqing*, the two fundamental elements of the Mandate of Heaven. Heaven, principle (or reason), and human sentiment were age-old themes in Chinese intellectual history, but they had been vested with new meaning by Song Neo-Confucians (Hou et al. 1987; de Bary 1981; Mizoguchi 1993). To what extent Neo-Confucian thought influenced Zhu is a question that may never be definitively settled, but it is known that although he rose from a humble background, in the course of seizing imperial power and establishing and consolidating his authority, Zhu was actively influenced and instructed by Confucian advisors holding various governmental posts. In his study of the close relationship between Confucianism and the early Ming autocracy, John Dardess (1983, 24–32) persuasively demonstrates that late Yuan and early Ming Confucians possessed a kind of “professional knowledge” centered on the Confucian Four Books and Five [or Six] Classics that served as the philosophical foundation of the early Ming government. In particular, Edward Farmer (1989, 171–74; 1990, 107–11) notes that Neo-Confucianism was a crucial component of Zhu’s lessons from his court Confucians. Wing-tsit Chan (1970, 44) also observes that, a man of little education, the Ming founder “depended greatly on the scholars of the time, and turned to the Neo-Confucianists.” Indeed, the former peasant and Buddhist novice discussed many issues involving heavenly principle, human sentiment, or human heart with his court officials. As early as 1358, Zhu was presented with the *Great Learning* (Daxue), one of the core classics esteemed by Song Neo-Confucians, by the Jinhua Confucian Fan Zugan. Fan advised the future emperor to study the principles of the kingly way, learning the proper steps to follow in investigating things, extending knowledge, making the will sincere, rectifying the mind, cultivating personal life, regulating the family, bringing order to the state, and pacifying the world. All of these were essential for obtaining and preserving the Mandate of Heaven (TS, 74–75; BX, 415). Before the dynasty was founded, Zhu asked Song Lian what the most essential book on governing a realm was. Song recommended the *Expanded Meaning of the Great Learning*

(Daxue yanyi) by the Song Neo-Confucian Zhen Dexiu (1178–1235), a book expounding the Neo-Confucian principles of self-cultivation, managing the family, governing the country, and pacifying the realm. Zhu was very pleased with this advice, and ordered that the text be copied on the walls of the palace for his daily study. He also encouraged court officials to listen to Song Lian's lectures on the book (MS, 3784–86). Nearly twenty years after the dynasty was founded, the emperor still praised this book as a mirror for government (TS, 2489; BX, 447).

During the Hongwu reign, despite the fact that Zhu Yuanzhang showed some distrust of elite scholar-officials (Andrew 1991) and had arbitrarily expunged eighty-five sections from the *Mencius* (Mengzi) (DMB, 956–58), he still drew predominantly on Neo-Confucian doctrine as a source of wisdom. In addition to advisors like Song Lian, Liu Ji, and Hu Han, a large number of other well-known contemporary Confucian scholars assisted the emperor and profoundly influenced him (BX, 443–49). To cite several examples: Tao An (d. 1368) (DMB, 1263–66; MS, 3925–27) and Cui Liang (MS, 3930–31) designed ritual institutions as Chancellor of the Hanlin Academy and Minister of Rites respectively; Zhang Meihe, who wrote the *Classified Encyclopedia on the Learning of Principle* (Lixue leibian), served as a compiler in the Hanlin Academy (TS, 2078–79; MS, 3954); Wu Chen (d. 1386), the Grand Academician of the East Hall, presented to the throne the *Record of Absolute Sincerity* (Jing cheng lu), consisting of excerpts from the Confucian classics in three categories—reverence for Heaven, loyalty to the ruler, and filial piety to parents (TS, 2386–87; MS, 3947–48). Through the efforts of Confucian officials, the Four Books and Five Classics with appended Neo-Confucian interpretations were issued to schools as standard textbooks (TS, 2154).

In part due to court contacts, Zhu Yuanzhang achieved great attainment in understanding the Neo-Confucian classics (HWYZQS, 24–29). Heavenly principle and human sentiment, the essential components of Neo-Confucian cosmology, defined the emperor's worldview in many ways. Shortly after he joined the Red Turban rebels, for instance, Zhu suffered a serious illness; a doctor called Hao Zhicai cured him with acupuncture and herbal medicine. Many years later, Zhu still remembered that event, marveling that at the time his life had no more value than any other, although he was later to rise to preeminence. “Was the doctor so skillful, or my life so durable?” He concluded: “The doctor's curing me must comply with heavenly principle,” he saved the life of the Son of Heaven (YZWJ, 223–24). In discussing the good and ill portents indicated in the classic *Book of Documents* (Shangshu), Zhu articulated the belief that Heaven and humans were founded upon a single

principle; therefore, the best way to influence Heaven was to manage human affairs according to the way of Heaven (TS, 298–99).

What exactly were heavenly principle and human sentiment? Although Zhu and his officials did not offer any firm definitions, they did perceive some essential elements—both social and metaphysical—regarding these fundamental cosmic forces. From a metaphysical perspective, heavenly principle first meant a pattern of harmonious hierarchy, as displayed in the Heaven-Earth-humankind triad and yin-yang. Everything had its fixed position (*fen*), was either superior or inferior, and functioned within a concordant whole (TS, 2657; Romeyn Taylor 1989). In addition, heavenly principle denoted values like resoluteness, uprightness, ceaseless motion, impartiality, using surplus to supplement insufficiency, and loving to create things (TS, 1658, 2645–47, 3096–97, 3400–3401). As for human sentiment, Zhu Yuanzhang highlighted qualities such as love of life and unwillingness to die, favoring rest above labor, preferring wealth to poverty, loving the good and abhorring evil, and having affection for relatives, especially parents (TS, 2645–46, 2675–76, 962–63). Translated into a social agenda, these attributes would promote filial piety and brotherliness, and inspire benevolent government policies, such as lenient laws, light taxation, emphasis upon agriculture, and impartiality in punishments and rewards. In his *Imperial Commentary to the “Hongfan” Section of the Book of Documents* (Yuzhu Shu Hongfan), Zhu delimited the social obligations of the imperial government to manifesting cosmic principles, establishing law, protecting the masses, following the four seasons, and achieving abundant harvests, all of which showed the heavenly way in human affairs (TS, 2727–28). Most important was developing the “Three Bonds and Five Constants” (*sangang wuchang*), principles that had been cultivated by the sages of previous dynasties and that were crucial in fostering the people.²² With such policies, the early Ming, in Donald Munro’s words, “read the human social order into the structure of the universe” (Munro 1969, 29).

The Neo-Confucian worldview shaped the early Ming understanding of the nature of law. Zhu Yuanzhang saw in law an indispensable tool for structuring the ideal society and transforming human hearts; to him, the foundation of law was heavenly principle and human sentiment, evinced in both legislation and judicature. In compiling law, Zhu exhorted himself to “revere the Mandate of Heaven” (TS, 280); hence, establishing law and governing the people was a way to carry out the Mandate of Heaven (YZWJ, 73). During the formation of *The Great Ming Code*, he required the compilers to base all rules on the cosmic order and human sentiment so that they could lead subjects to “abide by law and follow principle” (*fengfa xunli*) (TS, 423). The

specific goal in legislation was to codify the above-mentioned social ideals as dynastic laws, turning state values into social norms.

In law enforcement, Zhu also requested his officials to take heavenly principle and human sentiment as standards. In 1367, when the first version of *The Great Ming Code* was still being compiled, he instructed the vice censor-in-chief Liu Ji and others:

“Net-ropes” and legal institutions are the roots of government; and [the office] that is in charge of shaking the net-ropes and manifesting the legal institutions is the Censorate. . . . When you enforce law, [it is essential that] you respond to Heavenly phenomena. If there is a slight deviation [from the Heavenly will], the net-ropes and legal institutions will become lax, and people will not stay in peace. (TS, 389–90)

The emperor thus articulated how law followed heavenly principle: legal institutions should be established on the basis of heavenly patterns, and law applied in accordance with heavenly phenomena.

Zhu Yuanzhang seems to have been serious in connecting law enforcement with heavenly phenomena. In 1368, a fire broke out in the capital city. Associating the incident with floods and droughts that were occurring across the empire, Zhu worried that straying from the “middle way” (*zhong*) in meting out punishments might have caused an imbalance in the cosmic yin-yang forces. He thus ordered his officials to guide his own self-cultivation, so that those “heavenly sanctions” (*tianqian*) would disappear (TS, 600–601). In responding to anomalies, he would limit executions and issue general amnesties to move the “heavenly heart” (TS, 1164–65; HMZL, 30–31). In the winter of 1381, imitating the ancient convention of “following celestial seasons to improve the law,” Zhu sent investigating censors to various localities to redress injustices. He told them that since the weather had grown cold—a sign that the yin force prevailed—it was time to improve legal statutes. By doing this, he hoped that “the *Code* will echo the human heart and law will respond to heavenly principle” (TS, 2196).

The idea of adherence to the mean, or middle way, occupied an important place in early Ming legal cosmology; it embodied the proper interaction of law and the cosmic order. In 1391, when a second edition of the law was published, Zhu Yuanzhang again stressed the importance of observing principle and maintaining a happy medium in government administration:

In the world, every matter has perfect principle. With different understandings, however, people tend to hold to biased opinions when judging law cases. It is there-

fore difficult for them to reach the acme of perfection. Only by observing principle can such a malpractice be eliminated. From now on, whenever a government decree is issued, it is essential that you officials meet to deliberate on them carefully. The decree will not be carried out until it is considered appropriate by all of you. In order to make every matter perfect, it is necessary to follow this [procedure]. . . . Sincerely hold fast to the “happy medium” so as to fulfill my entrustment. (TS, 3105)

In Zhu Yuanzhang’s legal philosophy, keeping a happy medium in administering punishment was closely linked to a state of harmony existing between Heaven and Earth, and to goodness prevailing within the human realm (TS, 2085–86, 2384). In the summer of 1391, a long period of drought worried the emperor: was it the result of incorrectly handled law cases? He ordered officials to review law cases throughout the empire. The following case was reported: A woman was sentenced to tattooing and enslavement according to “regulations” (*li*) because she had “recklessly lodged a suit” to rescue her husband, who had committed a capital crime. The emperor questioned the officials: why was the woman punished so severely? After all, she had filed the suit out of love for her husband. Remember, unsuitably harsh penalties would interfere with the harmony between Heaven and Earth. Finally, the punishment was changed in accordance with *The Great Ming Code* (TS, 3119). Here, the emperor emphasized the importance of a happy medium in achieving cosmic harmony. The impartial administration of justice, then, was an essential way to preserve the Mandate of Heaven.

A happy medium in administering punishment, however, does not always mean leniency toward the accused. According to specific circumstances, penalties for criminals could be extremely harsh. Zhu Yuanzhang was known for his ruthlessness in meting out punishments; this has often been labeled by present-day scholars as Ming “despotism” (Mote 1961). For instance, in the cases of Hu Weiyong (d. 1380) (DMB, 638–41; MS, 7906–8) and Lan Yu (d. 1393) (DMB, 788–91; MS, 3863–66), who were both charged with plotting rebellion, tens of thousands of people were implicated and executed (Fu 1963; Massey 1983). But for Zhu, the problem was not whether the penalties were too harsh, but whether they fit the crimes. As long as legal decisions complied with the Mandate of Heaven and human sentiment, they were correct. Accordingly, Zhu justified his massive employment of severe punishment in the Hu Weiyong case from the perspective of cosmic order. Law, he said, should be impartially (*gong*) applied so that Heaven would respond to justice and maintain peace in the human realm. He even denied that the Son of Heaven could arbitrarily exercise power over lives and property; on

the contrary, he claimed that he cautiously and conscientiously spoke every word and conducted every act in rewarding and punishing, bestowing and taking away, fearing lest he should “violate the Mandate of Heaven on high and thwart human sentiment down below.” He wanted to get rid of personal love, hatred, anger, and grudges, and to follow the way of great impartiality and absolute justice (TS, 2054–55).

In early Ming legal cosmology, Heavenly principle and human sentiment represented the same cosmic ideal. The former, representing the will of Heaven, was mirrored in the latter. Donald Munro (1969, 57) finds in Confucianism a belief that “all things somehow derive their being from a common source (Heaven); all, therefore, equally possess a ‘Heavenly nature’ (*t’ien-hsing* [*tianxing*]).” In other words, heavenly principle and human nature/sentiment were indivisible; they were two aspects of the same thing. Zhu and his official advisors often emphasized this unity; the root of the realm lay in human sentiment, and human sentiment was where the Mandate of Heaven was located. In governing the empire, to obtain the heavenly heart meant precisely winning popular sentiment (TS, 345, 573–74, 634, 2333, 3397). Law should be a perfect manifestation of both cosmic principles.

Nevertheless, in legal practice, discrepancies often arose regarding the interpretation of heavenly principle and its correlate, human sentiment. Several law cases illustrate this problem.

Case One

A native of Hangzhou (Zhejiang) had committed a crime punishable by beating with the heavy stick and banishment. His son, a functionary (*li*) at the Office of Judicial Review, persistently petitioned to replace his father and suffer the penalty. Zhu Yuanzhang was very pleased by this filial act: “What a beautiful thing this is! Let’s bend the law in this case so as to promote the love between father and son, making them good examples for the realm.” He pardoned both father and son (TS, 1717).

Case Two

Someone in the Zheng family of the Pujiang district (Jinhua prefecture, Zhejiang)²³ was accused of colluding with the “treacherous official” Hu Weiyong. But the local police had difficulty identifying the criminal. When they

came to arrest the accused, all six of the Zheng brothers vied with each other in order to claim responsibility and save the others. Zheng Shi, the youngest, stated firmly: “Younger brother [himself] is here. How could I have the heart to see my elder brothers suffer punishment?” He thus turned himself in and was sent to the capital. It so happened that the second eldest brother Zheng Lian was also in Nanjing. He tried to persuade his younger brother that it was he, the household head, who should serve the sentence. But Zheng Shi insisted on staying in jail because, he said, his elder brother was too old to suffer. While these two brothers were debating who should be held responsible, Zhu Yuanzhang summoned them to court and praised their sense of brotherliness and righteousness. He not only pardoned the whole family, but appointed Zheng Shi as left assistant administrative commissioner for the Fujian Provincial Administrative Commission (TS, 2145).

Case Three

Someone had committed a capital crime. His father offered a bribe to the officials concerned, hoping to have his son exempted from punishment. Before long, the act of bribery came to light and the investigating censors petitioned the throne to punish the father as well as the son. The emperor rejected this petition and reprimanded the officials: “Life and death are the most important matters to the people; father and son are the most intimate relatives for human beings. With love deeply rooted in his heart, the father was so eager to save his son’s life that he ignored what principle would not tolerate. . . . But his sentiment should be considered. Pardon him” (TS, 2377–78).

This group of cases features the expediency of “bending the law to promote sentiment” (*qufa shenqing*) to exonerate those considered guilty of certain crimes. Human sentiment was mainly used to pardon the convicted as a means of promoting harmonious family relationships.²⁴ The foregoing three cases demonstrate government support for three kinds of family values. In case one, it was filial piety (toward the father) that led to exoneration from blame; in case two, the virtue was brotherliness; and in case three, it was the benevolence shown by a father to his son. These values were core constituents of human sentiment, and were considered ways of attaining a happy medium in governing the realm.

The practice of “bending the law to promote sentiment,” then, reveals potential tension between heavenly principle and human sentiment in early

Ming legal cosmology. As all three cases suggest—and as is explicitly stated in case three, these two cosmic forces might not necessarily coincide. The principles codified in *The Great Ming Code* and other legal documents might conflict with virtuous sentiments that were manifested in illegal acts. This seemingly challenged the claim that law was the perfect embodiment of both heavenly principle and human sentiment. It is not clear how the court would reconcile this discrepancy; in practice, it basically depended on the emperor's calculation of the cosmic consequences that his legal policies might entail: issues like family relationships were so fundamental to the dynasty that he preferred to risk undermining certain legal regulations in their favor.

Zhu Yuanzhang was a calculating ruler. There were cases when he refused to grant pardon to the accused on the grounds of filial piety. A person from Taiping prefecture,²⁵ for example, committed a capital crime for having beaten a pregnant woman to death. His son petitioned to replace his father and receive the penalty. This time, the emperor ordered the officials at the Court of Judicial Review (Dali si) to deliberate. The chief minister Zou Jun adduced that although the son's petition was praiseworthy, a pregnant woman counted as two persons. The crime was so serious that, without punishing the real criminal, the injustice would not be redressed. Zou would rather save the life of an innocent son than preserve that of a guilty father. Zhu approved his verdict (TS, 2576–77).

In another instance, in order to cure his mother's illness, Jiang Boer, a native of the Rizhao District (Qingzhou prefecture, Shandong), cut off his own flesh to feed his mother. When his mother still did not recover, he went to Mount Tai (Taishan) to pray for divine blessing. There, he vowed that as soon as his mother was cured, he would kill his son as a sacrifice. A short while later, his mother recovered, so Jiang did kill his three-year-old son as a thank offering. When this case was reported to the throne, Zhu Yuanzhang was enraged:

The father-son relationship is the most important of the cosmic bonds (*tianlun*). Therefore, according to ritual, the father should perform three years' mourning for his eldest son. Now this person is so ignorant that he killed his son and thus desecrated ethical principles. He shall be immediately arrested and punished. Don't let him undermine popular customs.

Jiang Boer was soon arrested and sentenced to one hundred strokes of beating with the heavy stick and banishment to Hainan (TS, 3418–19).

The emperor did not accept the argument of filial piety in these two cases,

weighing the degree of damage they entailed. In the first case, killing two people was such a serious offense that the father could not be released, in spite of the son's filial petition. Likewise, in the second case, killing one's son was considered a greater crime than letting one's mother die. In these rulings, it remains unclear whether the penalties would have been changed had the victim not been pregnant in the former case, or in the latter, if the sick person had been a father rather than a mother. At any rate, weighed against filial piety, other values prevailed. This demonstrates the emperor's view of the golden mean in governing.

Zhu Yuanzhang's efforts to connect heavenly principle with human sentiment in Ming legal institutions were assisted by law compilers like Liu Ji. In his official career in the early Ming, Liu actively employed legal measures in an attempt to balance cosmic phenomena and government policies. Once Zhu was confused by a strange dream and was about to have someone executed in order to ward off bad luck. But Liu Ji, as the director of the Directorate of Astrology, offered an auspicious interpretation: the dream foretold that Zhu would obtain land and people, so Zhu should stop the execution and await further developments. Three days later, Haining Prefecture surrendered. Zhu Yuanzhang was so happy that he allowed Liu Ji to release all prisoners. It was due to this accurate prediction that Zhu awarded Liu another position—that of vice censor-in-chief of the Censorate—putting Liu concurrently in charge of both law enforcement and the observation of Heavenly bodies (MS, 3779).

There is no doubt that different voices regarding law and the cosmic order can be heard within the early Ming ruling elite, especially between the emperor and officialdom. Over the issue of how law could represent heavenly will, Zhu and his officials were often at odds. Zhu Yuanzhang once asked Liu Ji about celestial phenomena. Liu responded: "After frost and snow there follows bright spring. Now that dynastic authority has been established, it is appropriate for lenient policies to be applied" (MS, 3779; Huang Jin 1991, 23–130). Numerous records show that the emperor did exactly the opposite throughout his reign. In fact, like Liu Ji, a number of early Ming officials made use of celestial anomalies and terrestrial disasters—signs concerning the Mandate of Heaven—to admonish the emperor to adopt more lenient legal policies. In 1376, for example, when unusual and inauspicious star movement occurred and the emperor consequently invited straightforward criticism of his rule, Ye Boju (DMB, 1572–76) challenged his reliance on extremely harsh punishments. He urged the emperor to establish a compassionate, stable, and consistent legal system to harmonize the yin-yang forces,

bring about favorable weather, and thus make heavenly anomalies disappear (MS, 3995). His memorial on lenient government policies led to his suffering harsh punishment, since his proposals conflicted with the imperial will. Of course, while Zhu and his officials differed in their views on how harsh or lenient laws ought to be in order to achieve cosmic harmony, they were all contending within the same intellectual framework—the theory of the Mandate of Heaven. It seems safe to say that a consensus existed among the early Ming ruling elite; namely, heavenly principle and human sentiment were the essential guidelines for human beings, and thus constituted the ideological foundation for the legal establishment.

THE NATURE OF CRIME: BREAKING THE LAW
AND VIOLATING “PRINCIPLE”

Having discussed the nature of law in general, let us now turn our attention to an important issue in early Ming legal cosmology: What is crime? And why do people commit crimes? In Ming legal culture, it is difficult to locate a formal definition of criminality as it exists in present-day law codes. But these questions were not left unanswered; there is an identifiable common conception of criminality among the ruling elite.

Zhu Yuanzhang and his officials perceived crime as existing on two levels, legal and cosmological. The legal definition was concerned with the aspects of crime expressly stipulated in law codes. It required that a crime (either the commission or omission of an act) be clearly defined by law; consequently, no punishment could be administered without legal authority. This notion was already well-established in Chinese legal history. In the Warring States period (Zhanguo *shidai*), for example, Mozi (ca. 478–392 BCE) said: “Crime is a violation of prohibition”; “If an act is not prohibited, it shall not be considered a crime even though it is harmful” (Zhang and Rao 1984, 137). What Mozi stressed was exactly the legal nature of crime—crime is an act forbidden by law; conversely, no act not forbidden by law is a crime. The early Ming accepted this concept. In 1371, two people were arrested while out walking on the road in front of the Wu Gate because they had stepped on the “imperial pathway.” At the time, however, a law on imperial pathways had not yet been enacted. When Zhu Yuanzhang heard the case, he ordered the two people freed, because “there is no such a prohibition in the *Code*” (TS, 1219). For him, then, an act that was not prohibited by written law did not constitute a crime.

While Zhu strictly required that his officials abide by the law, he himself often penalized transgressors “outside the prescribed Five Punishments” (*wuxing*).²⁶ Ironically, when some officials braved death to admonish the throne to observe established law, they also grounded their arguments on the notion that no act should be judged criminal without written legal stipulations. Zheng Shili’s (DMB, 1575–76) questioning the imperial decision on the “Prestamped Documents Case” (Kongyin an) is illustrative. “Prestamped documents” referred to blank but sealed forms used by local officials for reporting tax revenue shipments to the central government (Meng 1981, 55–56; DMB, 1575–76). Due to logistic difficulties in transporting tax materials and calculating and reporting exact amounts, the practice of bringing prestamped documents to the capital and filling out the figures once these materials had been checked in situ had become popular among local officials. In 1376, when Zhu Yuanzhang learned of this practice, he suspected a conspiracy against him and ordered that all district and prefectural officials in charge of such seals be executed, with their assistant officials sentenced to one hundred strokes of beating with the heavy stick and banishment to distant places. Zheng Shili remonstrated with the emperor, trying to persuade him to withdraw the order. One of the main points in his memorial was about how crime should be defined:

When dynastic law codes are established, it is essential to publicize them to the realm in explicit terms first and punish violators afterward, for they violate [the law] intentionally. Since the founding of the dynasty, there has never been a law on prestamped documents. Government officials, succeeding one after another, have never known such a crime. Today, if [you have those in charge of the seals] executed, how can [you] make the executed have no words of complaint? (MS, 3997)

Zheng Shili was sentenced to performing hard labor because of this memorial. But his argument indicates a shared conviction in the early Ming that crimes could not be defined and punished retroactively, although it was often difficult for the all-powerful emperor to refrain from such action. In the early Ming, then, a legal culture is evident that espoused concepts similar to the Western *nullum crimen sine lege* (no act is a crime without being specifically defined by law), *nulla poena sine lege* (no punishment is administered without specific authority in law), and an *ex post facto* prohibition (no law shall make conduct criminal retroactively or increase the punishment for a specific crime after it is committed).

As the dynasty’s fundamental law, *The Great Ming Code* incorporates

these principles. It required that in judging law cases, judicial officials must cite relevant articles of the *Code* or *Great Ming Commandment* (Da Ming ling)²⁷ and that imperial decrees to decide individual cases could not be used by analogy (Art. 439).²⁸ Therefore, officials were forbidden to decide crimes without specific stipulations in the written law codes. In a case where some harmful act was not regulated by either the *Code* or *Commandment*, officials could cite a closely analogous article in the *Code* to decide the case. But the punishments proposed had to be sent to the Ministry of Justice for deliberation and memorialized to the throne for final approval. A judge who deliberately or negligently reduced or increased a punishment (Art. 46) violated the law. Therefore, although the principle of analogy seems contrary to *nullum crimen sine lege*, the procedure of referring a verdict to higher authority was intended to reduce the risk of arbitrary decisions.

Another article related to criminality involved the time at which a new law went into effect. Article 45 of *The Great Ming Code* reads: “The *Code* shall take effect from the day it is promulgated. If crimes are committed before then, they shall all be judged in accordance with the new *Code*.” By authorizing the new *Code* to operate retroactively, this article seems to redefine criminality. In fact, as John Langlois Jr. (1998, 178) observes, the intention here is only to “change the punishment for actions which had already been deemed criminal,” rather than incriminating people for previous deeds. Furthermore, the spirit of this principle was to reduce penalties for earlier crimes rather than increase them. For example, while Article 119 forbids government officials or functionaries to marry musicians as wives or concubines, it allows those who married before the first year of the Hongwu reign (1368) to maintain the relationship and be exempt from punishment. Another example is Article 90, which prohibits peasants from fleeing to other subprefectures or districts to evade corvée service; it exempts those who left before the seventh year of the Hongwu reign (1374) from punishment, as long as they registered themselves and performed the service required. Retroactively, these regulations benefited the defendants instead of increasing their suffering. In essence, then, the *Code*’s stipulated period of activity (Art. 45) does not go against the concept of *ex post facto* prohibition.

This study is mainly concerned with the cosmological definition of crime in the early Ming legal cosmology: crime was considered a violation of principle. On the eve of his dynastic founding, Zhu Yuanzhang directed the enactment of the first two law codes: the *Great Ming Code* and the *Great Ming Commandment*. He instructed his officials:

Reading books is for the purpose of probing into principle (*qiongli*); observing law is for the purpose of restraining passions. Therefore, officials who are said to be upright and good are not those who display a stern demeanor, but rather those who abide by law and follow principle (*fengfa xunli*). Now that you read the *Code* as a book, you should know that, generally speaking, people commit crimes because they violate principle (*weili*). Gentlemen (*junzi*) uphold principle; this is why they do not violate the law. Mean persons (*xiaoren*) take law lightly; that is why they are punished severely. Now each of you has your own position and duties; you should understand what to guard against. (TS, 423)

That “people commit crimes because they violate principle” indicates that the essential nature of crime lay in its violation of the cosmic order. Zhu Yuanzhang was urging his officials to learn about principle from law codes, using legal documents as moral textbooks; this would not only prevent crime, but also differentiate morally superior gentlemen from morally inferior, mean persons.

This concept of crime can also be inferred from Xiao Qi’s effort to correlate the Confucian classics with legal texts. A native of Taihe (Jian prefecture, Jiangxi), Xiao Qi was one of the few scholar-officials at the Hongwu court who were not punished due to their straightforward criticism of the emperor’s harsh legal policy. One of his accomplishments was to elucidate “principle” through legal texts. He himself compiled a book entitled *The Essential Meanings of the Five Classics* (*Wujing yaoyi*). To illustrate the book’s main concepts, he correlated them with legal regulations selected from the law textbook *Eight Rhyming Explications of the United Code* (*Bayun Xingtong fu*). He explained why he had interpreted Confucian texts by using law articles: “There is of course only one principle in the world. ‘Departing from’ (*chu*) the Way, one will certainly ‘enter’ (*ru*) punishment. I combine the two books to help readers better comprehend [such concepts]” (MS, 3984). Here, Xiao Qi implied that cosmic principle was embodied in law codes. Any crime, conduct that deviated from the Way and should incur punishment, was a violation of principle. This cosmological interpretation of crime accorded with the basic conception of law, as is shown in the preceding section. Since law was the concrete embodiment of heavenly principle and human sentiment, criminal acts must operate in contradistinction to these cosmic forces.

In his interpretation of the case of Guo Huan (d. 1385), Zhu Yuanzhang elaborated this proposition. A vice-minister of revenue, Guo was charged with having embezzled seven million piculs (*dan*) of government grain. As a result, several tens of thousands of people, including Guo himself and

all other vice-ministers in the Six Ministries, were executed (MS, 42, 2318; YZDG, 233). Zhu justified the massive killing on cosmological grounds: the Way of Heaven demanded that those who had a surplus should help those who did not have enough. If someone required those who had too little to serve those who enjoyed a surplus, it was a heinous crime that would enrage the spirits and lead to “heavenly sanctions” (*tianqian*). This was exactly what Guo Huan and other officials had done in embezzling government grain. Zhu claimed that the execution of these corrupt officials followed the example of antiquity in carrying out “heavenly punishment” (*tiantao*) (HMZL, 143–44). According to this argument, law was no different from the direct articulation of heavenly principle and human sentiment. Crimes, then, were committed against the cosmic order and human nature.

As a violation of principle, crime would eventually be punished by Heaven at some point. When discussing with his court advisors why good or evil deeds sometimes reaped unexpected consequences, with the good going unrewarded and the evil unpunished, Zhu said:

Sometimes those who do evil may escape disaster, but principle permits no evil. Perhaps those who do good may not receive blessings; but principle does not prohibit doing good. People can only cultivate themselves; disasters and blessings all depend on the commands of Heaven. That doing good does not bring blessing and doing evil does not incur disaster is only because [the] time has not yet arrived. (TS, 2741)

Zhu articulates two interesting points in these remarks. One is the connection between principle and good or evil deeds. In committing a crime, it is principle that is infringed upon. The other point concerns trust in Heaven. If principle represents the will of Heaven, it seems that only Heaven has the ultimate authority and capacity to safeguard it. Without doubt, Zhu strongly believed that superhuman forces were watching every human’s conduct. Even if someone escaped punishment for a while, “the law in the nether world is slow and sure; the statutes in this world are quick but evadable. Such persons [the wrongdoers] cannot avoid recompense, if not for themselves, then for their sons” (ZSTX, 1459).

Article 410 of *The Great Ming Code*, “Doing What Ought Not to be Done,” provides insight into the relationship between principle and crime. It states:

In all cases of doing what ought not to be done, the offenders shall be punished by forty strokes of beating with the light stick. (This refers to cases where neither the *Code* nor the *Commandment* has an article dealing with the act, but the act shall not be

done according to principle [li].)³⁹ If the circumstances are serious, the penalty shall be eighty strokes of beating with the heavy stick.

This is a catchall provision, for it might be used flexibly to regulate any unacceptable form of conduct. Indeed, no law code can explicitly address every harmful act. It comes as no surprise from a legal point of view that such a clause was enacted to make good omissions in the *Code* and the *Commandment*. Taking the aforementioned principle of analogy into account, however, this article by no means encourages arbitrary judgments. Here, what should be noted is the definition of crime. This article concerns acts that are prohibited by principle, and crime is defined as a violation of principle. The “Collected Commentaries” (Zuanzhu) on the *Code* reiterates: “What principle prohibits means ‘what ought not to be done.’ It is also a crime to proceed to do it” (JJFL, 1889). The relative lightness of the penalties prescribed in this article (either forty strokes of the light stick or eighty strokes of the heavy stick) demonstrates that more serious crimes, all of which are acts against principle, were already regulated in the law codes. To be sure, this article, including the word “principle” (*li*, or “reason”), already appeared about seven hundred years ago in the *Tang Code* (Tang lü, 653) (TLSY, 522; Wallace Johnson 1997, 510). But, as discussed earlier, the early Ming (after the Song and Yuan Neo-Confucians) had reinvested “principle” with metaphysical meaning—the old word was made to bear new connotations.

Why do human beings commit crimes? Two causes were enunciated by Zhu Yuanzhang. One was the impact of social environment, especially the “pollution” (*wuran*) that Mongol rule had brought to Chinese civilization. On many occasions, Zhu attributed the relaxation of the “net-ropes” and the degeneration of morality to Mongol governance. The Yuan regime had introduced “barbarian” customs (*yiyi bianxia*) into Chinese culture. As a result, people in China engaged in deviant behavior and harmed the Way of Heaven. Zhu was especially determined to correct social customs that had been influenced by Mongol practices, such as keeping slaves, the rich and the poor in mutual estrangement, and being overly fastidious about wedding gifts in marriages, geomancy in funerals, and the intermingling of Buddhist and Daoist men and women (BX, 461).

Another major cause of crime, according to Zhu, concerned the criminal’s personal subjectivity, i.e., their wayward minds-and-hearts had not been transformed by the age-old sagely way (YZDG, 197). They “do not learn the principles, mix themselves with unmannerly, mean persons daily, accumulate evil and wickedness in their hearts, and cannot be changed, so

they must be executed” (ZSTX, 1474). Zhu called not learning ethical principles and thus not knowing the way of the ancient sage-kings “ignorance.” In the *Comprehensive Instructions to Aid the Realm* (Zishi tongxun, 1375), he summarized seven types of ignorant behavior: (1) not knowing principle, (2) being unfilial, (3) not knowing shame, (4) injuring people without reason, (5) being robbers, (6) being sorcerers, and (7) being idiots. All of these start with not knowing the principles of the sages and ancients, leading to “reckless acts.” If someone has been in a state of ignorance for a long time, he will eventually become an idiot—a person who does not do what he ought to do or does what he ought not do. Zhu Yuanzhang likened such deviant behavior to illness caused by the internal deterioration of the body’s five vital organs, as opposed to illness caused by cold or heat piercing the body from without. In other words, human crimes arise from the inner spiritual world, rather than from the external environment (ZSTX, 1471–72). In the end, they will be punished by Heaven through the ruler. To Zhu, blessings from the Lord on High, the people’s transformation, and harmony in the cosmic order all relied on the establishment and enforcement of law (ZSTX, 1478–79).

In order to elaborate on the internal causes of crimes, Zhu Yuanzhang compared the hearts of “sages, worthies, and gentlemen” with those of “robbers, thieves, wicked persons, and mean people.” He held that originally, human hearts were all the same; differences arose due to individual self-cultivation, the process of “spiritual movement.” One category of people cultivates their hearts and knows that they will lose their social standing and reputation if they commit crimes, so they do not break the law. They seek “to broaden love and apply benevolence, and to benefit the myriad things.” Relying on a cultivated heart, they will be worthy ministers when they assist the ruler; they will put their family matters in order; they will be called “gentlemen” when they live in villages; and they will become sages when they rule the realm.

The other category of person does just the opposite. They see that the way of sages and worthies is “subtle in matter and esoteric in principle” and thus difficult to grasp, so they give up. At the same time, they find that taking the evil path not only “can be quickly rewarded and easily done,” but the gains are also “abundant”; hence, they pursue the latter path. With evil hearts, they are treacherous and disloyal and will not have a happy end when they serve the ruler; they will become mean people when they make friends; they will become robbers or thieves in villages; and they will not create good relationships when regulating their families. In Zhu’s view, self-cultivation—or lack thereof—results in different types of human hearts and

behavior. People with worthy, sagely hearts will be nobles, become wealthy, or at the very least, “will not be found guilty even though they are poor”; whereas mean people “will be executed generation after generation.” Zhu warns that “those who give heed to these words will prosper; and those who ignore them will perish” (YZWJ, 226–27).

Based on their understanding of the nature of law, the early Ming ruling elite defined crime as a violation of “principle,” and additionally as a breach of law. In doing so, they emphasized that the cause of crime lies in a person’s inner world. In this context, crime prevention is a battle against human ignorance and waywardness.

THE FUNCTION OF LAW: ELIMINATING VIOLENCE AND WICKEDNESS AND PROMOTING EDUCATION AND TRANSFORMATION

Law played a significant role in the early Ming empire-building enterprise. Zhu Yuanzhang repeatedly justified his harsh legal policies by claiming that he was ruling a disorderly country (MS, 2285–86). Indeed, the Ming founding was a process of arduous struggle against various forces that were alien to the Ming ruling house. To Zhu and his law compilers, the attacks from Mongols in the North and the Japanese along the coast, revolts initiated by both officials and civilians, tension between corrupt officials and weak commoners, and “polluted” social customs, all indicated a time of chaos. Zhu drew a very depressing picture of his world: officials did not know the “three recompenses and one sacrifice”;³⁰ commoners did not behave in line with the principles regulating father and son, husband and wife, elder and younger brothers, and mutual friends; scholars were pedantic; farmers were lazy; craftsmen were unaware of government prohibitions; merchants were thievish and deceitful; the Buddhist and Daoist clergy were greedy and self-indulgent; and some people even rose up in rebellion (ZSTX, 1453–77). Such chaos suggested that the legal apparatus should play a crucial role in establishing and maintaining an ideal social order.

But why punish at all? So far, the focus here has been on factors leading to the harsh legal institutions of the early Ming, leaving this fundamental question untouched. In fact, the doctrinal grounds for punishment—or penology—was an essential component of early Ming legal cosmology. The ruling elite viewed the emperor as both ruler and teacher, and saw law as an instrument for prohibiting violence and eliminating wickedness (*jinbao zhi-jian*), and as a way to promote education and transformation (*mingyang jiao-*

hua). Legal prohibitions were intended to foster a safe, well-organized social order, while education was intended to reform people's hearts—although in practice the two functions were often indistinguishable.

Metaphors of Law as a "Hoe" and "Water and Fire"

Law was designed to maintain a safe, well-organized social order in two ways. First, it "eliminated the bullies and helped the downtrodden" (TS, 349); namely, it punished criminals and protected victims. In the imperial preface to *The Great Ming Code*, Zhu Yuanzhang declared that "manifesting rituals is to guide the people; establishing the *Code* is to restrain villains" (JJFL, 9). He put forward several metaphors in illustration. Villains cause disorder in the cosmos, so like weeds in the fields, they must be eliminated by the hoe (law) so that seedlings (good people) can grow (TS, 347). Law is like a fishing net used to catch big and strong fish.³¹ People cannot live in peace until bullies are eliminated, the downtrodden succored, the good praised, and evildoers removed. Only then can the people focus on tilling the soil; under these circumstances, they will have ample food and clothing, can pay their rent and taxes, and will be generally helpful to the dynasty (TS, 349). In explaining why people entrust their lives to the ruler, Zhu cited this example: When people are robbed and are not strong enough to resist the robbers, they go to government offices and report the problem. The officials there will apprehend and execute the robbers, recover the stolen goods, and return them to their rightful owners (ZSTX, 1457–58). That is to say, the imperial government headed by the ruler is the savior of the masses.

Secondly, law was a warning to the general populace, serving as a means of general deterrence. Again, Zhu Yuanzhang used metaphors to express this idea. He warned his subjects that "water" could drown people and "fire" could burn people. "So if you play with them, you may be hurt; if you stay far away from them, you will be safe" (TS, 347). People should be aware that violating the law could be dangerous; with this in mind, they would not be "drowned" or "burned." Zhu also explained why it was the ruler who fostered the people: "When the ruler shakes the 'net-ropes,' violence will cease; parents, wives, and children will be able to live in safety, and their property will be secure. That bandits do not dare to steal things is due to fear of the law" (ZSTX, 1457). In this respect, Zhu firmly upheld the ancient principle: "Punishment is created in the hope that there will be no punishment."³² He made this clear in the preface to *The Great Ming Code*: "[I] want to make peo-

ple dread [the law] and not [dare to] violate [it]" (JJFL, 9). By making people know how to pursue good fortune and avoid calamity, the law will guide them to exist harmoniously between Heaven and Earth (TS, 3647).

The theory that punishment served as a deterrent to transgressors, as well as to the general population, helps to explain why Zhu employed a variety of cruel penalties to punish "evil" subjects. Nevertheless, two points should be made here. First, employing harsh laws was only one aspect of early Ming legal policies. The other side of the story is that Zhu Yuanzhang often handled law cases leniently, exonerating the accused or pardoning the guilty.³³ Even officials, whom Zhu tended to regard with more suspicion, were sometimes treated mercifully and exempted from penalties (Jiang 1988). Second, for the emperor, applying severe penalties was nothing but an expedient for rectifying matters during a time of chaos. He intended to use harsh laws temporarily in order to pacify the realm for future generations, who could then discard them forever. Hence, in the late Hongwu period, he ordered the imperial bodyguard (*jinyi wei*) to burn all extralegal instruments of punishment, and admonished the imperial grandson and heir Zhu Yunwen (1377–ca.1402) (DMB, 397–404): "I am ruling in a chaotic period, so punishments have to be severe. When you rule in a time of peace, punishments should be light. This is what we call the severity of punishments depending upon specific times" (MS, 2283). It seems clear that in *The Great Ming Code*, the emperor was trying to achieve two things simultaneously, employing severe penalties for his own time, but allowing leeway for a "happy medium" in the future.

At any rate, the early Ming saw legal limitations as crucial for governing the realm, basing this premise on legal cosmology. Inasmuch as the Way of Heaven encourages production and discourages extermination (TS, 1658), a good ruler should base his administration on the promotion of production rather than the administration of punishment (TS, 3073). Furthermore, in terms of the yin-yang forces operating within the cosmos, Heaven was deemed to favor yang over yin; hence, virtue—corresponding to the yang force—must be superior to punishment, which was seen as a manifestation of the yin force. In 1370, there were frequent sunspot sightings; this prompted Zhu to ask his court officials to speak out their views on imperial policies frankly. The imperial diarist Wan Yi responded that the sun was the essence of the yang force; sunspots meant the yin force had beclouded the yang. In human affairs, since virtue was yang and punishment yin, the anomaly must mean that punishment now outweighed virtue. The way to restore balance to the cosmic order was to be prudent in administering pun-

ishments, especially executions. For those who committed capital crimes, the emperor should respond to at least three, and as many as five memorials recommending execution.³⁴ By following this practice, anomalous heavenly phenomena might cease. It is said that Zhu Yuanzhang happily accepted this suggestion (TS, 1164–65). Although the emperor's position regarding law cases was subject to frequent change, the ruling elite as a whole upheld the dichotomy of yin-yang and virtue-punishment in their legal philosophy. In summarizing the overall legal policy of the Hongwu reign, the *Ming History* acknowledges that the early Ming “employed harsh law to punish for a time, but deliberated the institution of a happy medium to hand down to later generations. Therefore, vigorous measures and lenient instructions were complementary, with neither side neglected” (MS, 2320).

Law as “Medicine” and “Cleanser”

As stated previously, Zhu Yuanzhang saw the wayward human heart as a major cause of criminal acts. Law was envisioned as an instrument designed to change people's evil nature, to purify their spiritual condition, and to help them cooperate with Heaven and Earth in heart, as well as in their behavior. According to Zhu and his law compilers, carrying out the Heavenly Mandate, the ruler should promote education and transformation in order to guide the people. For the function of law in spiritual transformation, Zhu utilized two metaphors: “medicine” and “cleanser.” As “medicine,” law was supposed to cure people's diseases, so “applying law is like administering medicine”—it was designed to save lives (TS, 63).

As a “cleanser,”³⁵ law was expected to wash away human “stains.” As noted earlier, Zhu felt deeply frustrated over his “evil” subjects' shallowness, ignorance, and idiocy. After about a hundred years of rule by the “barbarian” Mongols, the Chinese had become profoundly “polluted” (HMZX, 387). Law was supposed to compensate for wrongs and reform people in line with the cosmic order. “Without rituals and law,” Zhu said, “people would have nothing to abide by. Therefore it is essential to use laws to cleanse customs that have gradually become polluted” (TS, 182). It was the Mandate of Heaven that required him, the sage-ruler, to “establish five punishments to promote the five teachings,” i.e., the five basic relationships between ruler and minister, father and son, husband and wife, elder brother and younger brother, and mutual friends (TS, 3653).

Law as an agent for transformation was directed toward educable human

nature. As Donald Munro shows, Confucianism holds that every human being possesses an evaluating and commanding mind, a mind that discriminates between the natural qualities of right and wrong and can guide actions accordingly. “When a man’s action is in accord with the evaluations and commands of his mind, he is able to enter into a kind of communion with heaven” (Munro 1969, 58). But environmental conditions, the primary “source of evil,” tend to pollute the original mind, thus leading people into transgression (ibid., 84–90). This is clearly seen in Zhu Yuanzhang’s worldview. To him, evil intentions and behavior were acquired; law would contribute to the restoration of original human nature. As long as evil people were educated through rituals and law, “those who are fierce will become gentle, those who are violent will become tractable.” Just like horses, no matter how violent or unrestrained people might be, after protracted training they would become tame and docile (TS, 182). The purpose of law, then, was to transform people’s hearts-and-minds, making them move toward the good and distance themselves from evil (TS, 3019). In 1382, fifty-three people were sentenced to banishment to the frontier. When Zhu Yuanzhang learned that they were short of food and clothing, he sent all of the criminals home to equip themselves with the necessary items. By the appointed date of return, all of them had come back. Their on-schedule arrival, the emperor believed, indicated that the law had fostered their conscience and that the criminals had already “corrected their transgressions and reverted to good deeds” (*gaiguo qianshan*). Zhu thus provided all fifty-three people with traveling expenses and had them released (TS, 2300–2301). The law had successfully restored the criminals’ innate nature, so it was unnecessary to punish them any more. Indeed, showing evidence of personal transformation was a means of obtaining pardon for criminals in the early Ming period (TS, 2317, 2994–95).

Analysis of the two functions of law—eliminating violence and wickedness and promoting education and transformation—does not suggest that these were separate operations. Zhu and his advisors sometimes discussed both as a single entity, and Ming law was designed to carry out both agendas simultaneously. In this respect, in addition to *The Great Ming Code* which will be discussed below, the *Imperial Grand Pronouncements* (Yuzhi Dagaos) is also a case in point.³⁶ A special case law issued by Zhu Yuanzhang himself, the *Grand Pronouncements* stipulates a great number of severe penalties for criminal acts. It reveals the emperor’s anger and frustration in attempting to control people’s behavior (Farmer 1989, 179), but it is also a transformative law designed to redeem people’s “polluted” minds and help them cooperate

with August Heaven, the God of Earth, and other spirits, so that human beings would have timely rain and beautiful sunshine, abundant harvests, and live in plenty (YZDG, 197). In the first article of the *Grand Pronouncements, Second Compilation* (Dagao xubian), Zhu once again promotes the “five constant virtues” (*wuchang*):

Today a second pronouncement is issued. In the families of officials and commoners it is essential that there be affection between father and son. The people of the realm must know the correct duty [yi] between ruler and minister. It is essential for there to be distinction between husband and wife. Neighboring relatives must maintain precedence of the old over the young. There must be good faith between friends. The masses must respect those with virtue regardless of age, distinction, or generation. This is the great ritual of the ancients. (DGXB, 263; Farmer 1990, 114)

Zhu Yuanzhang regarded these values as crucially important; he ordered those who did not comply to be instructed by community elders and the strong and heroic three, five, or even seven times. If they still did not “follow the teachings,” they should be seized, sent to the authorities, and punished in accordance with the *Code* (*ibid.*). This reveals the function of the *Grand Pronouncements* and other similar legal documents—to promote transformation, issue warnings, and enact punishments.

In modern Western penology, several theories justify punishment. Retribution allows victims revenge for harms suffered; general deterrence warns the population (the innocent) against committing crimes; special deterrence prevents convicted criminals (the guilty) from committing other crimes; and rehabilitation reforms criminals into new persons (Samaha 1990, 52–69; Walker 1991). These all can be found in early Ming legal cosmology. What set the early Ming apart from the West, however, was the Ming view on the transformative role of law for all under Heaven. In other words, law was intended to educate not only the guilty, but more importantly, the innocent. Everyone in society should learn about right conduct from law codes; therefore, everyone should know the law. This is further illustrated in the early Ming efforts to publicize law throughout the realm.

In order to make law codes function as moral textbooks, the Ming ruling elite took a number of measures to make legal regulations known to the general populace. One such measure was to publicize the legal code. At the end of the first year of the Wu regnal era (1367), only fourteen days after the enactment of the *Code* and *Commandment*, Zhu Yuanzhang ordered Chief Minister of the Court of Judicial Review Zhou Zhen to organize the

compilation of *The Code and Commandment Directly Explicated* (Lü Ling zhijie) (TS, 431–32). In order to familiarize the common people with government regulations, this document arranged the law codes into categories and provided explanations. On the day it was finished, Zhu ordered that it be issued to the prefectures and districts and made known to every household. Zhu hoped that by knowing the contents of law codes, people would learn right and wrong and commit fewer crimes (TS, 431–32; MS, 2280). When Zhu compiled the *Imperial Grand Pronouncements*, he required that every household possess one copy. Any criminal owning a copy would automatically have their punishment reduced by one degree (MS, 2284). Zhu Yuanzhang's goal of making the law codes known over a broad social spectrum was abundantly clear (Andrew 1991, 67–71).

A second measure to publicize the law was to include legal texts in the curricula of schools throughout the realm. Schools were places for young people to “investigate principle and rectify [their] minds-and-hearts” (TS, 2290); they not only educated future officials for the dynasty, but also disseminated values among the general populace. In 1381, Zhu Yuanzhang ordered that students at the Dynastic University (Guozi xue) study the *Code and Commandment*, as well as other subjects like the Confucian classics and history. What the *Code and Commandment* recorded, the emperor said, included not only dynastic legal institutions but also “right principles” (yi) through the ages, from which students would benefit tremendously (TS, 2159). After the *Grand Pronouncements* was compiled, this imperial law gained importance and was used in government schools as a textbook along with *The Great Ming Code*; questions on the *Grand Pronouncements* also appeared in civil service examinations (TS, 2676, 3141, 3158; MS, 2284; Tan 1958, 724). In addition to government schools, Zhu ordered that every community (li) in the empire establish a school to teach students the *Grand Pronouncements*; furthermore, there would be rewards for teachers who brought students who could recite its passages to the capital (TS, 3159). Once, more than one hundred ninety thousand teachers and students of the *Grand Pronouncements* came to the imperial court and were all rewarded with cash (MS, 2284). Legal education in imperial China was by no means confined to technical training, as is the case nowadays. With law codes used as moral textbooks, education was intended to cultivate the innate nature of human beings under the guidance of the emperor as moral teacher.

Another measure to publicize the contents of law in the early Ming was to restore the age-old “community wine-drinking ceremony” (*xiang yinjiu li*). This ceremony is thought to have already been popular in the Zhou Dynasty;

rulers of various dynasties saw it as a good way to prevent local conflicts. In 1372, Zhu Yuanzhang ordered that the ceremony be held throughout the empire. In 1383, an official program for the ceremony was issued. It was to be held on the fifteenth of the first month and the first of the tenth month. At that time, the abridged edition of the law codes called the *Book of Announcing Ordinances* (*Shenming jieyu shu*) would be read aloud. Furthermore, those who were law-abiding and those who had committed transgressions would be seated separately, not only to warn the good and humiliate those who had been found guilty, but also to keep the former from being “polluted” by corrupt social elements (TS, 1342–43, 2436–38; MS, 1419–21; Ch’iu 2005, 2–12). According to the *Grand Pronouncements*, any violation of the ceremony rules—either failing to carry out the ceremony or carrying it out incorrectly—would merit the same punishment as violating an imperial rescript;³⁷ in *The Great Ming Code*, violating the community wine-drinking regulations merited fifty strokes of beating with the light stick (Art. 201).³⁸ As F. W. Mote (1962, 215–18) observes, the community wine-drinking ceremony was carried out seriously in Suzhou under the prefect Wei Guan (d. 1374).

Still another measure to make laws known to the people was the establishment of exhibition pavilions (*shenming ting*) in prefectures and districts. The names of local malefactors were posted in these pavilions for the purpose of “encouraging the good and punishing the evil, making [everyone] vigilant” (TS, 2302–3). Those who destroyed pavilion buildings or placards would be punished severely according to *The Great Ming Code*: one hundred strokes of beating with the heavy stick and a life sentence—exile of three thousand *li* (Art. 400). The exhibition pavilions played an important role in educating community members and resolving disputes in rural areas (Brook 1998, 58; Heijdra 1998, 469–70).

These efforts to publicize law suggest that, to the early Ming ruling elite, law codes were instructions not only for the emperor’s magistrates, but for the general populace as well. These law codes were supposed to be enforced by officials at various levels, who represented the emperor, the cosmic mediator who governed the country. And *The Great Ming Code* required “all government officials and functionaries” to be able to explain clearly the meaning of the *Code* and *Commandment*; otherwise, they were to be punished either by fines, beating with the light stick, or demotion (Art. 63). Officials were not just supposed to represent the emperor’s personal interests; rather, as metaphors for the cosmic order, they were intended to demonstrate the unity of heavenly principle and human nature. Law codes were not merely the emperor’s commands for government officials; they were, as discussed

above, textbooks for everyone in the realm. Also note the abovementioned requirement for officials and functionaries in the *Code*: not all officials and functionaries were in charge of handling law cases, but all of them had to know the legal codes. This requirement went beyond assigned duties—its underlying purport lay in cultivating the individual’s internal worldview. The same article in the *Code* further stated that if workers or artisans, including physicians and diviners, could read or explain the *Code*, they might be exempt from punishment for one minor crime (Art. 63). Again, this provision was designed to encourage commoners to study the law codes as moral textbooks, not just as compulsory reading. The early Ming endeavored to make every subject know the legal regulations; this provided guidance for spiritual transformation as well as for behavioral control.

“THE TEN ABOMINATIONS”: AN EXAMPLE OF COSMOLOGY
EMBEDDED IN THE LEGAL CODE

In 1374, when presenting the revised *Great Ming Code* to the throne, the law compilers articulated the cosmological nature of the law:

Since the august lord Your Majesty received the Mandate of Heaven on High to be the ruler and teacher and ascended the throne, you have always been diligent and never indolent in protecting the myriads of people. . . . Your Majesty, in your deep and sage considerations, examined the Heavenly Principle on high, and estimated human sentiments down below, and finished making this “yardstick” [i.e., the *Code*] for a hundred generations. This indeed integrates the essence of the *Book of Changes* (Yi) and the *Book of Documents* (Shu), and implements the virtue of loving growth in harmony with people’s minds. For all human beings who are illuminated by the sun and moon, who are exposed to frost and dew, and who have blood and energy, there is none who does not receive the sacred transformation from above, correct their errors, and revert to good deeds; thus the great government of harmony and peace will be achieved. (Song 1968, 380–81)

The early Ming ruling elite seems to have envisioned the entire *Great Ming Code* as a codification of the cosmic order. Below, the *Code*’s principle of “*Shie*” (Ten Abominations, Art. 2), legal deterrents embodying heavenly principle and human sentiment, will be examined.³⁹ In the next three chapters, it will be shown how the *Code* supported the three basic components of the cosmic order.

As stated earlier, in Chinese legal cosmology, the essential components of the cosmos are Heaven, Earth, and humankind. This is a hierarchical structure: Heaven and Earth are the cosmic parents of humankind, generating and nurturing all mortal beings. In each domain of the cosmos, this hierarchical principle is evident. Romeyn Taylor suggests a model of “encompassing hierarchy” in Chinese cosmology, and analyzes the hierarchical structure in the three domains of cosmos, pantheon, and humankind (Taylor 1989, 493–99). Edward Farmer also notes hierarchical elements in the social, administrative, kinship, communal, and religious aspects of human society (Farmer 1990, III–25). This harmoniously hierarchical cosmic order is composed of two fundamental cosmic forces—yin and yang—and manifested in the movement of the Five Phases (Graham 1986).

For the early Ming ruling elite, the most fundamental principle of the hierarchical cosmic order was the “Three Bonds and Five Constants” (*sangang wuchang*), which posited the superiority of the ruler, fathers, and husbands over ministers, sons, and wives, as well as the virtues of benevolence, righteousness, propriety, wisdom, and fidelity. For Zhu Yuanzhang, “the Way that the sage kings of antiquity upheld was identical to [the Way of] Heaven,” i.e., the “Three Bonds and Five Constants” (ZSTX, 1446; YZWJ, 162). The Way of the Three Bonds and Five Constants, he stated, “has been inherited successively by various sages from remote antiquity. It has been manifested to nourish the people, and will evolve for ten thousand generations without change” (TS, 2191; YZWJ, 250–51). People committed crimes, according to Zhu, because they did not understand that law was the exact articulation of heavenly will; they should show reverence to Heaven by observing the law. If one did not follow the “five teachings,” namely, the teachings on the five relationships between father and son, ruler and subjects, husband and wife, elder and younger, and mutual friends, it would provoke spirits and human beings to anger. Then the five punishments would be inflicted, heavenly disaster and man-made calamities would occur, and the offender would be executed and his family ruined (YZDG, 221–22). When criminals suffered governmentally inflicted punishment, the emperor maintained, they in effect were being tormented by ghosts and spirits (ZSTX, 1457).

Among a number of general principles stipulated in *The Great Ming Code*, the “Ten Abominations”²⁰ most explicitly manifests the value of the Three Bonds and Five Constants, regulating the ten most heinous crimes: (1) plotting rebellion, (2) plotting great sedition, (3) plotting treason, (4) contumacy, (5) depravity, (6) great irreverence, (7) lack of filial piety, (8) discord, (9) unrighteousness, and (10) incest (Art. 2). These crimes not only entailed

severe penalties but also led to loss of legal privileges (Jiang 2005, lxvi). Most significantly, for the purpose of this study, such acts disrupted the fundamental cosmic order.

These ten crimes are examined below. The first crime, plotting rebellion, implies plotting to endanger the emperor; the second, plotting great sedition, means planning to destroy imperial ancestral temples, mausoleums, or palaces. Both of these serious offenses were included in one article (Art. 277)⁴¹ because they threatened the safety, authority, and dignity of the throne. The law was clearly intended to safeguard the Mandate of Heaven for the ruler:

The ruler occupies the most honorable position and receives Heaven's precious Mandate. Like Heaven and Earth, he acts to shelter and support, thus serving as the father and mother of the masses. As his children and subjects, they must be loyal and filial. However, when they dare to cherish wickedness and have rebellious hearts . . . [it] runs counter to Heaven's constant virtues and violates human principle.⁴²

Any attempt to steal the "divine utensil" (*shenqi*, i.e., the dynasty) or "Heavenly throne" (*tianwei*) was an offense against Heaven and would merit the harshest penalty (XTFL, 9.1a–2a).

The third criminal offense, plotting treason, means plotting to betray the country or defecting to another country (Art. 278). Such acts of disloyalty defied the dynasty but did not directly harm the throne per se. According to the commentaries on the *Code*, they violated three cosmic principles. The first principle likens the way of subjects to that of wives who serve their husbands faithfully to the end of their days. Good subjects should follow this example in serving the ruler. The second principle involves the celestial sphere: since there is only one sun in the sky, there should only be one ruler in the human realm, whose subjects should not betray their master. The third principle has to do with the spatial order: since it is located at the center of the world, China should be served by "barbarians" located at the peripheries. The Ming people, therefore, should not leave the country to serve inferior outsiders (ZPZZ, 8.3b). In this way, plotting treason was a breach of cosmic principle and political loyalty.

The fourth "abomination" is contumacy: to strike (Art. 342) or plot to kill (Art. 307) paternal grandparents, parents, or a husband's paternal grandparents or parents; or to kill paternal uncles or their wives, paternal aunts, elder brothers or sisters, maternal grandparents, or a husband (Arts. 307, 338). The seventh abomination, lack of filial piety, means to accuse before the court (Art. 360), to swear at using spells, or to curse with bad language (Art. 352)

one's paternal grandparents, parents, husband's paternal grandparents or parents; to establish a separate family registration or separate property while paternal grandparents or parents are still alive (Art. 93), or to fail to provide sufficiently for them (Art. 361); to arrange for one's own marriage during the period of mourning for parents (Art. 111), making music or taking off mourning garments and putting on ordinary clothing (Art. 198); to disregard the news and not mourn upon hearing of the death of paternal grandparents or parents (Art. 198); or to state falsely that paternal grandparents or parents have died (Art. 198). Discord, the eighth abomination, involves plotting to kill (Art. 307) or to sell (Art. 298) relatives of the fifth degree of mourning or closer; or to strike (Arts. 338, 340, 341) or accuse before the court (Art. 360) one's husband, senior or elder relatives of the third degree of mourning or closer, or senior relatives of the fourth degree of mourning or closer. Finally, incest, the tenth abomination, means to commit fornication with relatives of the fourth degree of mourning or closer, or with one's father's or paternal grandfather's concubines, or [for those women] to give their consent (Art. 392).

These four types of crimes are all concerned with the violation of family and kinship orders. These acts are defined according to several criteria: their severity (against life, health, person, and dignity of relatives); the distance of the relationship between the offender and the victim (from parents down to the relatives of the fifth degree of mourning); and the act itself (such as fornication). While their object is to protect the older generation and the male gender, these rules also emphasize two cardinal relationships within the family and cosmos. The first is children's filial piety toward parents (Ch'ü 1961, 20–40). In the commentaries on the *Code*, this fundamental obligation of children is based on both cosmological and social considerations. As soon as children are born, they owe their lives to their parents, "whose grace is as vast as the boundless Heaven" (LJBY, 31). Children and parents seemingly bear different bodies, but in essence they are "one person": as "blood relatives" (*tianqin*) they breathe the same breath and share the same pulse, and together, they continue the family line (XTFL, 10.3b–4a). All members of this family line, from ancestors down to future generations, form one common "cosmic being" that is both symbolic and real. In addition, when children treasure the source of their bodies by repaying parental grace and by being filial, their own children will in turn do the same for them: while they are living, they will be supported, and after they die, they will be remembered and served (*ibid.*). When this harmonious relationship is established, morality will be promoted and the social order stabilized, people's livelihoods will

be guaranteed and consequently, the government's financial burdens will be reduced. For children who fail to perform their filial duties, there are both legal and cosmological consequences: "Those unfilial persons will receive punishment by the ruler's law in this world and retribution in the nether world" (ibid.).

The second cardinal relationship mentioned above is the wife's obligatory obedience toward her husband. The early Ming government inherited an intellectual tradition positing "three followings" and "four virtues" for women and a rather strict boundary line between "inner" and "outer" spheres, the basic "pillars of Confucian gender ethics" (Ko 1994, 6, 8).⁴³ In early 1368, at the outset of the dynastic founding, Zhu Yuanzhang ordered his Confucian officials to compile the *Admonitions for Women* (Nüjie), prohibiting palace ladies from interfering in governmental affairs. He had drawn some lessons from court politics in previous dynasties, and believed that "deception by female favorites is even more [dangerous] than poisoned wine" (TS, 535). Empress Wu (624–705), who enthroned herself in the early Tang Dynasty, was perceived as a perfect example of women crossing the gender line and encroaching upon the masculine realm (TS, 2383). Based on yin-yang cosmology, the early Ming ruling elite associated women with the qualities "gentle and weak" (*rouruo*), while men were "resolute and strong" (*gangqiang*) (TS, 349, 2433; ZSTX, 1463). The commentaries on the *Code* elucidate legal regulations precisely along these lines: by definition, the husband is the wife's "Heaven" (JJFL, 1599; XTFL, 6.20a); by nature, the husband is resolute and the wife gentle (ZPZZ, 9.21b). In the family, therefore, "the husband sings and the wife follows," as stipulated in the "Three Bonds" (ibid.). One model verdict even sets priorities among the Confucian "three followings" and "four virtues": "Of a wife's four virtues, the virtue of obedience is the most significant; and of a woman's three followings, following her husband is the most important" (XTFL, 11.14a). According to this hierarchical system, when a wife offends her husband, she will receive harsher penalties than will a husband who offends his wife, or ordinary persons who offend each other (Ch'ü 1961, 105–8); moreover, no husband's act against his wife is regulated in the "Ten Abominations."

Although emphasizing the authority of parents and husband, the "Ten Abominations" does not completely ignore the "inferior" side in terms of generation, age, and gender within the family/kinship hierarchy. Indeed, while hierarchy is intrinsic to the cosmic order, this does not preclude the protection of inferior elements. In a harmonious cosmos, those in higher positions may be superior in character to those in lower positions, but the

latter are also indispensable, just as parents need to be “completed” by children (Taylor 1989, 495). While the yang force—corresponding to Heaven, spring and summer, virtue, human rulers, officials, the male gender, fathers, husbands, and so on—is important for government, the yin force—corresponding to Earth, autumn and winter, punishment, subjects, commoners, the female gender, sons, wives, and so on—is also viewed as essential in completing a harmonious cosmic order. To uphold family harmony, the “Ten Abominations” prohibits the serious crimes of plotting to kill, selling, or committing fornication with junior and younger relatives (Jiang 1997a, 179–80).

Regarding gender relations, while Chinese cosmology placed men in a leading position, it did not reduce women in importance. Just as the cosmos was balanced by complementary yin and yang forces, the human realm was harmonized by interaction and mutual support between male and female (Guisso 1981). Indeed, recent scholarship on gender relations in pre-twentieth-century China reveals women’s active and positive roles in society. Lisa Raphals (1991, 1), for example, finds that in ancient Chinese texts, women were not always portrayed as “eternally oppressed, powerless, passive, and silent”; instead, they also served as “exemplary for their sagacity, prescience, expertise, political acumen, and rhetorical skill.” Dorothy Ko (1994, 8) also challenges the “widely shared assumption of the universal oppression of women in traditional China” and sees women “as architects of concrete gender relations, the building blocks from which the overarching gender system was constructed.”

The early Ming ruling elite did acknowledge the value of women in social reform programs. In 1378, when the twenty-one-year-old (*née*) Zhao committed suicide on the death of her husband, Zhu ordered that the lady be honored as “pure and virtuous” and exempted her household from performing labor services. The emperor praised Zhao for her fidelity, a virtue that first gained official recognition during his reign (Elvin 1984, 127; T’ien Ju-k’ang 1988, 1–5). This implied that the relationship between husband and wife constituted the foundation of the human ethical principles (*dalun*) central to the Three Bonds and Five Constants and necessary for the purification of social customs. What impressed the emperor was that Zhao was so devoted to her husband that she vowed not to serve “two heavens” (*ertian*, i.e., husbands) and chose to die together with her husband. This extremely difficult act, according to the emperor, was more virtuous than a widow’s gouging out her eyes or cutting off her nose in order not to remarry. Thus, while Zhu Yuanzhang here reiterated male social dominance, he also confirmed that

women's virtues were crucial factors in purifying social customs (TS, 1925). Because of the wife's role in maintaining her husband's "inborn natural character," the emperor urged people to marry their sons early. Otherwise, he warned, if males of marriageable age met debauched women outside the family and became contaminated, it might be too late for them to be reeducated (DGXB, 854–55). According to the throne, then, men could be the beneficiaries of female education inside the family, as well as the victims of female pollution. Despite their potential danger as a source of pollution, women could also serve as positive tools for the salvation of society. When Zhu made his wife Ma the empress in early 1368, he compared "a good wife at home" to "a good minister for a dynasty" (TS, 2306; DMB, 1024–26). In short, the early Ming ruling elite conceded distinctive qualities and roles for women. Representing the cosmic yin force, women could serve as "agents of virtue and [of] destruction" (Raphals 1998, 11). As the "soft and weak" gender, women would have to accept men's dominance in human affairs. At the same time, however, women were by no means dispensable. While efforts to distinguish between men and women reinforced the gender hierarchy, they also validated the active roles played by women in social reform programs.

The *Code's* "Ten Abominations" indicated that among the three hierarchies, generation and age took precedence over gender. Belonging to the category of "superior or elder" (*zunzhang*), senior or elderly female family members were entitled to special protection against crimes committed by junior or younger members, including males; they were also endowed with various kinds of authority over junior and younger members, including the right to take charge of family property and to maintain family unity (e.g., Art. 93; Ch'ü 1961, 41–78). In addition, the "Ten Abominations" also provided special protection for junior and younger female relatives. In the category "incest," for example, the victims include both senior/elder and junior/younger female relatives. And committing fornication with one's younger sister, wives of sons or sons' sons, or daughters of both elder and younger brothers would be punished like crimes against the father's concubines—by decapitation. Here, the punishment is more severe than in the case of fornicating with the mother's sisters (Art. 392). The *Code*, as demonstrated in the "Ten Abominations," aims to establish a harmonious family order rather than an absolute gender hierarchy. It "imagines kinship units as a social construct, not as a natural unit" (Waltner 1996, 39).

The "Ten Abominations" also suggests modifications to the age-old principle of the "three followings." For example, both male and female junior or younger relatives (son/younger brother and daughter/younger sister) are

subject to the control of the father and elder brother. This power structure seems to be more a generation/age issue than a gender one. In this sense, women were not subject to special rules involving gender oppression. In terms of the mother/son relation, as the “Ten Abominations” shows, a son should obey his mother’s instructions, honoring and supporting her. In this respect, a son ought to follow his mother, instead of the other way around. In the *Code*, the dictum that the “mother follows her son” only makes sense when a woman has become a “court lady” (*mingfu*) through her husband or son (Art. 12), because only males were eligible to serve in government offices.⁴⁴ The “Ten Abominations” suggests a more nuanced view on husband-wife relations than outright male supremacy. Although the “three followings” stresses “following the husband” after a woman’s marriage, offences against parents—the mother included—receive more attention than those committed specifically against the husband. For example, contumacy (the fourth abomination) only involves striking or plotting to kill parents, as opposed to killing the husband. In the cases of striking parents or a husband, although the act is the same, the crimes fall into the two different categories of contumacy and discord, with the former being punished more severely than the latter (Arts. 342, 338). For “accusing” (Art. 360) and “concealing the mourning of” (Art. 198) parents or a husband—comparable acts entailing the same penalties—these acts directed against parents fall into the category of “lack of filial piety,” whereas when they are directed against the husband, they are considered to exemplify “discord” and “unrighteousness” (see the ninth abomination below). The difference lies in the nature of the relationships. Parents are one’s blood relatives, like the source of a stream or the roots of a tree; parents are also one’s cosmic origin (*ZPZZ*, 9.27b), which cannot be changed under any circumstance. The husband, however, is a relative created by the bond of “righteousness” (*yi*), which can be broken under certain conditions.⁴⁵ Indeed, locating crimes against the husband in three different categories of the “Ten Abominations” reveals an intricate definition of the husband’s position in the husband-wife relationship. While the law promotes the husband’s superiority, it still places limits upon male authority. The “three followings,” therefore, does not necessarily underscore total female submission to male dominance, and contrary to what Dorothy Ko (1994, 6–7) holds, does not “deprive a woman of her legal identity.”⁴⁶

In sum, the above discussion of family relations as prescribed in the “Ten Abominations” indicates a complex principle: on one hand, the law upholds the authority of the superior (senior, elder, and male) family members; and on the other, it protects the rights of inferior members. Harmony is the goal,

reciprocity the means, and “hierarchy is contingent” (Waltner 1996, 39); harmonious yet hierarchal family relations are seen as rooted in the cosmic order.

The fifth abomination, depravity, means to kill three members of a family who have not committed any capital crime (Art. 310), to dismember people (Art. 310), to mutilate living people (Art. 311), to make or keep insect poisons (Art. 312), or to practice sorcery (Art. 312). This group of acts not only involves extreme cruelty, but also the use of “heretical” magic powers that challenge government-endorsed cosmic forces. These problems will receive detailed attention in the next chapter on the world of spirits.

The sixth abomination, great irreverence, includes stealing objects for the Great Sacrifices to the spirits (Art. 280) or the clothing or personal effects of the emperor; stealing or counterfeiting imperial seals;⁴⁷ mistakenly not following the correct prescription when preparing imperial medicines, or incorrectly writing or attaching a medicine label (Art. 182); mistakenly violating dietary proscriptions when preparing imperial food (Art. 182); or failing accidentally to make the imperial touring boats sturdy (Art. 183). Apart from rules safeguarding imperial dignity and safety, a topic discussed above, this category also includes offences against deities in the official pantheon. While legal regulations concerning the world of spirits will be discussed in the next chapter, it is interesting to note here that although the *Code’s* compilers repeatedly claimed the significance of the deities (especially Heaven, which had bestowed its Mandate on the human ruler), by including only one rule regarding the deities in the “Ten Abominations,” they seem much less concerned with the protection of these deities than of the human ruler. In defending the official cosmic order, therefore, the law devotes its most serious attention to the Son of Heaven, rather than Heaven itself.

The ninth abomination, unrighteousness, applies to commoners who kill their own prefect, subprefect, or magistrate (Art. 306); soldiers who kill their own guard commander, battalion commander, or company commander (Art. 306); functionaries who kill their own department head official of the fifth rank or above (Art. 306); killing the teacher from whom one has received education (Art. 334); or upon hearing of one’s husband’s death, concealing and not mourning the death, making music, taking off mourning garments and putting on ordinary clothing, or remarrying (Art. 198). This group of acts involves offences against superiors and teachers—aside from husbands, who are not blood relatives. It is called “unrighteousness” because the acts violate the principles of propriety, righteousness, and benevolence (LJBY, 32). “Superiors” receive special protection because, as “father-and-mother” officials, they receive their credentials and appointments from Heaven, or the

“sun.” Crimes against superiors—the representatives of the Son of Heaven in a given locale (see the detailed discussion in chapter six)—are considered violations against imperial authority (ZPZZ, 8.47b). Teachers, of course, are supposed to teach people to do good, thus helping to construct an ideal society, so their status is also endowed with cosmological significance: “Between Heaven and Earth, humans cannot be born without parents; cannot be governed without the ruler; and cannot be taught without teachers. All three are equally important in the cosmos and should be served as if they were one” (ZPZZ, 9.15b). Teachers, then, are comparable to the major cosmic forces of Heaven, Earth, ruler, and parents.⁴⁸

In short, the “Ten Abominations” epitomizes the fundamental cosmic order. While protecting superior elements within the cosmos and the human world, this set of injunctions emphasizes cosmic and social harmony, at times by means of restricting the authority of superior members of society. The principles of hierarchy, reciprocity, and harmony manifest the law compilers’ basic understanding of the cosmic pattern. Criminals who commit one of the ten abominations “turn their back on the [five] human relationships and defy Heaven, destroy propriety and injure righteousness. They have to be executed under dynastic law. Therefore, such acts are strictly forbidden” (JJFL, 191). Due to the extreme severity of acts that “harm morality and destroy ceremony,” the article on the ten abominations is located at the very beginning of the law code to serve as a clear warning (LJBY, 30).

In conclusion, by arranging and ordering components of the cosmos, the early Ming ruling elite gave particular meaning to the world they lived in. They envisioned the superhuman world as a powerful realm where Heaven and subordinate spirits controlled human affairs. In mediating between the spirit world and human society, the ruler and his officials compiled law codes that followed the Mandate of Heaven, basing law on what they understood as Heavenly principle and human sentiment, making it a concrete embodiment of the cosmic order. Hence, crimes specified in law codes were defined as violations of cosmic principles—not just as a breach of law; in preventing and punishing crimes, law codes were designed to transform people’s spiritual world, as well as to control their behavior.

Derk Bodde and Clarence Morris have repeatedly argued for the connection between crime and cosmic order in Chinese thought:

Law was traditionally viewed in China—though perhaps not consciously—as primarily an instrument for redressing violations of the social order caused by indi-

vidual acts of moral or ritual impropriety or criminal violence. . . . [S]uch violations, in Chinese eyes, really amounted to spheres of man and nature were thought of as forming a single continuum. (Bodde and Morris 1967, 43)

To the ancient Chinese, with their insistence upon a basic harmony existing between a man and nature, human crime—particularly homicide—was regarded as a disruption of the overall cosmic order that could only be redressed through adequate requital for what had been destroyed—a life for a life, an eye for an eye (*ibid.*, 331).

Bodde and Morris's argument is challenged by the Chinese legal historian Hsu Dau-lin. Hsu (1970, 112) finds no evidence in Chinese sources for a correlative relation between human crimes and cosmic order. He refutes the "Western misconception" with the proposition "[i]t is then not the crimes themselves which 'disturb nature's harmony' . . . but the unjust punishment of crimes," and argues that a fundamental characteristic of Chinese legal thought is the request that "punishment should exactly fit each crime" (*ibid.*, 115).

Recently, Geoffrey MacCormack repeats this criticism of Bodde and Morris's argument.⁴⁹ He finds it misleading to make the broad generalization that the Chinese of all periods and social groups all held the same concept. He sees it particularly problematic to "surmise" (Bodde and Morris 1967, 4) that the Chinese thought every individual crime would disturb cosmic harmony unless "requited" by the exact proportion of punishment. According to MacCormack, "such a view of the relationship between crime and punishment is nowhere explicitly stated in the legal sources" (MacCormack 1990, 42–43; also 1989, 271). Further, he regards some evidence that might suggest a connection between crime and cosmic harmony, like carrying out executions at a particular time of year or granting amnesties, as an "innate conservatism" or "lip service" (1990, 44–45).⁵⁰

Hsu's and MacCormack's critiques are not without merit. To be sure, any attempt to argue about *Chinese* thought as a simple, unified entity risks falling into overgeneralization (MacCormack 1989). I, too, find Bodde and Morris's proposition problematic; their assessment of the secular nature of Chinese legal culture, the concept of "naturalization of law" (1967, 44), their assumption of the "unconsciousness" of Chinese thinking, and their emphasis on "homicide" vis-à-vis other crimes in connection with the cosmic order all seem questionable. Furthermore, the scope of Bodde and Morris's exposition is narrowly focused: their main point is the "correlation in early China of legal procedures with the rise and fall of animal and plant life through the seasons of the year" (Bodde 1981, 16; Bodde and Morris 1967, 43–48), rather

than an assessment of Chinese legal culture as a whole. Nonetheless, Bodde and Morris's observations concerning the connection between crime and cosmic order can be supported by the sources used in this study. Indeed, the Ming ruling elite "consciously" regarded "every crime," including the "unjust punishment of crimes," as a violation of the cosmic order and its manifestation in Heavenly principle and human sentiment. This violation would cause natural anomalies and eventually be punished by Heaven, either in the world of the living or in the nether realm.

Nor did the early Ming's legal cosmology count only as "lip-service"—although it would be naive to believe that Zhu Yuanzhang and his officials completely practiced what they proclaimed. As noted above, Zhu imposed extremely cruel punishments in the *Grand Pronouncements* and in his decisions on certain cases like those of Hu Weiyong and Lan Yu. It is also evident that many of the emperor's remarks and practices, as depicted in the *Veritable Records* and other materials, were polished and even changed by his Confucian advisors and later officials.³¹ Nevertheless, taken as a whole, the evidence would seem to point to Zhu Yuanzhang and his officials sincerely accepting the Heaven-Earth-human cosmic triad and regarding Heavenly principle and human sentiment as the cosmological foundation of their legal establishment. Zhu seems to have sincerely believed that he inflicted harsh penalties and executed a great number of people in accordance with the Mandate of Heaven in order to save the world. His practices, as Edward Farmer (1995, 101) points out, did not contradict his values or the collective values of the ruling elite.

3 | *The Great Ming Code and the World of Spirits*
Regulating Rituals for Communicating with Dieties

Zhu Yuanzhang dreamed a dream, and it meant so much to him that he composed an essay to expound its significance. In the dream, said to have occurred in the fall of 1367, slightly before the founding of the new dynasty, Zhu was wandering aimlessly in his hometown and saw a flock of birds in the sky, among which a fairy crane flew southeast. Then five-colored clouds with black banners passed by, and a red wooden tower appeared in the northwest sky. In front, two men exactly resembling the two law-guarding celestial gods (*jingang*) inside the gates to Buddhist temples seemed to be making a pronouncement. On the tower were several people with official hats and three dignitaries who looked like the Daoist Three Pure Ones (*Sanqing*). These dignitaries stared intently at Zhu for a moment and then went away to the northwest—back to the Heavenly Palace. He hurried off to follow them, but bumped into several Daoist priests in purple robes, one of whom granted Zhu a five-colored garment called the “dress of the ‘realized man’” (*zhenren*). Another gave him a sword that shone with great splendor. They then ordered him to go southeast. On his way, Zhu came across a strangely dressed man: His black garment was sleeveless, and

his head, shoulders, and thighs were bare. This man stared angrily at Zhu and then went off northeast. When Zhu continued his journey southeast, he crossed a stream and saw his heir apparent standing in front of a house. At this moment, Zhu awakened from the dream.¹

The message of the dream is clear: Zhu Yuanzhang had received the Mandate of Heaven to found a new dynasty. Heavenly spirits had chosen him (the crane) out of the masses and granted him, the “realized man” or sage, the imperial regalia. They not only guaranteed his victory over the Mongols (represented by the angry man), but set the future dynasty’s course by arranging for his succession. In the dream, the auspicious colors, the southeast direction (as the power base of the new regime), and crossing the stream (standing for the Yangzi River), all symbolized divine sanction for the new ruling house. In the second month of 1368, right after the founding of the dynasty, Zhu asked his court advisor Zhu Sheng (1299–1371) (DMB, 348–50), then the Hanlin expositor-in-waiting, to explain the dream. Zhu Sheng said just what the emperor wanted to hear: “This was indeed an omen of Your Majesty receiving the Mandate” (TS, 527).

While various meanings can be read into this story, the rituals recorded in or omitted from the imperial account are noteworthy. The narration indicates that to establish and consolidate his government, Zhu Yuanzhang would have to rely on rituals connecting him to superhuman forces. Hence, a ceremony was held in which the Mandate was announced, garments and sword granted, and the title “sage” conferred—the approximation of “an elaborate ritual for a sage receiving the Heavenly Mandate in the popular Taoist tradition” (Chan 1975a, 706). Moreover, the ceremonies held in the dream reflect diverse intellectual sources. It comes as no surprise that Zhu’s story accorded with the official interpretation of the Heaven-human relationship, where the Heavenly Mandate was bestowed upon a sage ruler. What is striking in the narrative is the significant role played by Buddhist and Daoist priests, who proclaim the Mandate and preside over the ceremonies in which Zhu receives the imperial symbols. They are also envisioned as spirits who reside in the heavenly palace. Thus, together with the official deities, Buddhist and Daoist spirits also blessed Zhu’s dynastic enterprise.² Equally significant in the imperial account, as Romeyn Taylor (1976, 4) notes, is the omission of the White Lotus Society with which Zhu had been closely associated early in his career. Apparently, Zhu did not identify himself with millenarian believers and practitioners, and must have intentionally left them out of his narrative. This short dream record, therefore, demonstrates the importance Zhu placed upon certain rituals in building the Ming empire.

Indeed, the role of ritual—standardized, repetitive, and symbolic behavior—in creating social meaning, constructing social solidarity, and forming political communities has been extensively studied by scholars of various disciplines (e.g., Bell 1992, 1997). In the case of China, the sociologist Stephan Feuchtwang (1974) and anthropologist Arthur Wolf (1974b) study the Taiwanese conception of the supernatural world, and find that people’s construction of supernatural beings—gods, ghosts, and ancestors—are modeled on their vision of social classes. In contrast, the anthropologist Emily M. Ahern (1981, 110) examines the relation between rites and politics in southeast China, and demonstrates that “religion and ritual mystify their adherents and conceal the true nature of political power from them.” In examining the role of ritual and symbol in legitimizing the Tang Dynasty, the historian Howard J. Wechsler (1985) bases his study on the theoretical framework of present-day political science.

While these scholars have revealed governmental manipulation of religious rituals for political ends and the social impact this has on people’s values, other scholars emphasize the belief in the power of the spirit world held by those participating in rituals. In discussing “folk Buddhism” in late imperial China, for example, Daniel Overmyer challenges the view that religion is a mere superstructural embodiment of deeper political and socioeconomic forces. Despite its frequent utilization in political activities, he holds, one should recognize religion’s “central role” as a spiritual vision with “a shaping power in its own right.” Overmyer’s argument directs our attention to the spiritual as well as political and socioeconomic functions of religious rituals (Overmyer 1976, 16, 19, 70–71, 199). This chapter draws on his insights, attempting to understand rituals prescribed in *The Great Ming Code* in terms of their role in replicating the cosmic order and transforming the human spiritual world.

Rituals, of course, were present in many areas of social experience during the Ming. The *Great Ming Commandment* of 1368 provides systematic regulations on rituals (Farmer 1995, 163–77). In the *Collected Rituals of the Great Ming* (Da Ming jili, 1370), the established “five rituals”³ cover a wide range of matters, such as sacrifice to spirits, court audience procedures, capping, marriage, foreign tribute, military operations, mortuary procedures, court regalia, and music (TS, 1113–14). All of these rituals are regulated in *The Great Ming Code*, which defines rituals in specific articles,⁴ general rulings⁵ and references to other Ming ritual texts.⁶ This study is focused on rituals for communication between the spirit world and the human realm, usually characterized as “religious.” They are divided into three categories, depend-

ing on their treatment in *The Great Ming Code*: (1) official rituals, sets of symbolic behavior endorsed and promoted by the government; (2) popular rituals, practices that coexist with official rituals but are subject to government control; and (3) “heretical rituals,” those that are considered dangerous to the official cosmic order and are prohibited by law. The evidence gathered for this study indicates that Ming regulations on rituals were designed to promote spiritual guidance, as well as to provide political legitimacy.

PROMOTING OFFICIAL RITUALS

For the early Ming ruling elite, rituals for communicating with deities were necessary for effective communication between spirits and human beings, and for promoting the government-envisioned worldview among the people (Romeyn Taylor 1990, 1998). Zhu Yuanzhang and his officials systematically established and strenuously enforced a set of sophisticated rituals in the course of the dynastic founding. These rituals consist of sacrifices to a large pantheon of spirits such as Heaven, Earth, human ancestors, the sun, the moon, sacred peaks, and abandoned ghosts (MS, 1225–26). The sacrifices are official versions of ceremonial, hierarchal rules enabling human beings to communicate with the spirit world. Sacrifices other than these were considered “heterodox sacrifices” (*yinsi*), and officials at various levels were not allowed to perform them (MS, 1306). *The Great Ming Code* served as one of the key measures to protect and manifest these rituals.

Article 176 of the *Code* stipulates a set of rules on procedures for worshipping Heaven and lesser deities. The Court of Imperial Sacrifices, for instance, had to announce in advance the dates of the sacrifices to every yamen. No mistakes were allowed for either organizers or participants. Once officials had begun a period of abstinence, they could not attend funerals, visit the sick, sign documents concerning punishments, or attend feasts. If an official was in mourning for a relative of the fifth degree of mourning or closer, or had been punished by beating with the heavy stick, he could not be appointed as an officiator or participate in the sacrifices. Those who were in mourning or had committed transgressions were also responsible for reporting these matters. Officials who had begun a period of abstinence must sleep in purified rooms at their houses during the period of partial (or relaxed) abstinence (*sanzhai*), and in their own offices during the period of full (or intensive) abstinence (*zhizhai*).⁷ Furthermore, offerings like sacrificial beasts, jade, silk, or grain had to be prepared according to the rules; for example,

the responsible office must feed sacrificial animals properly, so they would not be thin or injured. Obviously, this article was intended to correct lack of reverence toward deities during sacrificial rites. Indeed, sacrificial rituals were regarded as important dynastic institutions whose function was to “move the deities and obtain their blessings” (XTFL, 6.2a; JJFL, 918). One model verdict for the *Code* emphasizes the significance of sacrificial rites by attributing the successful establishment of the Shang and Han dynasties to their founders’ sincere performance of rituals (LTSY, 11.4a; ZPZZ, 5.2b). The set of regulations in this article ensures that ritual participants will have sincere hearts and clean bodies. The requirement for a pure body is particularly noteworthy. All participants must be clean, including both exterior cleanliness and pure internal organs. A contaminated body (such as one with offensive odors or that had received punishment) would not be an effective medium for communication with the deities. Furthermore, bodily contamination derives from invisible/spiritual as well as visible/physical pollution. The inauspiciousness and filth caused by visiting the sick or attending a criminal trial could not be eliminated by cleansing acts. This article sets up strict purification requirements for rituals, promoting a “clean body and pure heart” (*jieti mingxin*) (LMBJ, 4.3b).

The *Code* also protects the facilities and objects used for sacrificial rites, prohibiting the damage or destruction of mounds and altars (Art. 177) and unauthorized entry into the Altar of Earth (Art. 202). Those who discarded or destroyed objects used in sacrifices to spirits would be punished by one hundred strokes of beating with the heavy stick and penal servitude for three years; for lost or mistakenly destroyed objects, the punishment would be reduced by three degrees (Art. 177). More seriously, for stealing sacrificial objects such as utensils, curtains, or offerings of jade, silk, livestock, or food vessels, offenders would be decapitated, making no distinction between principals and accessories. Whether or not the sacrificial objects had already been offered, the penalty would still be one hundred strokes of beating with the heavy stick and penal servitude for three years (Art. 280).

Two points are noteworthy in the above rulings. One is the sacred nature of sacrificial facilities and objects. Mounds and altars were viewed as places where the deities resided, and the gates were where they could be greeted. The penalty for damage or destruction of these facilities was not differentiated on the basis of intentional or negligent acts (LTSY, 11.4b; XTFL, 6.3b). In addition, because they were utilized to communicate with deities, the *Code* treats them differently from ordinary property; those who infringed upon them would receive fixed penalties, unlike the calculated property val-

ues that determined punishments for “illicit goods” (*zang*). The commentaries on the *Code* state that ritual utensils are special, for they are utilized to worship the deities, and thus should not be treated like “money and grains in granaries and treasuries” (JJFL, 924, 1315; DLSY, 211).

A second observation is that different penalties were imposed for discarding, destroying, or stealing objects used in the great and medium sacrifices. One might assume that the act of robbery would be less serious than that of destruction or discarding, since in the former case, the sacrificial objects might be returned without any damage, whereas in the latter case they might be damaged or disappear forever. The law, however, took the opposite view. Not only was robbery punished more severely, it was also categorized as “great irreverence,” one of the most heinous of the Ten Abominations. In the *Collected Commentaries*, this is seen as a sacrilege; stealing sacrificial objects “profanes the deities to to the utmost,” so the offenders deserve an extreme penalty (JJFL, 1313–14). Perhaps robbery was punished more severely because the stolen objects could fall into the hands of individuals who might use them. The possession of sacred objects by individuals rather than the government was considered a threat to the security of the dynasty, as well as a sacrilege against the deities.

The *Code* was designed to preserve an imperial monopoly over communication with Heaven, ensuring the ruler’s role as mediator between Heaven and human beings. It forbade private households from engaging in any activities that connected Heaven and human beings. A section of Article 180, “Profaning the Spirits,” reads:

In all cases where private families pray to Heaven, worship the Dipper [*baidou*], burn incense at night, or light the celestial lamp [*tiandeng*] or the seven lamps [*qideng*], thus profaning the spirits, they shall be punished by eighty strokes of beating with the heavy stick. If women commit such crimes, the household heads shall be punished.

Central to this passage is the authorization to worship Heaven, Earth, and other deities; tension is seen between the imperium and private families. When private families communicated with Heaven, Earth, or other major spiritual bodies, they infringed upon the imperial prerogative and duty to serve as the mediator between Heaven and humankind. Even though they acted secretly at night, without performing these rites publicly, it was still viewed as politically dangerous. The passage also addresses itself to the issue of committing sacrilege against the spirits. Sacrilege involved the status of worshippers, as well as the ceremonies they observed. In the Ming official

cosmology, deities were differentiated into superior and inferior orders, and humans of different social stations were assigned different responsibilities in divine interactions. Although people were all generated by Heaven/Earth as cosmic “children,” only the ruler could be the “Son of Heaven.” In this parent-child relationship, people were “outsiders”—Heaven and Earth’s lesser children—and were supposed to know Heaven’s will only through the ruler’s interpretation. The worship of Heaven by any unauthorized person, as articulated in the *Code*, was punished not only because it violated the ruler’s authority, but also because it profaned the most respected deities. Likewise, in order to display reverence toward Heaven/Earth and other major deities, worship was to be performed in prescribed places using established procedures. The casual ceremonies and celestial lamps mentioned in the passage did not accord with dynastic standards, and might offend the deities. Therefore, “the status of commoners is humble, and the dwellings of private families are unclean.” Rituals performed by these people in such places profaned the deities (DLSY, 213).

Additionally, private families were prohibited from collecting and keeping celestial instruments or proscribed books, such as those on astronomical prophecy or augural diagrams (Art. 184). The political significance of this rule is obvious. The banned items were for observing the movement of Heaven and predicting future disasters or favorable events; hence, they could be used to “confuse the world and deceive the people” (LTSY, 12.5a; JJFL, 948–49). One model verdict cites two historical examples: Zhang Jue (d. 184) and Huang Chao (d. 884) practiced divination, which eventually caused the collapse of the Han and Tang dynasties (LMBJ, 4.15a-b). The law inflicted corporal punishment on offenders; it also granted ten *liang* of silver to accusers, encouraging them to “open the door” and help stop crime at the outset (Art. 184; JJFL, 948–49; ZPZZ, 5.12b). In addition to political considerations, this rule also demonstrates a deep cosmological conviction, envisioning a powerful spiritual realm and acknowledging the effectiveness of instruments used to connect that realm and humankind. This prohibition, therefore, did not simply facilitate political control, but also aimed to defend the officially endorsed cosmic order.

To safeguard imperial authority over communication with Heaven, the *Code* also forbade the private practice of astronomy. Astronomy was employed to examine and predict good or bad fortune for the dynasty. It was so closely related to court politics that only students at the Directorate of Astronomy were allowed to study it (LTSY, 12.5a). Those who studied or practiced astronomy without authorization would be treated like those

who collected celestial instruments (Art. 184). If those who practiced astronomy privately had already learned certain skills and procedures, after being punished they could be sent to the Directorate of Astronomy to become astronomy students (JJFL, 950). Likewise, if students of the Directorate of Astronomy committed crimes punishable by life exile or penal servitude, the penalties could be converted to beating or redemption by copper cash, and they could still use their specialized knowledge and skills at the astronomical offices (Art. 19). What mainly concerned the government was the spread of these skills into the public domain; making individual criminals suffer painful punishments was not its primary goal. In this case, the law drew a clear boundary line between “private” and “government”; in order to eliminate the possibility of “spreading fallacies to deceive people” (LJBY, 135), no practitioner of astronomy could remain outside the official sphere.

During interactions between Heaven and humans, messages from Heaven were extremely important; the ruler’s receiving and interpreting such information was always taken with great seriousness. Therefore, officials at the Directorate of Astronomy were required to accurately “observe and report heavenly portents” such as the sun with double rings and five-color clouds (Art. 196). According to the *Collected Commentaries*, the ruler needs to know about such heavenly phenomena because anomalies would inspire him with fear and make him take measures to rectify himself; while propitious signs would encourage him to cultivate virtue. Thus “they are essential to the court” (JJFL, 978). If officials at the Directorate of Astronomy falsely reported good omens or did not memorialize the truth regarding anomalies or propitious signs, which were considered serious crimes of “deceiving both the human ruler and Heaven” (XTFL, 13.14b–15a; JJFL, 1828), they would be punished by eighty strokes of beating with the heavy stick and penal servitude for two years, a penalty two degrees heavier than that for ordinary persons (Art. 387).

The *Code* protected imperial ancestor worship in two sets of rulings. The first states that most regulations concerning the great sacrifices are applicable to imperial ancestor worship, since the latter is part of the former (JJFL, 917). Thus, violations of rules on sacrificial procedures and objects were punished like violating rules on the great sacrifices. For example, since stealing objects for the great sacrifices figures in the “Ten Abominations,” then stealing objects used for sacrifices to the imperial ancestors was covered under the same ruling and was an equally serious offense (Arts. 2, 280).

Another set of rulings relating to imperial ancestor worship spells out specific crimes. The most serious crime is “plotting great sedition” (*mou dani*).

Ranked second in the “Ten Abominations,” this crime includes plotting to destroy imperial ancestral temples or mausoleums (Art. 2). Since it indicates an intent to usurp the throne (JJFL, 1301), it merits the *Code*’s harshest penalty: offenders would all be executed by slow slicing, their close male relatives would be decapitated, their close female relatives would be enslaved to meritorious officials, and their property would be forfeit to the government (Art. 277). Other related crimes included unauthorized entry to the imperial ancestral temple, tombs, or grave area (Art. 202), violation of imperial ancestral name taboos (Art. 67), and improper behavior during worship at imperial mausoleums (Art. 187). Stealing grass or trees, planting crops, grazing sheep and cattle, or accidentally setting fires within the imperial grave area were also prohibited (Art. 286).

The *Code* also protected the tombs of what Howard Wechsler (1985, 135–41) calls the dynastic “political ancestors,” including rulers, loyal subjects, martyrs, sages, or worthies of previous dynasties. As “political ancestors,” such historical figures represented both political and spiritual guidance for the empire. Politically speaking, they were models worthy of emulation in society. And as “ancestors” they became part of the official pantheon, and were thought to have the power to bestow blessings on humans. Thus, the act of collecting firewood, tilling the land, or pasturing domestic animals like cattle or sheep on their tombs profaned the deities, and also ran counter to the dynastic goal of venerating and manifesting the age-old tradition that these deities embodied (Art. 179; JJFL, 928; XTFL, 6.5a; ZPZZ, 5.5a).

For commoners, the *Code* placed great stress on mortuary rituals. In this respect, two groups of rulings are noteworthy. The first is concerned with the worship of deceased paternal grandparents and parents, especially during the prescribed mourning period. As crimes showing a “lack of filial piety,” actions like arranging for one’s own marriage, remarrying, making music, or taking off mourning garments and putting on ordinary clothing during the period of mourning for one’s parents are all listed in the “Ten Abominations”; they were punishable by beating with the heavy stick (Arts. 2, III, 198). If during a mourning period, officials did not go home for mourning or were actively seeking office, not only would they be punished by beating with the heavy stick, but also those who awarded them official positions would be dismissed from office.⁸ And those who committed fornication during this period would be punished two degrees more severely than for ordinary fornication (Art. 396).

The second group of rulings deals with general mortuary rituals regard-

ing the dead body.⁹ In legislating death rituals, the *Code* took the *Collected Rituals of the Great Ming* as its standard (JJFL, 989; TS, 1113–14). When a death occurred in a household, the deceased had to be buried within three months in accordance with the abovementioned ritual code. The *Code* prohibited keeping a coffin with the remains in a house for more than a year for the purpose of geomancy or other reasons. It also forbade the cremation of corpses or throwing them into water, even at the behest of the dead person, unless the death occurred in a distant place, making it impractical to bring it back home for burial (Art. 200). Ensuring the timely burial of a corpse certainly has a practical side—decay sets in rapidly after death. But the law also endows the dead body with spiritual meaning: opening a grave to bury the dead will lead the soul to its home, and a safe home where the deceased can rest in peace is in the soil, not in fire or water (JJFL, 988–89; LMBJ, 4.31b–32a; ZPZZ, 5.27a-b).

In addition, the law also registers competing mortuary rites. To carry out the “geomancy” mentioned in the *Code*, the *Collected Commentaries* lists the practices of locating the “dragon’s den” (*longxue*) or other lucky, sandy, or watery sites; the “ten stems and twelve branches” (*gan-zhi*); and “mutual production and mutual destruction” (*sheng-ke*) (JJFL, 988). The purpose of these geomantic practices was to find an auspicious site for the “home” of the deceased by identifying the focal point where earthly vital energies converged. In other words, these practices found the dead body a place in Earth’s body, with the auspicious future for the former in the cosmic embrace of the latter. To be sure, the official ritual code and popular beliefs and practices concerning the dead have much in common: they both view death as a transition point rather than the end of the human journey; thus, they both perceive the corpse as a crucial vehicle enabling the deceased to pass from this life to the afterlife. Within the official religious framework, the popular practice of geomancy was tolerated by the state. But if these two worldviews clashed—when geomancy was practiced in violation of official guidelines, the government would then have to intervene.

These mortuary regulations also reveal concern over possible challenges to the official cosmic and social order. The ritual code, the *Collected Rituals of the Great Ming*, stipulates different mortuary periods for different social groups: for the Son of Heaven, seven months; for princes, five months; and for all other people, the term is three months (LMBJ, 4.30b). *The Great Ming Commandment* also specifies different tomb sizes and styles (Farmer 1995, 173–74). Allowing the corpse to remain unburied beyond the

prescribed period was considered in defiance of the official hierarchical order spelled out in these law codes. Indeed, according to two “model official notices” (*gaoshi*) people often delayed burying the deceased (usually parents) because they wanted to acquire more goods for a more luxurious, though illegal, burial. This violated the filial code and defiled social customs, making the parents’ bodies a tool to acquire fortune; it also infringed upon the fixed social order wherein high and low each had their assigned place. The model official notices further state: “Whenever funeral arrangements are to be made, it is essential to be content with your poor or rich lot; do not transgress the status limit and legal regulations, violate the ritual code, or follow [vulgar] customs” (LMBJ, 4.31b; ZPZZ, 5.27a-b). Here again, each rival mortuary practice endows the dead body with symbolic meaning, making it a means of displaying status. There is a discrepancy between the time period stipulated in the official ritual code (three months) and that in *The Great Ming Code* (more than a year); perhaps twenty-seven years after the *Collected Rituals* was enacted, the *Code* allowed for compromise between the official ideology and popular beliefs.

Before moving to the next section on popular religions, a brief note on official rituals during the early Ming is in order. The early Ming period witnessed a growth in imperial authority over the reinterpretation of items and procedures for spirit sacrifices. Ho Yun-yi (1978) has shown the tension between Zhu Yuanzhang and his Confucian advisors in understanding the cosmic order, as seen in ritual reforms for the worship of Heaven and Earth. During the first decade of the Ming, Heaven and Earth were worshipped separately, on the winter and summer solstices, respectively. In 1375, Zhu combined these rites on the grounds that the separation of cosmic parents did not accord with principle (*li*) and caused them to demonstrate their unhappiness with unpleasant weather (YZWJ, 176–77).

The early Ming also saw the incorporation of a number of popular rituals into the official rites, as is seen in the *Sacrificial Statutes*.¹⁰ Romeyn Taylor (1977) states that early Ming official religion cannot be understood solely in terms of Song Neo-Confucianism; taking acceptance of the “gods of the walls and moats” (*cheng huang zhi shen*) by the government as an example, he argues that Zhu Yuanzhang’s intended goal of a unified religious community reveals an amalgamation of politics and religion. Indeed, a number of new spirits, including city gods, the star of longevity, and abandoned ghosts appeared in the Ming official pantheon, which was the official image of the cosmic order.

The term “popular religion” has been used by scholars in various ways. Romeyn Taylor and Daniel Overmyer, for instance, use it to denote nonofficial religions, namely, the religious beliefs and practices that developed “outside the official religion without either the sanction of the law or the authority of the officially registered and regulated Buddhist and Taoist clergies” (Romeyn Taylor 1990, 128) or “below official rank” (Overmyer 1989–1990, 193). Other scholars use this term more broadly to designate religious beliefs and practices shared by all social groups, including both the ruling class and the common people.¹¹ In this study, the term “popular religions” denotes the beliefs and practices that were neither promoted nor prohibited, but rather regulated by the government—primarily Buddhism and Daoism.¹² In *The Great Ming Code*, popular religious rituals were legal and could coexist with official rituals; but at the same time, due to their nonofficial nature, they were subject to control.

The Great Ming Code established three major categories of regulations for Buddhism and Daoism. First, the law controlled the erection of Buddhist and Daoist monasteries and the ordination of priests. During the Hongwu reign, in order to regulate monastic life, the imperial court had *Comprehensive Supervision Registers* (Zhouzhi ce) compiled to record the monks’ relevant information. The government required that each prefecture, subprefecture and district could have only one large Buddhist monastery and one Daoist temple, and specified that only those who were not yet twenty, upon the request of their parents, would be allowed to take examinations on the Buddhist or Daoist scriptures. Those who passed the examination would be granted an ordination certificate, and those who failed would be punished by beating with the heavy stick and returned to the civilian register (MHD, 568–69; Yü 1998, 895–96). The *Code* stipulates that to build new monasteries or receive ordination, it is imperative to receive official permission; otherwise, all of those involved in the case, either officials or priests, would be punished by the heavy stick, penal servitude, reversion to secular status, or even military exile (for male priests) or enslavement by the government (for nuns) (Art. 83).

The socioeconomic interests of the government account for the establishment of strict procedures and age requirements for the ordination ritual. The government was competing with Buddhist and Daoist circles for a labor

force and land; it also aimed to maintain a stable sociopolitical order.¹³ But doctrine was also important. To place legal restrictions on the number of monasteries and ordinations, various commentaries on *The Great Ming Code* view Buddhism and Daoism as heterodox or heretical, and blame them for “confusing the world” and challenging the Confucian “correct way.” These legal texts articulate a confrontation between the “immortal wind and Buddhist sunshine” and governmental “ritual scriptures and penal documents.” The control over religious institutions and their body of rituals, therefore, was designed to “prohibit heresies and promote the orthodox Way” (*jin xie-shu chong zhengdao*) (JJFL, 550; LMBJ, 2.6b–7a). A model verdict states that “although Buddhism is like an ocean that can save one hundred thousand people, it is the imperial institutions that, like Heaven, command all the Three Teachings” (XTFL, 2.5a). Here, Ming jurists express anxiety over a challenge to the official worldview from Buddhism and Daoism; Buddhist and Daoist monasteries hence became the locus of intellectual struggle and spiritual conflict.

To mitigate the Buddhist and Daoist challenge to the official interpretation of the cosmic order, the *Code* prohibited priests and nuns from establishing sacrificial altars to worship Heaven, presenting black-paper charms or yellow-paper prayers, or using charms or prayers to avert fire calamities (Art. 180). The central issue here is that such charms and prayers were used to communicate directly with the Lord on High; as nonofficial ritual practices, such communication “profanes Heaven’s hearing with sublime words” (*yi weiyan du tianting*) (DLSY, 213). This prohibition is also expressed in the article concerning “profaning spirits,” meaning that the Buddhist and Daoist clergy were not authorized by the government to communicate with officially endorsed deities like Heaven and Earth: their challenge to official authority was a threat to political legitimacy and its spiritual foundation.

While the law controlled certain Buddhist and Daoist rituals, it endorsed monastic celibacy. The *Code* punished violations of sexual taboos by Buddhist and Daoist priests, forbade priests to take women as wives or concubines (Art. 120), and barred women from entering Buddhist or Daoist monasteries (Art. 180). Furthermore, for priests or nuns who committed fornication, the penalty would be two degrees heavier than for ordinary persons (Art. 396). This group of rules is particularly concerned with expectations for the Buddhist and Daoist body.¹⁴ When priests shaved their heads or arranged their hair and put on priestly robes, they were supposed to follow Buddhist or Daoist rules and eradicate their lust for “sounds and sights” (*shengse*, i.e., music and women); they could not “close the mouths that should be used to

chant the name of Buddha but let loose the hearts to indulge in lewdness” (LMBJ, 2.62b–63a). The ears, eyes, mouth, and heart of the body should be used to think about, chant, observe, and listen to the teachings, rather than to indulge in sensual pleasures; the sexual parts of the body were deemphasized. To be sure, Buddhists and Daoists developed a variety of techniques for nourishing, strengthening, and enjoying the sexual body. While they could utilize such techniques on their own, they were not supposed to practice them with the opposite sex. In this regard, the *Code* sided with Buddhist/Daoist regulations and perceived the Buddhist or Daoist collectivity as socially nonsexual. Official concern, of course, went beyond the body. When the imperial law defended the Buddhist and Daoist ritual norms—a very rare gesture in the *Code*, it endeavored to create a clear boundary line between priesthood and laity: a person cannot be both priest and layman at the same time; crossing of the boundary line “pollutes civilized transformation and increases filthy customs” (ZPZZ, 3.52b–53a; JJFL, 931).

One radical measure for dealing with popular religions in Ming law was reorienting the rituals toward family institutions and value systems. The *Code* defined members of Buddhist and Daoist monasteries with an analogy to family hierarchy. The relationship of priests and nuns to their masters was considered the same as to paternal uncles and their wives. In other words, the relationship of master to disciple was considered the same as to the children of elder or younger brothers (Art. 44). In the event that they committed crimes against one another, the masters would be treated more favorably. The imitation of the family model within the monastic order undoubtedly served to protect Buddhism and Daoism. It also demonstrates the law compilers’ ambition to incorporate Confucian family values into Buddhist or Daoist principles.

This stance is further articulated in Article 195 of the *Code*:

All Buddhist and Daoist priests and nuns shall honor their parents and conduct sacrifices to their ancestors; the mourning degrees shall all be the same as those for ordinary people. Any violations shall be punished by one hundred strokes of beating with the heavy stick, and the offenders shall return to lay status. (Art. 195)

This article requires Buddhist and Daoist priests and nuns to observe Confucian family values, hierarchical relationships, and mortuary rituals. Various interpretative commentaries on the *Code* blamed priests for “forgetting the virtue of Heaven and Earth and discarding the human way.” Although Buddhists and Daoists were part of the “heretical” (*yiduan*) world, they should by

no means sever the “heavenly bond” and betray “heavenly nature,” which are based on parental “loving-kindness in giving birth to the body and maintaining life” (*shengshen yangyu zhi en*) (LMBJ, 4.25b–26a). A model verdict asks this question: “Buddhists and Daoists are also human beings; they do not receive their bodily forms (*xing*) from nowhere. Are your parents not your relatives [from whom you have received your bodies]?!” When they place a Buddhist robe on the body or chant the Daoist scripture entitled *Huangting jing* (Book of the Yellow Court), they stop thinking about their origins (LMBJ, 4.26a; XTFL, 6.18a-b). In a word, if Buddhist or Daoist priests and nuns replaced the Confucian family rituals with their “heterodox teachings” (*yijiao*), they deserved the punishments designated for “discarding relatives, disregarding moral obligations, and breaking off the Way of human beings” (JJFL, 976).

It is interesting to note that the model verdict pinpoints the Daoist text, the *Book of the Yellow Court*. This book, according to Kristofer Schipper (1978), provides guidelines for cultivating the Daoist body. It seems clear that Ming law was unconcerned with the spiritual quest of the Buddhist or Daoist clergy to attain either Buddhahood or immortality, but instead endeavored to maintain their connection to the human realm through the body. This is evidence of keen competition between different belief systems and ritual practices. Indeed, since the fall of the Han Dynasty, family values had become one of the focal points in the intellectual debate between Confucianism and its rivals Buddhism and Daoism. The requirement of the monastic life style—the severing of family ties—was attacked, defended, and reinterpreted when the conflicting schools of teachings vied with one another within spiritual as well as sociopolitical domains. When the Chinese people accepted the foreign teaching, Buddhism, and developed their own indigenous system, Daoism, these two teachings underwent significant transformation when Confucian values were incorporated into their doctrines. Lewis Lancaster observes that the notions of praising living parents and honoring ancestors permeated a variety of Buddhist sutras (Lancaster 1984).¹⁵ Masaharu Ozaki also points out the influence of family values on Daoist beliefs and practices such as retaining the hair and surname after “leaving home” (*chujia*) (Ozaki 1984). Thus, while the *Great Ming Code*’s effort to bring Buddhism and Daoism into the official ritual orbit may be interpreted as a bid for political control, it can also be understood as a cultural and ritual amalgamation of different beliefs and practices resulting from these intellectual exchanges. The legal stipulations, therefore, reveal the early Ming ruling elite’s ambition to reform Buddhism and Daoism by imbuing them with Confucian family values.

The above regulations in *The Great Ming Code* indicate three different attitudes toward popular religions. The first is the desire to control the expansion of Buddhist and Daoist communities; the second is the willingness to protect the Buddhist and Daoist teachings that repress the sexual function of the Buddhist and Daoist body in society; and the third is the determination to reform the Buddhist and Daoist values and practices that sever parental ties by forcing Buddhists and Daoists to adopt Confucian values and ritual practices. The legal regulations imposed on Buddhists and Daoists demonstrate the official desire for political, social, and economic control; they also indicate an intellectual struggle between imperial orthodoxy and unorthodox teachings.

The ambiguous legal status of popular religions mirrors the complex attitudes of the early Ming ruling elite toward these religions. In some respects, Zhu Yuanzhang and many of his advisors envisioned a constructive role for popular religions, anticipating that they “could supply the state with ideological and educational services” (Brook 1997, 169). In a variety of essays, Zhu argued that Buddhism and Daoism share the same purpose as Confucianism in transforming human beings. In “On the Three Teachings,” for example, he says:

The expression “three teachings” has been on everyone’s lips since Han times, through Sung times, and down to the present. According to it, the scholars take Confucius [as their master], the Buddhists take Shakyamuni, and the Daoists Lao Tan [i.e., Lao Zi]. Among these three, the damage done to Lao Tzu has gone on for many years. Who does not realize that Lao Tzu’s TAO is not that of the techniques of elixir and Yellow Hats [i.e., the alchemical Daoists]; rather, that it is something for the ruler of a state to practice on a daily basis and is something that he cannot do without. (YZWJ, 155; Langlois and Sun 1983, 123)

He concludes that Buddhist spirits and Daoist immortals can, “without being noticed, help the kingly principles and benefit the realm endlessly” (YZWJ, 156).

In another essay, “On Giving Office to Buddhist Priests,” Zhu Yuanzhang identifies the Buddha as another sage created by Heaven to carry out the “unchanging Way” of the “Three Bonds and Five Constants.” He argues that although Confucianism and Buddhism have different terminologies and procedures, both of them uphold the same principles that “benefit the myriad things” (YZWJ, 162; Dardess 1983, 227). By including the Buddha in the official cosmological discourse on Heaven and the Way, the emperor hoped that

Buddhism would help transform the “stupid and villainous” human realm.

In practice, the Ming court made a great effort to promote popular religions.¹⁶ The emperor not only wrote essays expounding Buddhist principles (e.g., Ge 1980, 75–172; YZ WJ, 121–22), but also personally presided over Buddhist festivals in close association with Buddhist monks (Ge 1980, 345–52; Huanlun 1992, 2.7b). The establishment of the government’s Buddhist and Daoist offices was at the priests’ request; they were supervised by Buddhist and Daoist monks themselves (Berling 1998, 960; Mano 1979, 248–55; Yü 1998, 905). Tens of thousands of Buddhist and Daoist priests were ordained by the government; many of them were appointed high-ranking officials (MS, 3988–89). Many court officials also associated themselves closely with Buddhism and Daoism. Song Lian, who circulated in Buddhist and Daoist circles (DMB, 1321, 1561) as a Confucian scholar-official who “pursued deep studies of Buddhist and Daoist teachings” (Huanlun 1992, 2.16a), wrote prefaces to some commentaries on Buddhist sutras and biographies of eminent Buddhist and Daoist priests (DMB, 1320; Ge 1980, 399–416; Chan 1975b, 90–93). Likewise, Zhan Tong (fl. 1350–1374), a chief imperial counselor and government official (DMB, 43–44), collaborated on music for imperial sacrificial ceremonies with the Daoist specialist Leng Qian (ca. 1310–ca. 1371) (DMB, 802–4; Huanlun 1992, 2.6b; Seidel 1970, 491). In general, the early Ming government “gave Buddhism and [D]aoism a clear and open, legitimate status in the Imperial order” (Berling 1998, 978).

However, the Ming court often criticized disorderly Buddhists and Daoists. In 1372, the emperor ordered severe punishments for Buddhists and Daoists who, during religious rituals, behaved licentiously by mingling with women, drinking alcohol, or eating meat (TS, 1351); this was an injunction that later became part of Article 200 of *The Great Ming Code*. In his *Comprehensive Instructions to Aid the Realm*, he criticized unenlightened Buddhist priests for (1) not marrying; (2) not returning home to care for parents; (3) not achieving the Way but still cutting off their family line; and (4) doing nothing but indulge in liquor and sex, thus defaming both teachings (ZSTX, 1469–71). For the emperor, while the Buddhist and Daoist scriptures were worth reciting, many of those who recited them were so corrupt that they should be strictly controlled. To regulate popular religions, the imperial court not only established government offices—the Central Buddhist Registry and the Central Daoist Registry—but also reorganized Buddhist and Daoist teachings. The emperor ordered that official versions of the commentaries on three major Buddhist sutras be composed (YZWJB, 297–98; Mano 1979, 255–57); he also personally regrouped Buddhists into the sects of meditation, exposi-

tion, and teaching (or yoga) (Yü 1998, 906–7), and wrote his own personal commentary on the Daoist text *Classic of the Way and Its Power* (Dao de jing) (YZWJB, 292–93; Ma 1994, 160–61). Obviously, the emperor's attention to popular religions not only extended to the material issues of taxation and the labor force, but more importantly, concerned the redefinition of their teachings, so that they could be incorporated into the official ideology.

In the later years of his reign, Zhu Yuanzhang identified more and more problems in Buddhist and Daoist circles. He denounced priests who engaged in lewd or licentious activities in the monasteries and who, on the pretext of begging for alms, deceived people to gain money. He condemned monasteries that hid military deserters or escaped prisoners, and said that many members of religious communities were “evil and worthless rascals” who were despised when they went out begging for food. These problems, the emperor believed, not only corrupted social customs and disrupted public order, but also defiled Buddhist and Daoist teachings (Ge 1980, 237, 242, 243, 49–50). Consequently, in 1391 and 1394, the court promulgated two decrees entitled a *Placard to Elucidate Buddhism* (Shenming Fojiao bangce) and *Regulations for Avoidance and Pursuit* (Biqu tiaoli) (Ge 1980, 231–39, 249–55; Huanlun 1992, 2.24b–26a, 2.28b–29a). These laws were intended to clean up the monasteries, rectify the priests' behavior, and promote true devotion to religious teachings (Brook 1997, 167–69; Mano 1979, 257–61, 271–74; Yü 1998, 907).

Respecting popular religions, the early Ming government was in a perplexing situation. First, government officials knew that Buddhism and Daoism were competing teachings that could not be eliminated; the best they could do was impose restraints on them. A passage in the *Collected Statutes of the Ming* states: “Since the Han and Tang, Buddhism and Daoism have permeated popular culture. It is difficult to eradicate them entirely. We can only apply strict prohibitions so as not to let them spread vigorously” (578). Second, the Ming court also realized the positive role Buddhism and Daoism could play in social construction, and so made a great effort to promote them in government agencies and among ordinary people. By observing the values and rites of Buddhism and Daoism, religious adherents might become more tractable. Third, in order to compete with popular religions, the Ming government would have to redefine their spiritual values and practices. The court selected core Buddhist and Daoist texts and had commentaries written, sponsored examinations on Buddhist and Daoist canons, redesigned Buddhist and Daoist rituals, and reformed popular teachings in line with official religion. In short, popular religions were treated by the government as “both dangerous and necessary” (Schneewind 2001, 346, 354). The regula-

tions and reforms for Buddhism and Daoism in *The Great Ming Code* reflect the apprehension and uncertainty of the early Ming ruling elite regarding this issue.

In his study of the relationship between the state and Buddhism, Timothy Brook observes an important shift in imperial policy toward Buddhism during Zhu Yuanzhang's Hongwu reign, which left a strong legacy for succeeding political periods.¹⁷ To Brook, the critical date was 1380: before that year, the imperial court "cast Buddhism in the role of adjunct to a state-centered structure of public authority, almost an official religion"; after that year, "Buddhism was no longer a resource for ruling but a threat to it. Monks were no longer men of wisdom but charlatans and draft dodgers whose very existence symbolized the failure of that [public] authority to take hold" (Brook 1997, 164, 165). Brook's proposition differs sharply from that of Yü Chün-fang, who argues that the primary purpose of the imperial laws on Buddhism was to reform a debased clergy and "purify the sangha by subjecting it to tight control" instead of suppressing the alien teaching (Yü Chün-fang 1981, 144–47; 1998, 909). Sarah Schneewind, however, suggests that these different viewpoints should be reconciled. Based on her seven-phase model, she concludes that the emperor's "policies toward Buddhism changed in step with other local institutional policies"; that is to say, "Zhu's regulations for local society treated the Buddhist clergy much as he did other social groups" (Schneewind 2001, 346, 354).

This debate certainly affects our understanding of the regulations in *The Great Ming Code* on popular religions. If the imperial policy did shift to suppression in 1380, then most of the stipulations in the *Code* discussed above would make little sense. Central to the debate is the question of how to interpret the post-1380 imperial regulations. Since much is at stake in understanding *The Great Ming Code* on popular religions, several observations on this debate illustrated by passages from the *Code* are in order here. First, in line with Yü and Schneewind, among others (Ma 1994, 161; Mou and Zhang 2003, 762–76), this study argues that the purpose of these imperial regulations was not to "suppress" but to regulate popular beliefs and practices. Although Buddhism and Daoism differed significantly from official ideology and rituals, the Ming court did not regard these popular religions as threats to the imperial government. The imperial laws mainly targeted Buddhist and Daoist individuals, not their beliefs and ritual systems. "Buddhist doctrines," as Schneewind observes, "were not condemned, but they were focused, like Confucian doctrines, through a selection of texts and commentaries for promulgation, examination, and ritual use" (Schneewind 2001, 354). The "unity of the three

teachings” became indeed a lofty ideological goal for the Ming founding emperor (Berling 1998, 978; Langlois and Sun 1983; Ma 1994, 161–66), although he weighed Confucianism more heavily than Buddhism and Daoism.¹⁸

Secondly, while different regulations were promulgated during the three decades of the Hongwu reign, none suggests an overall change in the imperial policies toward Buddhism and Daoism as belief systems. For one thing, prior to 1380, when the imperial court clearly favored Buddhism and Daoism, it also condemned corrupt priests, as indicated in the abovementioned 1372 injunction and 1375 essay. Also, after 1380, although the court intensified regulations by restructuring monastic orders and imposing severe punishments, it continued to commend Buddhist teachings for furthering the spiritual transformation needed to govern the realm;¹⁹ it also continued to request monk’s services,²⁰ patronize monasteries,²¹ and issue ordinance certificates to priests.²² In 1382, in order to defend his Buddhist policy, Zhu ordered the deaths of two officials of the Court of Judicial Review, Li Shilu and Chen Wenhui, who had vehemently criticized the throne for abandoning the “sacred” Confucian learning and embracing “heretical” Buddhist ideas (MS, 3988–89; MTJ, 398; Langlois 1988, 146–47). In 1392, Zhu Yuanzhang was close to dying of fever. Since none of the medicines prescribed by imperial physicians were effective, the emperor decided to try a medicine presented by a Buddhist monk that had been prepared by the Daoist Crazy Zhou Immortal. After he took the medicine, Zhu recovered overnight and was much impressed by the magical effect of the medicine.²³ Clearly, after 1380, Buddhist and Daoist teachings and practices influenced not only government affairs but also the emperor’s personal life.

Thirdly, even the post-1380 regulations did not imply the outright suppression of Buddhism and Daoism. In many respects, these regulations were still designed to protect popular religions, although they imposed stricter controls over them. Some regulations, for example, seem to have promoted the autonomy of Buddhist and Daoist authority;²⁴ others protected monastic property;²⁵ and still other regulations prohibited lay persons from interfering with monastic affairs.²⁶ It would be farfetched to argue that these rules evince a repressive policy toward popular religions. As a matter of fact, many of the early Ming regulations had their origins in the preceding Mongol Yuan dynasty;²⁷ it is commonly accepted that in the Yuan, “Tibetan Lamaism received the bulk of imperial patronage and favor from the time of Khubilai to the end of the dynasty”; and “Buddhism was strong both in Chinese elite society and among the common people” (Mote 1999, 501, 502). The post-1380 regulations, therefore, do not necessarily support the suppression thesis.

Finally, it should be emphasized that the purpose of imperial regulations on Buddhism and Daoism went beyond competition for material resources, social power, and political control; these rules were also intended to strengthen the spiritual leadership role of the imperial court. The emperor endeavored to become an ideological authority by inculcating his official worldview among the people and reforming popular religions. As the religious leader of the dynasty (De Heer 1986, 5–6, 122–23), the emperor made tremendous efforts to turn all of his subjects into his disciples. In this sense, it is misleading to state that under imperial regulations, the “realms of religious and secular life were thus to be neatly separated, with the intention that the influence of the former on the latter be kept to a minimum” (Brook 1997, 169). Indeed, Zhu never intended to separate religious and secular realms. Instead, he endeavored to unify the one human world in accordance with his religious vision. While he attempted to limit the influence of popular religions, he did not mean to limit the influence of the religious realm on the secular one. Rather, he worked strenuously to influence the world with his religious blueprint. His world, then, was not differentiated into “religious and secular realms.”

The above observations regarding the relations between the government and popular religions in the early Ming are all supported by a survey of the regulations in the *Code*. First, the extant versions of the *Code* do not indicate any outright suppressive policy. Among the three extant versions of the *Code*, the one published in 1386 was supposed to be a copy of the *Code* of 1376 (LJBY); the Korean version of 1395 replicated the *Code* of 1389 (Ko and Kim); and the final version of the *Code* of 1397 was published in most existing editions of the legal text (e.g., Gao Ju). Present-day scholarship on these texts reveals that the legal regulations in all three versions of the *Code* are almost identical.²⁸ Hence, the legal rules in the dynastic code on popular religions must have remained the same at least from 1376 to 1397.²⁹ The same laws covering a span of more than two decades demonstrates the constancy and continuity of government policies on popular religions.³⁰

In addition, the *Code* that was finalized in 1397 also shows no sign of a suppressive tone. As discussed in this chapter, the *Code* evinces multifaceted attitudes toward popular religions. It controlled them by limiting the construction of monasteries and the ordination of priests; it protected them by enforcing canonical codes on sexuality; and it reformed them by compelling priests to reestablish family ties. These legal measures accord with the imperial goal: to make popular religions “secretly aid the Kingly Way” (Ge 1992, 2.25a). They differ in nature from rules that truly suppress “heretical religious rituals.”

Finally, the religious mission of transforming “all under Heaven” is illustrated in the differential treatment of religious rituals in *The Great Ming Code*. Dynastic law aimed to promote official religion, to regulate popular religions, and to eradicate “heretical” religions. This was a mammoth project designed to transform everyone’s spiritual world in line with the official religion.

In short, this brief examination of the relation between the government and popular religions during the Hongwu reign suggests the implausibility of the proposition that the early Ming imperial court abandoned the belief that “Buddhism was amenable to incorporation into state institutions and could supply the state with ideological and educational services” (Brook 1997, 169). A complete shift in imperial policy toward popular religions did not occur during Zhu Yuanzhang’s Hongwu reign.³¹ To be sure, after 1380, Zhu did “put together an edifice of laws designed to subordinate monks and monasteries to the complete authority of the state” (*ibid.*, 161); but these laws primarily targeted Buddhists and Daoists as individuals instead of their belief systems and ritual codes as a whole.³² At the same time, the imperial court also promulgated a large number of strict laws regulating imperial clansmen, government officials, students, military personnel, Confucian scholars, and commoners (Farmer 1995; Yang 1988). The claim that Zhu Yuanzhang changed his policy toward Buddhism and Daoism and viewed them as a threat to public authority would require an accompanying note to the effect that he also changed his policy toward every subject of the Ming empire, and viewed the entire empire and value system as a “threat.” This was certainly not the case—he took elaborate precautions against individuals, but did not interfere with the existing superstructure of Confucian teachings, imperial clans, officialdom, military organizations, Confucian education, and so on; he relied on all of these beliefs and institutions to achieve his goal of world salvation. Hence, in understanding the legal status of popular religions, the differential treatment accorded to individuals and doctrines should be noted.

PROHIBITING “HERETICAL RELIGIOUS RITUALS”

By “heretical religions,” I refer to religious beliefs and practices that were prohibited by the government.³³ “Heretical religions” were considered a serious problem by the imperial government throughout Chinese history because, as Robert Weller (1982, 464) observes, “sectarian ideologies can indeed provide an alternative worldview that potentially conflicts with offi-

cial desires.” This was especially true for the early Ming, since the founding of the Ming dynasty had in part been a result of messianic movements based on Manichaeism and the White Lotus Buddhist sect. Zhu Yuanzhang had seized empirewide power in part by maintaining a close relationship with the White Lotus Society (Bailian She) armies; moreover, he chose the dynastic name Ming, which was a White Lotus term signifying “radiance” or “brightness.” It is quite possible that the success of the millenarian movement in overthrowing the Yuan regime had alerted the Ming founder to the danger that potentially subversive millenarian doctrines might also be used to combat the new dynasty.³⁴ But as Romeyn Taylor (1977, 42) asserts, the White Lotus Society actually had little impact on the Ming emperor. Studies by John Dardess (1983) and John Langlois Jr. (1981b) also suggest that Zhu depended heavily on Confucians from the Jinhua area who tried to sway him toward acceptance of Confucian ideals. Therefore, instead of promoting the beliefs and practices of sectarian teachings, Zhu Yuanzhang, aided by his court advisors, began to denounce them as heresy even before the founding of the dynasty (Wu 1961b, 262–66).

The Great Ming Code prohibited sectarian rituals, severely punishing exorcists or shamans who invoked heretical spirits, drew charms, made incantations over water, wrote messages with planchettes, prayed to saints; called themselves “Proper Lord,” “Grand Guardian,” or “Grand Instructress”; recklessly claimed to be the Buddha Maitreya; or formed societies like the White Lotus Society, the Light-Honoring Sect, or the White Cloud School. The penalty was strangulation for principal offenders and one hundred strokes of beating with the heavy stick and life exile to a place three thousand *li* distant. Moreover, if community heads knew the circumstances but did not report them to the authorities, they would be held responsible for their nonaction. The *Code* justified the prohibition by defining these acts as “deviant ways” (*zuodao*) and claiming that they caused harm to orthodox elements, agitating and confusing the people (Art. 181). The various commentaries to the *Code* further interpret them as “heresy” and “sorcery,” stating that such practices are disastrous to all under heaven since they destroy the “five teachings” (JJFL, 934–35; ZPZZ, 5.9a). One model verdict furnishes specifics on this issue: These practitioners “constantly sing and dance and thus destroy the caps and robes of the Central Kingdom (Zhongguo); [they claim] to have neither father nor ruler and thus block the correct path to benevolence and righteousness” (LMBJ, 4.10b). That is to say, sectarian rituals did not just threaten the political order, they also endangered Chinese civilization. Particularly noticeable is the accusation “constantly singing and dancing”

that derives from the *Book of Documents* (Shangshu). This Confucian classic condemns “customs of sorcery,” “dancing constantly in the palace and singing in exhilaration from drinking in one’s house” as two of the ten major transgressions responsible for the destruction of self, family, and the dynasty (*Shangshu zhengyi*, 163). Here, the ruler of the Shang dynasty was denouncing heretical practices by which the Lord on High, the imperial ancestors, and a great many minor deities in the official pantheon were worshipped. The Ming ruling elite inherited this tradition and endeavored to purify the world.

Although Zhu Yuanzhang openly denounced sectarian teachings about Maitreya as “heretical remarks” (*yaoyan*) as early as 1366, the prohibition of the White Lotus Society and other sects was not codified in the first edition of the *Ming Code* in 1367. The strong influence of the White Lotus Society among the Red Armies might have been a factor that deferred this legislation. According to the *Veritable Records of the Ming*, it was in 1370, when ministers from the Secretariat memorialized a petition to ban sectarian societies and other types of sorcery, that Zhu Yuanzhang first ordered this prohibition.³⁵ The politico-ideological message of the new rule is obvious: these “heretical rituals” challenged both the officially envisioned cosmic principle and the mundane political structure. On one hand, people might be deluded into believing in unorthodox interpretations of the cosmic order; on the other hand, large groups of people gathered together to perform such rituals might be difficult for the government to control. Therefore, although the groups on the list are Buddhist sects, they were still banned by the government. Such concern was not ungrounded. Many episodes chronicled in the *Veritable Records* demonstrate that even after the founding of the dynasty, sectarian societies were still active in parts of Huguang, Jiangxi, and Sichuan. Not infrequently, believers in unsanctioned world orders had turned into rebels who captured cities and killed officials. The government responded to them by relentlessly applying the death penalty (Li 1968). There is no doubt that the prohibitions in the *Great Ming Code* were not empty words.

The *Code* also severely punished those who prepared or circulated prophetic charms, invocations, magical books, or incantations to “delude the public” (*huozhong*): offenders would be decapitated, with no distinction made between principals and accessories; and those who only possessed heretical books would also be punished by one hundred strokes of beating with the heavy stick and penal servitude for three years (Art. 279). According to the commentaries on the *Code*, “prophetic charms and invocations” were materials and predictions about the future; “magical books” were “evil and inauspicious works”; and “magical incantations” were “deceitful, false, and vicious

remarks.” The purpose of such items was to “fraudulently” investigate the rise or destruction of the dynasty, the prosperity or adversity of the world, or the good or bad fortune of the people—all of which deceived the public and confused the masses (LJBY, 175; JJFL, 1311; LMBJ, 6.4a). The political message of this injunction is also clear: several model verdicts on the law point out that the Qin, Han, and Tang dynasties all ended due to the spread of magical books and incantations (LMBJ, 6.4b; ZPZZ, 8.4a). Indeed, the act of “making up magical incantations” was considered so dangerous that the Ming founding emperor personally denounced it on many occasions. In the *Comprehensive Instructions to Aid the Realm*, for example, Zhu Yuanzhang included a section on “fabricating [magical] incantations” (*zaoyan*). The essay identifies this activity with rebellion, and gives many examples throughout Chinese history to warn that the “divine utensil” (*shenqi*) is bestowed by Heaven and those who rise in rebellion will be exterminated by the Lord on High (ZSTX, 1476–77).³⁶

In addition to its content, the political significance of Article 279 on “making, circulating, or keeping magical books or incantations” also lies in its location within the *Code*: it is placed in the section entitled “Violence and Robbery,” and appears right after the articles “Plotting Rebellion and Great Sedition” and “Plotting Treason.” In fact, as mentioned above in sections one and three of this chapter, both practicing sorcery and keeping proscribed books were already noted as grounds for punishment in the *Code* (Arts. 181, 184), but these two articles were placed in the chapter on ritual regulations and merit lighter penalties. The major difference between the two sets of rules has to do with the content and intent of the crimes. In Article 279, the magical books and incantations seem to deal directly with the fate of the dynasty, and were intended to prompt their followers to take political action. In Article 181, the “sorceries” were practiced for “seeking the rewards of good deeds” (JJFL, 935) in religious cults; here again, political danger seemed likely. As proscribed books, Article 184 includes those predicting the political future, such as the *Yellow River Diagram* (Hetu), the *Book of the River Luo* (Luoshu), the *Back-Pushing Diagrams* (Tuibeitu), and the *Classic of Understanding Heaven* (Toutianjing) (LJBY, 134–35; JJFL, 948). The difference between these works and the “magical books” banned in Article 279 might be that the former teach a general knowledge of political prophecy, while the latter set forth more specific political targets and strategies. At any rate, as a comprehensive rule to counteract imminent threat, Article 279 overrides the general regulations stipulated in Articles 181 and 184. In reality, though, these crimes are so closely related that they were often treated identically in

law enforcement. In the stories collected in the *Veritable Records* regarding sectarian societies, there are many instances of “making up magical incantations” (Chan 1969).

Condemnation of heretical rituals, of course, does not mean that the law denied the superhuman capacity to predict the future. One model notice advises those who “master magical divination” not to spread the information to others because “extraordinary men” always try to avoid leaking their secrets (ZPZZ, 5.4a-b). Here, the law acknowledges the existence of specialists who are capable of making prophecies; its first and foremost goal was to separate those specialists from the masses, among whom a large number of “ignorant persons” were liable to believe in “groundless magical incantations” (ZPZZ, 5.4b). The Ming government, therefore, was contending with an enemy circle for ideological leadership of the people. In the above-mentioned essay, Zhu Yuanzhang was not just concerned with the political manipulation of heretical rituals; he looked further into the rebels’ minds:

There have been ignorant persons of this kind from remote antiquity. They have usually been killed. After a while they appeared again. Why is this? It is because throughout their lives they did not study principles (*daoli*). All day long they associated with ill-mannered, mean persons. Treachery and waywardness accumulated in their minds and they were unable to change right up to the time they were killed. (ZSTX, 1474)

By fusing educational norms with coercive sanctions, punishment for heretical rituals was not merely a measure for behavioral control; it also served as a way of transforming a wrongdoer’s inner world.

In order to defend the dynastic order and official worldview, the *Code* especially guarded against the spread of subversive propaganda among civil and military officers. While it allowed casting horoscopes and divining in the homes of officials, it prohibited magicians and soothsayers from predicting the disaster or good fortune of the dynasty there (Art. 197). The essence of this injunction was to keep officials away from the influence of “fraudulent and preposterous prophecies.” Officials might be superior to commoners, but while assisting the ruler to govern the realm, they might also undertake treacherous acts, causing much more serious trouble for the regime than ordinary persons (see chapter five). By punishing soothsayers, the imperial law ensured that the officials would remain satisfied with their “Heaven-determined fate,” and thus “nip the evil in the bud” (XTFL, 6.19b; JJFL, 979).

The Great Ming Code also forbade several kinds of sorcery known as “black

magic” (Ch’ü 1961, 220–25). The first was “extracting vitality by dismembering living persons” (Art. 311). This crime was committed in various ways. One was to beat a living person to death, and then extract the victim’s eyes, ears, nose, tongue, lips, teeth, feet, palms, nails, and hair. Next, the offender would make a human figure out of yellow mud and attach to it all of the body parts. He would then pray that spiritual forces operate through the newly assembled person. Another method involved luring the victim into the mountains or a forest and killing him there. The offender then cut the victim’s body and extracted his internal organs and vital energy for dedication to the spirits. Still another technique was to take the fetus from a pregnant woman for magical purposes (LMBJ, 7.9b; LJBY, 201; LFQS, 6.39a). The common feature here lies in using living or freshly-killed human body parts to communicate with superhuman forces. This crime is similar to “dismembering living persons” (Art. 310); and both were considered “heinous” acts—they are among only thirteen crimes in the *Code* that were punished by “death by slow slicing”³⁷ (the penalty for treason is only decapitation [Art. 278]). Nevertheless, “extracting vitality” differs from “dismembering living persons” in that the former involves practicing sorcery. The serious concern over sorcery accounts for why “extracting vitality” was punished more severely. For one thing, the collective punishment it entailed extended not only to “wives and sons,” but additionally to “wives, sons, and those who live in the same household.” Moreover, the offenders as well as their wives and sons were punished severely even though no physical harm had ensued. In addition, community heads were charged with criminal collusion if they had been aware of these activities, and those who reported the crime were rewarded by the government. Therefore, although dismembering persons and extracting vitality are similar criminal acts, the criminal motivation was not the same. The former merely involved killing others, whereas the latter was a kind of sorcery used to “delude people” (JJFL, 1486; JS, 556).

Article 312 of *The Great Ming Code* specifies two more “heretical arts”: “inflicting captive spirits on others” and making spells or incantations to harm others. The former included drawing or engraving human images and then piercing their hearts or eyes or tying up their hands and feet in order to make the real persons become sick or die. The latter meant acts like drawing magic figures and then invoking demons and chanting incantations to harm others (LJBY, 203; JJFL, 1490). These acts posed a twofold problem: they involved worshipping “evil spirits” and causing harms to others. Since these techniques were practiced in order to kill others, the offenders should be punished for plotting homicide; thus, once the act had been initiated, the

offenders merited punishment even though no physical harm had ensued. The law implied that the artificial human body and real human body had a spiritual and physical connection; hence, acts done to the former would cause spiritual suffering or physical damage (either death or sickness) to the latter. This reveals a strong belief in the dynamic interaction between humans and spirits: superhuman forces were deemed to exist and to respond to human invocations, and the artificial bodies served as a medium to invoke spiritual forces. As Derk Bodde comments, it would be difficult to “explain the continued presence in the Chinese codes down to the present [twentieth] century of harsh penalties for manufacturing magic poisons or practicing other forms of black magic unless there was belief in such magic” (Bodde 1981, 16).

This belief is vividly revealed in an early Ming law case. In 1375, Zhu Yuanzhang went on an inspection tour of his hometown, Fengyang District, where imperial halls and palaces were under construction. While the emperor was sitting in a hall, he felt as if someone were stabbing his back with a weapon. The prime minister, Li Shanchang, reported to the throne that the artisans were using the tricks of “capturing spirits” to endanger the imperial body. Outraged, Zhu ordered all the artisans executed. The minister of public works, Xue Xiang, petitioned to distinguish those who had been on duty and those who had not, and to exclude the blacksmiths and stonemasons who were not involved. Thanks to Xue’s petition, several thousand workers had their lives spared (MHY, 1268; MS, 3973). This case indicates the fear of and belief in rival superhuman forces. The government was struggling against an enemy spirit realm.

Of the three kinds of heretical arts, two—“extracting vitality” and “inflicting captive spirits on others”—were included in “Ten Abominations”; consequently, the offenders would lose privileges such as the “eight deliberations” and “staying home to serve old or severely handicapped parents or paternal grandparents” (Arts. 3, 4, 9, 18), and would not be pardoned under general amnesties (Art. 16). When they died in exile, their families were not allowed to return to their hometown (Art. 15). To the Tang Code of 653, *The Great Ming Code* added an additional crime—“extracting vitality,” and increased the penalty for the crimes “inflicting captive spirits on others” and “making spells or incantations to harm others.”³⁸ This indicates that at a remove of over seven hundred years from the Tang dynasty, the early Ming ruling elite was still very much concerned over the effects of heretical rituals.

This chapter reviews the nature and functions of religious rituals in communicating between the spirit world and the human realm from a legal per-

spective. *The Great Ming Code* treats these rituals with different measures. In promoting official rituals, the *Code* protects the emperor's status as the Son of Heaven, the only one authorized to worship Heaven and Earth; ensures the correct performance of ceremonies; and enforces ancestor worship for both the ruling elite and commoners. In regulating popular religious rituals, the law controls the construction of monasteries and ordination of priests, enforces canonical rules on sexuality, and reforms popular religious teachings and rituals on the basis of Confucian filial piety. In prohibiting heretical religious rituals, the *Code* prohibits sectarian beliefs and practices, sorcery, and "black magic," all of which were considered politically dangerous and spiritually polluting. By enforcing, regulating, and prohibiting different categories of religious rituals, the early Ming ruling elite intended to transform people's spiritual world as well as to impose behavioral control.

This examination of legal regulations on rituals might aid present-day studies of religious rituals and the relation between government and popular religion in Ming China. Regarding rituals, James Watson and Evelyn Rawski are at odds regarding the extent to which ritual participants knew or believed in the meaning of the rites they performed. Watson sees "paramount importance" in "orthopraxy," i.e., the correct performance of rituals. "Performance, in other words, took precedence over belief" (Watson 1988, 4). Rawski, by contrast, considers belief to be as important as practice in ritual. She particularly points out that the "Chinese ruling elite tended to see belief and practice as organically linked to one another, each influencing the other" (Rawski 1988, 28). This chapter, while recognizing the value in Watson's contention, accords more with Rawski's view (at least on the level of the ruling elite). Zhu Yuanzhang and his court officials were of course concerned with how and what people practiced, so they sought to regulate people's behavior by means of legal sanctions. But they were at least equally, if not more, interested in what people thought when they behaved in certain ways.

The Ming ruling elite's stance is evident in the varying treatment of different rituals for communicating with deities in *The Great Ming Code*. Official rituals governing the worship of Heaven and Earth and their subordinate deities were protected and promoted. Popular rituals such as Buddhism and Daoism were condoned, but put under legal control. The "heretical" rituals, such as sectarian practices and sorcery, were strictly prohibited. These different treatments illustrate the law compilers' intellectual inclination and demonstrate the balance of contemporary intellectual forces. The ruling elite intended to manifest the officially interpreted cosmic order by performing

official rituals. They also endeavored to combat the rival deities worshipped in nonofficial rituals. Although they could be manipulated to assist the official cosmology, popular rituals had to operate within set limits due to their heterodox nature. The ruling elite did not entirely agree with the cosmic order envisioned in Buddhism and Daoism, but they had to let these teachings exist among the people, conceding to contemporary intellectual forces in society. All they could do was create rules to control and guide unofficial beliefs and practices.

To be sure, the persecution of subversive “heretical rituals” was based on political considerations. The founding of the Ming was a result of rebellions that were permeated by millenarian beliefs. The prohibition of such sectarian practices was apparently a measure designed to prevent further dynastic upheaval. Overmyer (1976, 24) argues that the government’s opposition to organized sects must be understood against the political background of concern over collective ceremonies as a potential source of disorder. Nevertheless, he adds, “prohibition of dissenting religion was based on ideological grounds as well.” In terms of the early Ming ruling elite’s goal to promote public transformation, this point is well taken. The law code was designed not only to control people’s behavior in performing forbidden rituals, but also to defend the official rituals and to “purify” people’s intellectual world with the official worldview.

4 | *The Great Ming Code and the Human Realm*

Creating Boundaries for the Ming Empire

On December 31, 1396, Zhu Yuanzhang sent two court officials to Annam to settle a border dispute between the two countries. This border settlement embassy had been initiated by a memorial submitted by Huang Guangcheng, the aboriginal prefect of Siming Prefecture, Guangxi Province. Huang reported that Annam had shifted the border located at the “bronze pillar”¹ two hundred *li* to the north, seizing five districts from Siming; and that the local Thai people were suffering from heavy tax burdens. He thus petitioned the imperial court to “order” the Annamese Tran dynasty to return the occupied territory. As soon as they arrived at the Annamese court in March 1397, the Ming envoys engaged in the difficult task of “instructing” the Tran court. They claimed that those five districts had belonged to Siming since Ma Yuan’s military expedition in 43 C.E. In order to avoid disaster, they warned, the Tran had better return the territory immediately. But the Tran government, controlled by the powerful general Le Qui-ly (1335–1407) (DMB, 797–801), held a different view, saying that Annam’s rule over those five districts could be

traced back at least to the early Yuan; Siming's accusation of invasion was groundless. Moreover, the Tran argued, the borderline had changed time and again since Han and Tang times. Therefore, how could past incidents like Ma Yuan's conquest be used to judge present-day affairs? The debate went on and on.

While negotiations were locked in a stalemate, the Annamese king presented a long letter to the Ming government at Nanjing. In it, he emphasized that the Annamese should keep those five districts because they had lived there for generations. It was sincerely wished, the king concluded, that Annam and Siming would each safeguard the fixed boundary and both serve the "heavenly court"—the Ming; and, at the same time, the Ming would treat both Annam, the "lesser country" (*xiaguo*), and Siming equally, without discrimination. When the Ming envoys eventually returned home empty-handed, Zhu Yuanzhang summoned his court officials to deliberate on the knotty problem. Some proposed a military expedition against Annam for disobeying the court's order. Although he realized that Annam would not return the disputed land, Zhu did not send expeditionary forces. His decision does not seem belligerent: "Contending among barbarians has existed since ancient times. Being so wayward and disobedient, they [the Annamese rulers] will certainly court disaster in the end. Let us wait for the moment" (TS, 3626–27). The Ming efforts to restore the borderline thus ended in failure.³

This rare case of boundary negotiation during the Hongwu reign raises an important question: What was the relation between Annam, Siming prefecture, and the Ming court? For the Annamese, Annam was certainly a "lesser country" compared to Ming China. They paid tribute to the Ming, sought titles from the Ming, and provided military supplies when the Ming needed to suppress rebels along the border line (MS, 8309–12). But how did they find the courage to argue against the Ming order and keep the disputed land? With regard to the Thai people in Siming, they were clearly subjects of the Ming ruling house. Their chieftains received the office of "aboriginal prefect" (*tu zhifu*) from the Ming court, and thus should serve and seek protection from the central government at Nanjing. But why did the relationship show signs of disunity? It was the aboriginal officials who repeatedly petitioned the central government to recapture the lost territory,³ but the Ming court reacted slowly and passively, and eventually adopted a wait-and-see policy.⁴ As for the Ming, in the face of foreign encroachment, it was their duty to expel the invading enemies and recover their sacred territory, so why did they behave more as an arbitrator than

an interested party? Indeed, when the Ming envoys tried to persuade the Annamese rulers to follow the Ming order, their main argument was that those five districts belonged to Siming and should be returned to the local people. Thus, they were not requesting the return of these lands from the standpoint of the Ming court.

What was going on? Why did the Ming not take aggressive action to recover the lost territory in Siming prefecture, which was an integral part of the Ming empire? The pacifist stance of the Ming court might have had something to do with dynastic strategy for frontier defense, domestic economic conditions, a realistic assessment of foreign armed strength, or the emperor's personal interest, health, and age (Lo 1970, 161–66; Wang 1968, 50–53). A crucial factor here seems to be the dual status of Siming perceived both by Annam and the Ming court. While Annam accepted its inferior position with respect to the Ming, they viewed themselves as Siming's equal, although the latter was indeed part of the Ming empire. They thus petitioned the Ming court to treat the two sides without discrimination. As for the Ming, they viewed the Thai people in Siming—like the Han people in the central Ming territories—as the “children” of the Chinese Son of Heaven, and therefore intervened in the dispute on their behalf. However, the ethnic identity of the Siming people made the Ming court share the viewpoint articulated by Annam. Their conflict, as Zhu Yuanzhang commented, was in essence a dispute between two barbarian peoples. That is to say, Siming's membership in the Ming empire had not changed their uncivilized nature.

This story reveals that the early Ming ruling elite were consciously maintaining boundaries between Han and non-Han realms. As a foreign, barbarian land, Annam was inferior to but independent from the Ming. The boundaries between the two countries demarcated not only different peoples but different levels of civilization. From within the Ming empire, Siming was viewed as a place bathed in the sunshine of imperial grace. Its Thai ethnicity, however, became a boundary marker separating this particular place from Han areas. This chapter examines how such boundaries were erected between Han and non-Han cultural zones in the early Ming. It argues that, with the center located in the Han core area, the ruling elite delineated two frontiers in “all under Heaven”—one between Han and non-Han peoples within the Ming empire, and the other between the Ming empire and foreign countries. In order to guard against non-Han “polluting” sources, *The Great Ming Code* served to define, maintain, and expand the boundaries between Han and non-Han cultures.

The Hongwu reign was a time when borderlines were established by the new ruling house. In their boundary-creation efforts, the early Ming ruling elite divided the world into three interrelated yet distinctive domains: “*Zhongguo ren*” (people of the Central Kingdom, or “Chinese people” in present-day English), located at the center of the Ming empire; “inner barbarians” (*manyi*) within the Ming realm; and “foreign barbarians” (*waiyi*). After overthrowing Mongol rule, delineating “China” became a pressing task for the Han government. Indeed, viewing himself a “Chinese person” (*Zhongguo zhi ren*) with the mission of bringing peace to the “Chinese people” (*Zhongguo zhi min*) (TS, 404), Zhu Yuanzhang’s first goal in rebuilding the world was to “recover our China” (*fu wo Zhongguo*) (TS, 1752). But what exactly was “Zhongguo”? In fact, the early Ming ruling elite used the term “Zhongguo” for two circumstances. First, Zhongguo was home territory, in contrast to foreign countries. As soon as he founded the new dynasty, Zhu began issuing proclamations to his foreign neighbors.⁵ On numerous occasions, he “instructed” foreign peoples—in particular, people from Mongolia in the north, the Western Regions, Tibet in the southwest, Annam and Champa in the south, Korea in the northeast, and from overseas countries such as Japan, Java, Liuqiu, and Srivijava—to serve Zhongguo.⁶ By excluding those foreign countries, the Ming court envisioned Zhongguo as a vast region encircled by the ocean, with steppes, deserts, plateaus, and tropical jungles on her four sides. In this sense, Zhongguo was primarily defined as the Ming empire—the “political China.”

Meanwhile, the term “Zhongguo” was often used in contradistinction to non-Han peoples within the Ming domain. In dealing with ethnic minority affairs, the early Ming ruling elite constantly made decisions on the basis of differences between “Zhongguo” and “inner barbarians” (TS, 1599–1600, 2936–37, 2213, 2747–48). They saw Zhongguo as an entity different not only from foreign countries, but also from regions inhabited by non-Han peoples under the Ming government. By excluding those “barbarian” areas, the Ming court defined Zhongguo as the land of the Han, where Han-Chinese values prevailed. Indeed, when Zhu Yuanzhang and his court officials showed their determination to “recover the old territory of our Zhongguo,” they were basically targeting drainage areas of the Yellow River, the Huai

River, the Yangzi River, and the Xi River (TS, 403). In the first comprehensive account of Ming political geography, the *Gazetteer of the Great Ming* (Da Ming zhi, 1370), the four boundaries of the Ming empire were delineated as: to the east, the ocean; to the south, Qiongya (Guangdong); to the west, Lintao (Shaanxi); and to the north, Beiping. Within the Ming domain, in addition to 120 prefectures and 108 subprefectures which were administered under twelve branch secretariats, there were also three pacification commissions (*anfu si*) and one chief's office (*zhangguan si*) (TS, 1149). The latter administrative regions were clearly designated for non-Han peoples, and were not considered part of "Zhongguo." In this sense, Zhongguo was not identical to the Ming, but only constituted the cultural core of the empire—"cultural China."

Outside "cultural China" lay the second level of the world: "inner barbarians" ruled by the Ming government. These were primarily the areas inhabited by non-Han peoples, such as Sichuan, Huguang, Yunnan, Guangxi, and Guizhou (Wiens 1967). Continuing Yuan practice, the basic Ming institution for governing aboriginal people was the "aboriginal office" (*tusi*).⁸ As part of the Ming "loose-rein" (*jimi*) policy,⁹ this system incorporated unassimilated "barbarians" into the Chinese empire by granting tribal chiefs official titles and leaving them with considerable authority over the local people. The Ming court, meanwhile, stationed military forces to maintain order and resist aggression, and demanded tribute and taxes from local people (MS, 7981–8277). To the early Ming ruling elite, these people differed from the Han in "cultural China" in terms of value system, nature, life style, and even physical features (TS, 853, 2210, 2874, 3475–76; MS, 8168; YZWJB, 310)

Beyond the "inner barbarians" were the "outer barbarians" in foreign countries. To be sure, the early Ming ruling elite firmly believed that the Chinese Son of Heaven held the authority and duty to govern the entire human realm. As Zhu Yuanzhang proclaimed to the king of Java, "When the sage governs all under Heaven, anybody inside and outside the four seas [China] is his subject (*chizi*)" (TS, 2125). However, they did acknowledge a distinction between the Ming and the outside world; this explains why the Ming court endeavored to settle the border dispute with Annam, as discussed at the beginning of this chapter, and was eager to set a boundary with Korea at Tieling (TS, 2807–8, 2867–68; Lo Jung-pang 1970, 158). In fact, Zhu perceived the distinction to be so profound that he instructed his descendants not to covet momentary martial glory and attack "outer barbarians" without being provoked.¹⁰

If the boundary lines between "cultural China" and "inner barbarians"

were more ethnocultural in nature, those between the Ming and “outer barbarians” were primarily geopolitical. Accordingly, instead of political and military controls, the Ming government utilized the tribute system as the “basis of Ming foreign policy”¹¹ in dealing with foreign countries. Under this system, the Ming emperor claimed to be the “ruler” of tributary rulers, who in turn were supposed to be “subjects” of the Ming ruling house.¹² The Ming court established tribute schedules, and granted patents of appointment and official seals to non-Chinese rulers for use in written communications. In addition, a series of rituals was instituted to symbolize the hierarchical world order. The kowtow, for example, was performed by non-Chinese when paying audience to the Ming ruler. The non-Chinese presented local products as tribute to the Ming court, which “bestowed” symbolic gifts in return. Tributes from non-Chinese regimes without proper etiquette or at inappropriate times risked being rejected. Indeed, the refusal to receive tribute served as a way for the Ming court to defend the Chinese world order (MS, 8279–8462, 8511–8627).

Generally speaking, a suzerain-vassal relationship based on the Chinese ethnocentric worldview existed between the Ming and her neighboring countries, although the closeness of their mutual ties varied. Some countries, such as Liuqiu and Champa, maintained constant tributary relations with the Ming court (MS, 8309–12, 8383–85). Others, like Japan and Korea, had occasional trouble with the Ming due to tension at the Ming court, alleged Japanese pirates along the Chinese coast, political division in Japan, and a transfer of power in Korea.¹³ The only exception was the Mongols in the north, against which Ming forces engaged in protracted warfare (MS, 8463–67; Rossabi 1998, 224–41). According to the *Ming History*, some thirty-eight countries and tribal kingdoms paid tribute to the Ming court during the Hongwu reign.¹⁴

It should be noted that boundaries between the Ming empire and the outside world were in constant flux. In 1367, Zhu Yuanzhang and Song Lian saw a “China” that did not include the “Ba-Shu” (Sichuan) area (TS, 26); in 1371, Ming forces incorporated that region into the Chinese empire (MS, 26). Also, the Yunnan plateau ruled by the Mongol Prince of Liang, Basalawarmi (d. 1382), was treated as a separate “country” (*guo*) before it was incorporated into the empire in Hongwu 15 (1382).¹⁵ And the boundary line between tributaries and non-tributaries also underwent constant change. Of the thirty-eight countries allegedly paying tribute to the Ming court during the Hongwu reign, only six did so ten or more times; twenty-two of them paid tribute only once in a time span of thirty years (MS, 9–37, 39–57). This

indicates that during the first three decades of the Ming dynasty, only a small number of countries maintained a stable tributary status; a vast multitude of others stayed beyond the reach of Ming influence.¹⁶

The boundaries created between cultural China and inner/outer “barbarians” constituted an essential part of early Ming cosmology. Based on the traditional concept of “all under Heaven,”¹⁷ Zhu Yuanzhang and his officials believed that the supreme deity, the “Lord of Resplendent Heaven,” had chosen the Chinese emperor as his representative to govern all human beings. Every corner of the world should pay heed to the divine will as set forth in instructions by the Ming court. In mediating disputes between Annam and Champa, Zhu instructed their rulers that Heaven loved preserving and disliked killing; the best way to practice benevolence and conform to the Way of Heaven was to serve China and cultivate friendly relations with neighboring lands (TS, 2118–19; MS, 8384–85; YZWJ, 116). When taking Japanese rulers to task for acts of disobedience, Zhu admonished them to mind the principle that Heaven assisted the good and harmed the evil; if Japan continued to disregard the command of the Lord on High, disaster would result in the tiny, isolated islands (TS, 2173–77). To stop the three kings of Liuqiu from attacking each other, Zhu urged them to understand that rulers were “engendered” (*sheng*) by Heaven to prevent living beings from harming each other; they would only be blessed by Heaven if they pursued the policy of ceasing hostilities and nourishing the people (TS, 2375–77; YZWJ, 126, 127). In this way, heavenly attention did not only rest upon China, but was universal, and “all under Heaven” should pay heed to its mandate—as perceived and articulated by the Ming court.

One way in which the Ming manifested the Heavenly Mandate to the world was by bestowing the Calendar of the Great Unification on foreign rulers (TS, 847–48, 867, 937). Whether or not to observe the Chinese calendar became a test of whether or not one respected the Mandate of Heaven. When the Mongol prince in Yunnan did not employ the Chinese calendar, he was blamed for not following heavenly principle and the human heart (TS, 1706–7; YZWJ, 37–38). Due to noncompliance with the Chinese calendar, a local Japanese lord’s tribute was rejected by the Ming court (MS, 8342). On the other hand, because Annam and Champa both adopted the Chinese calendar, they were treated with kindness by the Ming and exempted from paying taxes or tribute (MS, 8384). By subjecting foreigners to Chinese time, the Ming endeavored to bring them into the Chinese world order.

In addition to the concepts of Heaven and cosmic time, the idea of differentiated cosmic space also supported China’s position at the center of the

world. Drawing on the traditional cosmographical scheme of “five zones” (*wufu*) dividing the world into five concentric regions,¹⁸ the Ming classified “all under Heaven” into core, periphery, and outside domains according to their cultural and political relations with “China.” This hierarchy of cosmographical relations was further strengthened by yin-yang theory. In 1376, responding to an imperial call to speak out on erroneous policies that might have caused celestial anomalies, Zeng Bingzheng, the principal of the Confucian School at Haizhou Subprefecture in Huai’an prefecture, declared that a recent solar eclipse had been the result of imbalanced yin-yang forces on Earth:

What the *Yi*[*jing*] expounds is that great importance should be attached to the yang element, while the yin element should be devalued. The law [as found] in the *Chun-qiū* puts China in the center and barbarians on the periphery, because China is of the yang element and barbarians are of the yin element. . . . Recently, when passing through Jiangpu,¹⁹ I noticed that many [Mongol] “prisoners” from beyond the borders had rebellious ideas. This is the area bordering on the capital. Can such a state of affairs be tolerated? It is to be feared that after a number of years we will become used to them and we will forget [their true origin]. After they have grown in numbers, is it not likely that there will arise among them strong and cunning men [to disturb the peace right near the imperial throne?!]²⁰

In the cosmos, then, China, the yang force, was supposed to rule at the center; and barbarians, the yin, should be ruled in outer areas. Allowing barbarians to stay near the hub of civilization, according to Zeng, was a policy that promoted yin and resisted yang, reversing the fundamental cosmic order. That was why, in consonance with human affairs, the moon and black spots would violate the sun in the sky. Zeng suggested that the court, by following the sagely way of fostering yang and restraining yin, relocate the Mongols out of China. Only then would anomalies be eliminated, the heavenly heart changed, and the dynasty be prosperous forever. The emperor, it is said, was very pleased with Zeng’s memorial and promoted him to the office of vice director of the Directorate for Documents (TS, 1811–16).

The cosmological boundaries between Han China and non-Han “barbarians” were reinforced by the “cosmic demarcation” (*fēnyē*) theory. In 1384, the Ming court completed the *Record of the Purified Categories of Celestial and Terrestrial Regions of the Great Ming* (*Da Ming qinglei tianwen fēnyē shu*) (TS, 2563–64; MS, 367–70). This work lays out a cosmic demarcation plan by mapping celestial bodies and the Ming empire into twelve corresponding pairs.

TABLE 4.1 The Celestial Regions and the Ming Empire Administration
in Corresponding Pairs*

A. Celestial Regions	B. Terrestrial Sections
1. Xingji, Capricorn (dou ₃ , niu, nü ₁) Guangdong, Guangxi	1. Zhili, Zhejiang, Jiangxi, Fujian,
2. Xuanxiao, Aquarius (nü ₂ , xu, wei ₁₂)	2. Shandong, Beiping
3. Juzi, Pisces (wei ₁₃ , shi, bi, kui ₁)	3. Henan, Beiping, Shandong
4. Jianglou, Aries (kui ₂ , lou, wei ₃)	4. Shandong, Zhili
5. Daliang, Taurus (wei ₄ , ang, bi ₆) Shanxi	5. Beiping, Henan, Shandong,
6. Shichen, Gemini (bi ₇ , zi, shen, jing ₈)	6. Shanxi
7. Chunshou, Cancer (jing ₉ , gui, liu ₃)	7. Shaanxi, Sichuan, Yunnan
8. Chunhuo, Leo (liu ₄ , xing, zhang ₁₅)	8. Henan, Shaanxi, Huguang
9. Chunwei, Virgo (zhang ₁₆ , yi, zhen ₉)	9. Huguang, Guangxi, Guangdong
10. Shouxing, Libra (zhen ₁₀ , jue, gang, di ₁)	10. Henan, Zhili
11. Dahuo, Scorpio (di ₂ , fang, xin, wei ₂)	11. Henan, Shandong, Zhili
12. Ximu, Sagittarius (wei ₃ , ji, dou ₂)	12. Beiping/Liaodong/Korea†

* Adapted from *Da Ming Qinglei tianwen fenye shu*.

† It is not clear why, before the Korean Yi dynasty was founded and was called “Korea” by the Ming in 1392, the name “Korea” (instead of “Koryo”) is recorded in the 1384 text.

In table 4.1, list A delineates the twelve equal celestial sections (*shier ci*), matched by the twenty-eight lunar mansions.²¹ List B assigns twelve groups of Ming administrative areas (including Zhili), thirteen provincial administration commissions, and the Liaodong Regional Military Commission, to the twelve celestial regions.²² By correlating these two groups, each area of the Ming empire was seen as subject to the rule of its corresponding celestial region. Parts of Zhili were governed by the celestial regions of Xingji/Capricorn, Xuanxiao/Aquarius, Dahuo/Scorpio, and Ximu/Sagittarius. Portents occurring in these heavenly regions would indicate good or evil fortune for specific areas on Earth.

A tradition that could be traced back to the Warring States period,²³ the “cosmic demarcation” system signified the central position of “China” in the human realm, not only denying participation in this cosmological scheme

to foreign countries outside the Ming,²⁴ but also excluding non-Han areas within the Ming empire from the picture.²⁵ Why did this plan keep out non-Han peoples and focus exclusively on China? Li Chunfeng, a seventh-century Tang astrologer, furnished insight on this question. According to Li, “China” (Zhonghua) epitomized human values and ritual forms. A place where gentlemen lived and sages emerged, it could not be mentioned in the same breath as the word “barbarian.” This was why Confucius had commented that although “barbarians” had rulers, they were not like those in China. The “cosmic demarcation” system, therefore, only covered China and did not favor the “uncultivated zone” (*huangfu*).²⁶ Li’s Han-chauvinistic view was echoed in the remarks by Zhu Yuanzhang above.

Although the cosmic demarcation system did not cover non-Chinese territories, it allowed for keeping a close watch on foreign movements and provided practical guidance for Chinese border defense. In 1377, Zhu Yuanzhang was alarmed when Venus “invaded” a star in the lunar mansion of “bi,” a celestial motion indicating “barbarian” military action in the areas of Beiping and Shanxi. At that time, about two hundred Mongol soldiers led by the “Four Generals” were often harassing the Ming’s northern frontier, and had been able to elude search and capture by Ming forces. The emperor was so concerned that he ordered the Ming commander Xu Da (1332–85) (DMB, 602–8) to wipe out the enemy before they spread to other regions (TS, 1770). Likewise, in 1385, when the five planets and moon all “invaded” the lunar mansion “jing,” Zhu warned the imperial princes of Qin, Jin, and Zhou²⁷ that the celestial phenomenon signaled hostilities in their sectors. Troops in Shaanxi, Shanxi, and Henan should not be dispatched; instead, they should intensify training within their princely establishments and make ready for defending the frontiers (TS, 2662). The exclusion of foreigners from the cosmic demarcation system, then, did not necessarily deny their existence; rather, it served as a way to separate China from non-Han peoples. By defining the governing boundaries of celestial regions over their terrestrial counterparts, the Ming court promoted the idea of China’s cosmological centrality in the world.

These boundary lines drawn for the human realm defined certain Ming policies toward non-Han peoples. In non-Han areas within the Ming empire, the early Ming ruling elite launched aggressive programs to transform the non-Han cultures in line with Chinese values. To be sure, the Ming court tolerated non-Han values and customs to a high degree. Women were able to serve as aboriginal officials and pay imperial audience at Nanjing; the Chinese boundaries of gender roles made little sense to them (MS, 8017, 8050,

8167). Aboriginal offices were hereditary; the Chinese bureaucratic system was not applied (MS, 8050, 8230). As long as non-Han peoples remained politically submissive, the Ming court seemed forbearing on such matters. In the meantime, however, the Ming ruling elite also planned for the cultural transformation of these non-Han peoples. The imperial mission was to expand “China” throughout the Ming empire by changing “aboriginal customs” (*tusu*) and making non-Han people identify with “China.”

The Ming court engaged in several programs to educate non-Han peoples. The first was to encourage the children of aboriginal officials to study in “China.” In 1382, when the head of the Puding Tribal Office,²⁸ named Zhee, came to the Ming court to pay audience, Zhu Yuanzhang instructed him:

A king takes the whole realm as his home; his teachings should reach everywhere. In particular, the various commanderies in Puding are close to China (Zhongguo), so it is truly praiseworthy for you to come and pay audience with admiration for righteousness. Now, after you return, you should notify various chieftains that all their children shall be ordered to enter the Directorate of Education to receive instruction. Thus, they will be taught the ways of ruler-minister, father-son, and matters of ritual, music, and transformation. Later on, when they complete their schooling and return [to their native places], they can transform the local aboriginal customs, making them identical to that of China. Isn't this beautiful! (TS, 2366)

Zhee did send his son and fifteen other young people from his ethnic group to the Ming capital to pursue Chinese learning.²⁹ For Zhu Yuanzhang, although non-Han peoples had become subjects of the Ming court, they were still not accepted as an integrated part of “China.” He saw it essential to transform the ethnic minorities into cultural Chinese.

To educate non-Han peoples more effectively, the Ming court had Confucian schools established in areas under aboriginal offices, and required that these schools send non-Han students to the imperial Directorate of Education in Nanjing. In fact, the Ming court had considerable difficulty in changing non-Han cultures. For instance, when the Confucian school instructor of Xincheng District, Guangxi, reported to the court that the local Yao students had only just begun their rudimentary studies and could not be promoted to the Directorate of Education, Zhu Yuanzhang had to suspend this requirement and exempt the school from sending “tribute students” (*gongsheng*) to Nanjing.³⁰ In 1393, the emperor simply closed down the Libo District, Guangxi, Confucian school because the “barbarian languages” of the Miao and Yao students were so difficult to understand that the students

could not be taught (TS, 3277). In general, however, the Hongwu court made continuous efforts to establish educational institutions in non-Han areas. In 1395, toward the end of the Hongwu reign, because the aboriginal officials of the Lolo people in Yunnan and Sichuan areas were still not clear about the way of “Three Bonds and Five Constants,” Zhu ordered the Ministry of Rites to build Confucian schools and recruit the local officials’ children. The emperor regarded this as a crucial way to bring peace to the frontier regions, and hoped that the local people would “know the principle of ruler-minister and father-son and not make trouble by violating rituals and fighting one another.”³¹ In the cultural frontier regions, the Ming adopted a proactive policy to transform non-Han peoples.

Toward foreign peoples beyond Ming political control, the imperial court adopted a different strategy: defending the borders. The Ming ruling elite, of course, also endeavored to transform the cultural identities of the “outer barbarians”—especially their foreign neighbors—as they did for the non-Han peoples within Ming territory. With this end in view, the Ming court accepted foreign students into the Directorate of Education (MS, 8362), authorized the Chinese civil service examination system in foreign countries (MS, 8280, 8310, 8362), and even performed sacrifices to foreign mountains and rivers.³² These cultural measures, however, only represented a secondary aspect of Ming foreign policy; the predominant goal was to guard the borders and protect the security of the Ming regime and the purity of Chinese civilization. This policy was forcefully expressed in the abovementioned imperial instructions designating that fifteen neighboring countries should not be invaded (Wang 1998, 311–13). Although the Ming envisioned a unified “all under Heaven” with China as the superior nucleus, they sensibly chose to observe the boundaries existing between them and their foreign counterparts.³³

In short, the early Ming ruling elite drew two boundary lines to structure the human realm: the internal boundary between Han and non-Han peoples within the empire, and the external borderline between the Ming and foreign countries. These two lines marked off three cosmological regions: cultural China—Zhongguo (the Central Kingdom), geographical China—the Ming, and foreign lands. Within each domain, the Ming engaged in a different mission. In “cultural China,” the cultural and political core of the empire, the Ming focused on the mission of purifying Chinese culture. In the Ming empire that included “inner barbarians,” the Ming endeavored to transform non-Han cultures in line with Han values, also making allowance for a tremendous degree of cultural and political autonomy among these non-Han peoples. In the third region, foreign countries, while the Ming

claimed the unity of “all under Heaven” and occasionally made efforts to spread Chinese values, the focal point of its policy was to defend the borderlines and protect Chinese civilization from pollution or even destruction by alien forces. *The Great Ming Code* was envisioned as an essential instrument for furthering imperial policies on these boundaries.

DEFENDING THE BORDERLINES OF THE MING EMPIRE

The territorial boundaries between the Ming empire and the rest of the world were neither clear nor stable. The aforementioned borderline settlement efforts made by the Ming with Annam and Korea were very rare events. For the most part, the boundaries demarcating the Ming and their “others” were often indefinite and in constant flux. In essence, the mechanisms separating the Ming from other societies were not “boundaries,” lines demarcating different political domains, but borderlands, the regions where different peoples and cultures interacted (Prescott 1987, 12–14; Martinez 1994, 5). Nevertheless, the Ming government did reinforce a great number of physical locations—frontier passes—along the border regions to demarcate the different spheres.³⁴ To the Ming ruling elite, frontier passes were symbolic as well as physical points between “civilized” China and the contaminating “barbarian” worlds (BLPX, *juan* B, 1a). They were the very places where danger might enter China, threatening the purity of their civilization and the security of the realm (Douglas 1966, 114–28). Hence, there is a considerable body of regulations in *The Great Ming Code* on safeguarding frontier passes.

From a legal point of view, the Ming was a closed realm in that except for a limited number of government emissaries, very few people were allowed to cross frontier passes and enter foreign lands. In the *Code*, the crime of crossing domestic passes without authorization was divided into “private” (without a travel permit), “circumvention” (not crossing through post gates), and “deceitful” (using others’ travel permits to cross the passes). For the act of crossing a frontier pass, however, only the crime of crossing the passes by “circumvention” was stipulated; the other two situations were nonapplicable—no ordinary people were allowed to leave or enter the country and thus no travel permits were involved in crossing frontier passes. After all, the frontier passes leading to foreign territories were “different from domestic passes where [people] may go out or come in” (JJFL, 1178). In the *Great Ming Code*, passing domestic passes by circumvention was punished by ninety strokes of beating with the heavy stick; whereas passing frontier passes by

circumvention was punished by one hundred strokes of beating with the heavy stick and penal servitude for three years, six degrees heavier than for the former. Those who entered a foreign territory were sentenced to strangulation (Art. 241). In justifying such a harsh penalty, a model verdict for *The Great Ming Code* reads:

Establishing important posts is to defend the dynasty; watch towers and guard moats lie along the borders connecting the barbarians and Chinese. Building passes is to oppose violent enemies; languages and clothes strictly mark the differences and similarities [between the barbarians and Chinese]. (XSJH, 6.1a; ZPZZ, 7.2a; BLPX, 2.11b)

The concern over boundaries seems twofold. One is dynastic security: since frontier passes connect different countries, communication at such points might threaten the stability of the Ming empire. Indeed, a model notice for the *Code* specifically mentions the potential collusion between runaway Chinese soldiers and artisans with foreigners beyond the frontier passes. “Their communications,” it says, “will cause great calamities in the future, against which serious precautions should be taken” (ZPZZ, 7.2b). The second purpose of the rule concerns separating the values upheld in the opposing regions. Here, the symbolic codes of language and clothing played an important role. People on either side speak and dress differently; their mingling is liable to blur the distinction between different value systems and thus pollute the “civilized” Ming realm. The significance of the rule, therefore, is to produce and maintain difference between the Ming and the outside world.

But the *Code* leaves an issue unaddressed: how should the law deal with ethnic Chinese already living beyond the frontier passes? Right after driving away the Yuan forces, the Ming continued the old administrative divisions and governed the Chinese along the northern frontiers with civilian prefectures, districts, and military garrisons. In 1371, the government abolished the prefectures and districts outside the passes and relocated almost seventy thousand civilian and military households to the interior, especially in the Beiping area. During the Hongwu reign, however, there were still three major Ming military regions operating outside the northern frontier passes: Wanquan Regional Military Commission beyond the Juyong Pass but inside the present-day outer Great Wall; Beiping Regional Military Commission outside the present-day outer Great Wall; and Liaodong Regional Military Commission outside the Shanhai Pass in Liaodong Peninsula.³⁵ If people in the interior were prohibited from going through the frontier passes, were Ming subjects outside the passes allowed to come in? While the *Code* is

ambiguous about this, the “Collected Explications” (Huijie) provides a clue: “If military personnel and civilians outside passes such as the Juyong and Shanhai passes flee back to the interior, they shall be punished according to the law on crossing frontier passes by circumvention” (JHXZ, 6.1a; XSJH, 6.1b). According to this interpretation, Ming subjects outside “China” were also prohibited from coming back through the frontier passes, although the punishment was less severe than for going out. The boundary separating the Ming empire and the outside world marked by frontier passes was thus a barrier for Ming subjects on either side. That the Ming people beyond the passes were not allowed back is probably not due to their possible status as outsiders, but because the passes had failed to function as a protective screen against foreign peoples in the borderlands. At any rate, by punishing both going out and coming in, the *Code* drew land boundaries to define the inner and outer world for the Ming.

More serious is the act of leaking important information to foreigners. If someone knew that the court was transferring troops to attack foreign countries and divulged that information, which eventually reached the enemy, even though he had had no intention of aiding the enemy, he would still be punished by decapitation. To divulge important military information that was then reported by frontier generals to the enemy (Art. 70) would also merit punishment. The *Collected Commentaries* explains that divulging important military information to foreigners is an act of “betraying the dynasty and associating with enemies,” which will make “them” prepared and make “us” accomplish nothing (JJFL, 499).

Those who intentionally transmitted important information to enemies would be punished as spies. The *Collected Commentaries* defines spies as either “Chinese” (*Zhongguo ren*) who go out of the country to leak information or “foreign invaders” who enter China to fish for information (JJFL, 1192–93). It appears that in either case, the nature of the crime was defined by the borderline: only those who crossed that demarcating line would be punished as “spies.” According to the *Code*, spies, along with those who guide them and make plots, would be decapitated (Art. 245) with no distinction between principals and accessories. In 1388, a person in Wenzhou who bought *Aquilaria agallocha* (chenxiang) from a Siamese envoy was almost executed on the charge of “communicating with foreign barbarians” (TS, 2815). In 1395, a frontier general was sentenced to death for receiving a horse from foreigners (TS, 3470–71). It is no surprise then to see Hu Weiyong’s fate when charged with, among many other offenses, colluding with the Japanese and Mongols (MS, 7906–8; Wu 1934).

The legal responsibilities of frontier garrison officers and soldiers are also specified in the *Code*. Generally speaking, the military personnel at frontier garrisons were responsible for two kinds of duties: checking authorized passengers in peacetime, and defending the borderline during times of war. In the former case, they were not to allow people to cross the border without authorization or trade prohibited articles with foreigners; nor could they let enemy agents leave or enter the empire to divulge or seek information. If these events did happen, no matter whether the guarding officers or soldiers had collaborated with the offenders, or had been negligent in carrying out their duties, they would still receive the death penalty (Arts. 241, 245, 246). For frontier defense, the guarding officers and soldiers were required to request military supplies, including weapons, money, and grain, in a timely manner. Any delay in requesting frontier supplies resulting in miscarried military operations merited decapitation (Art. 224). If, in the face of the enemy, the commanding officers did not tenaciously defend their positions, watchmen on the heights or on patrol did not swiftly report on the enemy's situation, or soldiers did not fight the enemy and fled, resulting in the loss of fortified positions or the capture of people inside the realm, the offenders would also be decapitated (Art. 228). In the *Collected Commentaries*, the frontier regions are regarded as so important that commanding officers had to fight to the death in defending them. In other words, only when the fortified garrisons were guarded firmly, with strict precautions taken, could foreigners be kept outside the borderline, the dynasty remain at peace, and Chinese civilization be preserved (JJFL, 1105–6).

Article 229 of the *Code* specifically forbids pillaging by Chinese troops:

1. In all cases where generals who guard the frontiers, without receiving commands, privately order troops to capture people or seize property beyond the borders, they shall be punished by one hundred strokes of beating with the heavy stick, be dismissed from office, and sent into military exile.
2. If soldiers, without receiving orders from their immediate superior officers, privately engage in pillaging beyond the borders, the principals shall be punished by one hundred strokes of beating with the heavy stick, and the accessories shall be punished by ninety strokes of beating with the heavy stick. If, [as a result of pillaging, foreign] persons are injured, the principals shall be punished by decapitation, and the accessories shall be punished by one hundred strokes of beating with the heavy stick. [The accessories to pillaging in which foreign persons are injured and the principals and accessories who do not injure foreign persons shall] all be sent into military exile. If the immediate superior officers do not control their

troops strictly, they shall be punished by sixty strokes of beating with the heavy stick and be returned to service with their transgressions recorded.

4. For those who engage in pillaging within territories that are attached to the realm, they shall all be decapitated without distinction of principals and accessories. If the immediate superior officers do not control [their troops] strictly, each shall be punished by eighty strokes of beating with the heavy stick and be returned to service with their transgressions recorded.

This article articulates several noteworthy points concerning the borderline. The first is the general attitude toward territorial expansion. If the Ming government can arguably be viewed as an inward-looking regime,³⁶ it was Zhu Yuanzhang who laid the foundation for this policy. As noted at the outset of this chapter, among the many factors contributing to this policy, the Ming perception of the world order may have been decisive. As early as 1371, instructing his court officials during an audience, Zhu cited the example of Emperor Yangdi's expedition to Ryukyu during the Sui Dynasty (581–617) to illustrate the point that "barbarian" lands were not adequate sources of supplies, nor could "barbarian" peoples supply adequate labor services, so it was ridiculous to launch military expeditions against them (TS, 1277–78; Lo 1970, 156). Many years later, in his *Ancestral Instructions of the August Ming* (Huang Ming zuxun, 1397), Zhu further warned his descendants:

The barbarians roundabout are hemmed in by the mountains and the sea, isolated in out-of-the-way corners of the world. Although they have land, the land is insufficient; although they have people, the people are difficult to control. (Farmer 1995, 119)

Based on his ethnocentric worldview, Zhu regarded expansion beyond the border of Chinese civilization as worthless. For him, the best policy was to train troops and to take precautions against outsiders. Therefore, when Zhu listed seventeen countries against which the Ming should not launch military campaigns,³⁷ the policy was formulated in terms derogatory to foreign peoples. Zhu's *Ancestral Instructions* serves as a family law that is binding for successive dynastic rulers, while the article "Allowing Troops to Pillage" in the *Ming Code* is a piece of regulation that restrains the general populace; however, both are based on the perception of spatial hierarchy in the cosmos. The no-attack clause in the *Code* functions as a special means to create a barrier between the Ming realm and outsiders.

A second noteworthy point in Article 229 is the harsh penalty—decapitation—for soldiers who injure foreigners while pillaging (see section two).³⁸

In the *Code*, injuring others normally entailed a range of penalties: the lightest was thirty strokes of beating with the light stick, and the heaviest, one hundred strokes of beating with the heavy stick and life exile to a distance of three thousand *li* (Art. 325). Why was injuring foreigners punished more severely than injuring the Chinese? The answer has to do with the boundary line concept. In *Ancestral Instructions*, Zhu admonishes his descendants that if foreigners do not pose a threat to China, “should we rashly send forces to attack them, it will be inauspicious for us” (Farmer 1995, 119) because external expansion would inevitably cause human death and economic loss. The *Collected Commentaries* on the *Code* also explains that the ideal way to control “barbarians” is to resist when they come, but not give chase when they go. It would be dangerous to commence hostilities along the border regions (JJFL, 1115; DLSY, 254). The “Collected Explications” adds that if pillaging foreign territories leads to hostilities along the frontiers, causing damage to the Ming, the offenders will be punished by decapitation according to the law on “provoking honorable persons to revolt” (JHXZ, 5.12a). Throughout the Hongwu reign, Zhu Yuanzhang remained cautious about sending troops on military expeditions.³⁹ In 1397, for example, he was annoyed to learn that the local chieftains in Changhexi and Dajianlu areas (in present-day Sichuan Province) had been “polluted” (*wuran*) by a Mongol leader named Yuelu Tiemu'er and did not pay tribute to the Ming court. Although those two places were right on the border of the Ming empire, Zhu still hesitated to use force. Instead, he ordered officials at the Ministry of Rites to write a letter of reprimand warning the local leaders (TS, 3630–31). The stipulation in the *Code* seems consistent with his concern to avoid making trouble beyond the borderline. By offering foreigners “preferential” legal treatment, the *Code* controls “insiders” so as to protect the realm.

A third point to note in Article 229 is the distinction made between “foreign territories” and “areas that are already attached to the empire”—another way to signify the separation between insiders and outsiders. Sections one and two severely punish those who pillage outside the empire, but section three imposes even harsher penalties on those who pillage within newly attached areas. The *Collected Commentaries* explains that territories outside the borderline, after all, still belong to enemy countries; by prohibiting pillaging in these areas, hatred would not be engendered. Those living in attached areas, however, were already “our people”; pillaging them would deter others from submitting to the dynasty. Thus, these two crimes did not elicit the same punishment (JJFL, 1118). It seems clear that this particular article in the *Code* reveals the basic Ming viewpoint on creating boundaries, which might have

strengthened the perceived distinction between China and other countries.

To be sure, as a land-based power, the Ming set frontier defense as a crucial part of its foreign policy (Lo Jung-pang 1970, 155–61). Zhu Yuanzhang once pointed out that overseas “barbarian” countries were far away at the ends of the world, hence could not constitute a serious threat to China. It was the Mongols along the northwest frontiers who had been dangerous for generations, and against whom preventive measures should be taken (TS, 1277–78). That does not mean that the Ming ignored danger from the seas. In order to maintain an intact boundary for Chinese civilization, much energy was spent in strengthening coastal defenses. Indeed, coastline fortification had worried the early Ming ruling elite ever since the dynasty was founded. A major measure they took was to establish garrisons and build up marine troops to defend coastal areas (TS, 2986–87, 3412; MS, 2243–44). In the course of building up coastal defenses, harsh laws were often applied in order to keep frontier military personnel diligent. Zhu believed that it was largely due to lack of strict precautions that pirates had been able to invade and pillage coastal areas (TS, 3444). Any generals who failed to expel these bandits should be decapitated in public markets as the *Code* stipulated.⁴⁰ In Guangdong Province, for instance, a garrison commander and some of his subordinate battalion commanders encountered pirates while out patrolling the ocean. They were so frightened that they did not attack the enemy, causing government troops to suffer casualties. The officers responsible were all executed (TS, 3573).

Controlling the flow of goods across the border was another important item in the *Code*. Trading with foreigners proved to be a tough issue for the Hongwu court to regulate, because the Ming allowed foreign trade in certain markets, but wanted to keep this activity under control. While the Ming permitted foreigners to come to China to engage in commerce, they strictly forbade the Chinese to go abroad (TS, 3640; MS, 2243). Along land borders, the Ming established tea and horse markets (Serruys 1975), and various peoples from Inner Asia came to exchange horses and other items for Chinese products (TS, 3611–12). But the Ming always tried to manage matters on their own terms. In 1391, for example, the chieftain of Hamili in the Western regions sent an envoy to the Ming, petitioning to trade in horse markets in the Shaanxi area. Zhu Yuanzhang instructed the Shaanxi regional military commander:

Barbarians are crafty and deceitful. When they want to exchange goods, how do you know they do not intend to spy on China? If we seek the small gain of horses

but do not take precaution against danger, we definitely stand to suffer great losses. (TS, 3087)

Thus, Zhu refused Hamili's request due to his perception of the mean nature of foreigners and his concern for dynastic security.

A year later, the Ming started to prohibit Muslim merchants from entering Gansu City; they could only engage in commercial transactions thirty *li* away, outside the city limits. The reason was the same—Zhu suspected that foreign merchants might come to spy on China (TS, 3180–81). Zhu Yuanzhang's suspicion indicates that the Ming regulated foreign trade more in terms of cultural and political values than in view of economic profit. The desire for material gain was secondary to fear that the borders would be penetrated.

Likewise, the Ming tried to impose tight controls over trade with overseas countries (Ch'en 1966, 34–39). During most of the Hongwu period, the Ming received tributary overseas trade at three ports: Ningbo in Zhejiang for trade with Japan, Quanzhou in Fujian for Ryukyu, and Guangzhou in Guangdong for trade with Champa, Siam, and all the western ocean countries. These commercial transactions were supervised by government "maritime trade supervisory bureaus" (*shibo tiju si*), whose function was also primarily cultural and political—"to collect information on barbarians, repress evil merchants, enforce law, and thereby prevent strife" (MS, 1980). The sense of separation between insiders and outsiders was so strong that it was extensively institutionalized in foreign affairs management. In the later years of the Hongwu reign, the court even abolished maritime trade supervisory bureaus, reiterating the injunction that coastal residents and defense military personnel should not communicate with foreigners (*ibid.*). In 1389, a peasant in Shaoxing prefecture falsely accused his lineage head of privately going to sea to trade. The peasant was punished in accordance with the principle of "reciprocal retribution" (*fanzuo*) (TS, 2967–68).

While the *Ming Code* prohibited Ming subjects from going to sea, it permitted overseas merchants to come to trade (Art. 166):

In all cases where maritime merchants land at ports in ships, they shall immediately make accurate reports to the government concerning all the goods on which taxes will be levied in certain portions. If they go to and stay at the houses of local merchants or brokers and do not report this, they shall be punished by one hundred strokes of beating with the heavy stick. If they have reported but do not report completely, the penalty shall be the same. The goods shall all be forfeit to the govern-

ment. Those who let [these merchants] stay and hide their goods shall be punished the same. For those who report such matters and catch the offenders, the government shall give them twenty *liang* of silver as reward.

The key point for understanding this article is the “maritime merchants” (*fanhai keshang*; lit., “traveling merchants who sail the seas”): are they Ming subjects or foreigners? The *Code* is vague on this issue, and the various commentaries do not provide consistent answers. In the commentaries that address this issue, there are four interpretations. The first position explicitly points out that “maritime merchants” means Chinese carrying foreign goods back to the Ming to trade who fail to pay taxes to the government.⁴¹ The second viewpoint implies that the merchants are foreigners.⁴² The third interpretation unequivocally views the merchants as foreigners who “come by sea” (*fanhai er lai*); the purpose of the law is not only to procure revenue but also to inspect the “foreign barbarians.”⁴³ And the fourth explanation holds that the term denotes both Chinese merchants who go overseas and foreign merchants who come to China (Ogyu 1966, 252). It seems likely that “maritime merchants” used in reference to foreigner is more likely. For one thing, the general spirit of the *Code* forbids Ming subjects from going abroad either via land passes or seaports. For another, Article 166 contrasts maritime merchants with “local merchants and brokers,” which seems to distinguish foreigners from Ming subjects. Therefore, the foreignness of the merchants defines this special article, which is designed to protect dynastic revenues, and also to “maintain strictly the distinction between China and foreign barbarians.”⁴⁴

The Great Ming Code also provides a specific article to punish those bringing prohibited objects across either land or maritime boundaries:

In all cases of taking horses, cattle, iron articles for military use, copper cash, satin, or silks, and, without authorization, crossing frontiers or going to sea to sell [them], the offenders shall be punished by one hundred strokes of beating with the heavy stick. For bearers or carters, the penalty shall be reduced one degree. Goods, wagons, and ships shall all be forfeit to the government. Divide all the [confiscated] property into ten portions: three portions shall be given to the accusers as a reward. For those who take persons or military equipment and cross frontiers or go to sea, they shall be punished by strangulation. If they consequently leak information, they shall be punished by decapitation. If officials in charge of detaining the offenders or those who guard [the checkpoints or fords] collude with the offenders and secretly carry the items, or know the circumstances and deliberately connive at the actions, they shall be punished by the same penalty as that for the offenders. If they are negligent

in discovering the matters, the penalty shall be reduced five degrees. The punishment shall be limited to one hundred strokes of beating with the heavy stick. For military soldiers, the penalty shall be reduced by one more degree. (Art. 246)

One cannot but notice the comprehensiveness of this article in dealing with illegal border-crossing trade. It lists contraband objects, covers both land and maritime frontiers, punishes criminal accessories as well as principal offenders, reiterates the problem of spying (leaking information to foreigners), specifies the responsibilities of civil officials and military personnel, and rewards accusers. Contraband objects are also relegated to a few important categories: persons not only as human resources but also as Ming subjects, strategic materials concerning dynastic security such as military equipment and horses, key economic elements like cattle and currency, and important trade items symbolizing both temporal and spiritual hierarchy like silk. This detailed regulation testifies to the importance of the cross-boundary flow of objects.

Various commentaries on the *Ming Code* articulate the purpose of this regulation. The essence of this rule, according to them, lies in protecting the boundary separating the Ming from the outside world. First, on a material level, an act is criminalized simply because the prohibited objects should be utilized by the “Central Kingdom” (Zhongguo) and should not be exported to aid “foreign countries” (JJFL, 1197). Second, in terms of frontier defense, the offenders “view barbarian countries as marketplaces and communicate with them to collect property, and confuse barbarian territories with the country of the Central Plain (Zhongyuan) and trade with them to make profit.” The profit-seeking act blurs the “distinction between barbarians and Chinese” and thus causes a collapse of defenses (XXBJ, 14.5b). Third, from a cosmological viewpoint, “although it is magnificent for the dynasty to unite all within the four seas into one family, the ‘great boundary’ (*daxian*) between China and barbarians marks the most significant distinction within the cosmos” (ZPZZ, 7.10b). “China and barbarians are not the same; their languages are also different. It is an immutable principle [for the outsiders to] come and pay tribute, but it is against the law to communicate with them.” The *Code* serves as an important weapon to maintain the distinction and “transform” the criminals (ZJQS, 7.8a–9a). The jurists of the Ming, therefore, maintained that these transgressors were guilty of blurring the boundary line demarcating insiders and outsiders.

In fact, contraband objects were not limited to those listed in the preceding article; the list could be expanded under certain situations. In the early

part of the Hongwu reign, for example, because Zhu Yuanzhang accused people from overseas of having a “crafty nature,” the Ming conducted maritime trade only with the Ryukyus, Cambodia, and Siam. Consequently, a large number of people along the coast went to sea to obtain foreign goods like incense; this allegedly lured foreigners to pillage the coastline. In 1395, in addition to reiterating the ban on maritime trade, the Ming court issued the prohibition that no one was allowed to buy or sell any foreign goods, especially foreign incense; those who still possessed the product should destroy it within three months; in praying to deities, people should only use incense made of pine, cypress, maple, or peach; and, finally, the incense produced in south China should not be brought to the east coast and the north to sell, for fear that foreign *Aquilaria agallocha* might be mixed with local products and sold (TS, 3373–74). In making the prohibition, the Ming government initiated a dynasty-wide boycott on foreign goods; again, this boycott was based on concern over the boundary.

The prohibition of tea-smuggling is another case in which the Ming government added new meaning to its borderline defense. From the Tang onward, the Chinese empire had carried out a tea and horse trade policy as a way of controlling peoples to the north and west of China (MS, 1947). The Ming inherited this tradition. Zhu Yuanzhang believed that from antiquity, “to be strict in distinguishing the Chinese and barbarians” had been a crucial way to govern the realm. In his eyes, the “barbarians” were insatiably avaricious. If they could not be controlled by certain means, they would invade and insult China and cause trouble along the frontiers. The tea and horse trade was one means of curbing foreigners (TS, 3619). Around 1397, a crisis broke out in the tea-horse markets along the southwest borders: a large quantity of tea had been smuggled out of China, causing a dramatic decrease in tea prices and an increase in horse value. When sending supplemental military forces in to tighten controls, Zhu repeatedly admonished the frontier officers: the tea-horse trade was by no means instituted for the purpose of economic profit; rather, it was a way to subdue the “barbarians” (TS, 3619, 3629–30, 3635–36). As an outcome of this crisis, a number of corrupt officials were severely punished for smuggling tea, including one of the emperor’s sons-in-law, Ouyang Lun, who was ordered to commit suicide.⁴⁵ In the *Ming Code*, smuggling tea entailed a penalty of one hundred strokes of beating with the heavy stick and penal servitude for three years (Art. 163). When it involved frontier defense, however, capital punishment was the standard remedy.

In short, land passes and seaports institutionalized the boundary between

the Ming empire and the outside world, although the Chinese Son of Heaven claimed to be the ruler of “all under Heaven.” *The Great Ming Code* defended this demarcation line by cutting off all unofficial interactions on either side. This defensive policy not only protected the sociopolitical interests of the Ming empire, but also retained the hierarchical order of the cosmos and articulated the Ming’s ethnocentric worldview.

EXPANDING “INNER ZHONGGUO”—CULTURAL CHINA

As noted earlier in this chapter, “cultural China” (Zhongguo, the Central Kingdom) was different from “geographical China” (the Ming empire). Cultural China was a conceptual mix of both geographic and ethnic elements. Geographically, it contained the Ming provinces in the northern Central Plain, the Jiangnan area, and the Xi River valley. Ethnically, it mostly included the empire’s Han Chinese. For the early Ming ruling elite, cultural China was the real “China,” a core area carrying the essence of Chinese civilization; thus, they considered it their mission to expand cultural China by disseminating Han Chinese values.

If the Hongwu government was primarily defensive in its border policies, it took the offensive on the frontiers between the Han Chinese and non-Han minorities within the empire. The aggressive legal policy of the Ming toward ethnic minorities is articulated in Article 36 of *The Great Ming Code*—“Committing Crimes by Persons Outside the Pale of Civilization (*huawai ren*)”: “In all cases where persons beyond the pale of civilization commit crimes, they shall all be judged in accordance with the *Code*.”

Central to this article is the status of “*huawai ren*”: who are the “persons beyond the pale of civilization”? The concept of “*huawai ren*” is first found in the *Tang Code*, where it is officially interpreted as “foreigners” from “barbarian countries.” Their treatment under Tang law was differentiated: those of the same nationality who commit crimes against each other would be handled according to their own customary laws, while those of different nationalities would be dealt with by Chinese law (TLSY, 133; Wallace Johnson 1979, 252). The Ming concept of “*huawai ren*” was never officially explained. Although some Ming jurists defined it broadly as “foreign barbarians,”⁴⁶ most extant commentaries on the *Code* point out that *huawai ren* refers to two groups of people: they are either “foreign barbarians” (*waiyi*), such as the Mongols or *semu ren* (peoples of various ethnic backgrounds who assisted the Mongols during the Yuan in north China) who surrendered to the Ming

dynasty, or “barbarian bandits” (*yikou*) who were captured by the Ming, both of whom made their homes in the Ming empire.⁴⁷ Hence, *huawai ren* were the non-Han peoples, either those from foreign countries or within the Ming empire, who had been incorporated into the Chinese political sphere. According to some commentaries, when they were treated under Chinese law, the *Code* was designed to achieve two goals. The first was symbolic: by submitting to Ming authority, the “barbarians” could transform their status and become Ming subjects; the Chinese Son of Heaven would then apply the law impartially to demonstrate that “the universal ruler will treat no one as an outsider” (*wangzhe wuwai*).⁴⁸ The second purpose was political: for the “barbarians,” if the law were too lenient, it would be difficult to subdue their hearts; if the law were too harsh, they would not appreciate imperial grace (JS, 322). Applying *The Great Ming Code*—the fundamental law of the dynasty, then, was the most effective way to subjugate “political converts.”

In essence, by excluding foreigners from “*huawai*” (beyond the pale of civilization), the *Code* altered the term from a dominantly geopolitical concept (as seen in the *Tang Code*) to a cultural one. In defining *huawai ren*, geography still mattered: they were subjects of the Ming ruling house residing within the territory of the Ming empire, even though some of them might have lived outside the Ming political domain before. In addition, many of them lived in their own communities with their own administrative boundaries. Nevertheless, the most important factors in defining them had to do with ethnicity and culture. It did not matter where they lived; as long as they were ethnically non-Han and had non-Han cultural values and practices, they were “beyond the pale of civilization.” The boundaries of civilization were no longer identical to the dynastic borderline connecting foreign territories. Instead, they could exist anywhere in the Ming realm. Any household or community of *huawai ren* was considered a “barbarian” domain interacting with Chinese civilization. The boundary separating “barbarian” and Chinese domains was both symbolic and real, essentially ethnic and cultural in nature. Of the two elements, ethnicity and culture, the latter seems more significant. The ethnically non-Han people might expunge their “barbarian” nature by accepting Chinese cultural values and practices, thus removing their *huawai ren* label. *Huawai ren*, therefore, were those outside of “cultural China” who were targeted by the Ming court to accept Han culture. The application of *The Great Ming Code* to non-Han peoples reveals the central government’s intention of expanding the Han cultural sphere. By subjecting non-Han ethnic groups to Ming legal authority and judging law cases among non-Han peoples in accordance with Han Chinese cultural criteria, the *Code*

aimed to transform the “barbarians” into “insiders” and facilitate the outward expansion of “cultural China.”

The effort to expand “cultural China” is more vividly evinced in Article 122 of the *Code*, which forces Mongols and *semu ren* to marry Han people:

Mongols and *semu* people shall marry with Chinese persons. (It is essential that both parties be willing.) They shall not marry within their own race. Any violation shall be punished by eighty strokes of beating with the heavy stick, and both men and women shall be enslaved by the government. If Chinese persons do not wish to marry Qinchu Hui Muslims, the latter may marry among their own race; the above prohibition shall not be applied.

The commentaries on the *Code* provide several reasons for enforcing interracial marriage between Mongols, *semu ren*, and Han Chinese. One line of argument involved dynastic security. The *Collected Commentaries* states that since the Yuan rule, Mongols had scattered throughout the country and would be a continuing presence. It was necessary to forbid them from marrying among their own kind in order to prevent their numbers from growing. As for the Qinchu (or Qipčy) Hui Muslims (Qinchu huihui), they were unattractive—with curly hair, big noses, and dark-green eyes—so the Chinese might not be willing to marry them. They were allowed to marry among their own people to keep their race from becoming extinct. This harsh, yet also lenient, law authorized “loose-rein” control over the “different races” (*yilei*) (JJFL, 710–11). A second explanation has to do with cultural values. He Guang’s *Lüjie bianyi*, for example, holds that the purpose of this rule is twofold. One is to transform the “barbarians” with “Chinese influence.” A powerful institution, interracial marriage was supposed to make the “barbarians” dress in Chinese clothing, practice filial and fraternal values, live with propriety and righteousness, and thus submit to the Kingly Way. Another intention was to prevent the “barbarians” from polluting Chinese customs: if the “barbarians” were allowed to intermarry, He Guang asserts, the Chinese might end up following their customs and running the risk of succumbing to their influence (LJBY, 105; also LFQS, 3.34b). The basic assumption was that these interracial marriages would all accord with Chinese values, customs, and rituals. Living among the Chinese, Mongols and *semu ren* would be gradually influenced by what they saw and heard daily in the higher civilization, and have their “evil hearts” (*feixin*) transformed (XSJH, 3.38a; ZPZZ, 3.54b).

What does this article suggest about boundary-building in the early Ming?

When the *Code* enforced interracial marriage between Mongols, *semu ren*, and Han Chinese, did it create or blur their boundary line? In order to create and maintain an ethnic and cultural boundary between the Mongols and Han Chinese, what the Mongol rulers—the Ming’s predecessors—had done during the Yuan dynasty was precisely to adopt a dual legal system: they applied different laws to Mongols and Chinese, respectively.⁴⁹ In embracing the opposite strategy, what did the Ming have in view? It seems that the intended goal of enforced interracial marriage was not to blur, but rather to expand the boundary of “cultural China.” The key issue here is the criterion by which the boundary is established: it is the Chinese value system and lifestyle that determines the nature of the different domains. When Mongols and Han Chinese intermarried, they were supposed to observe Chinese rather than Mongol values and practices. In time, the Chinese values would supposedly prevail, while the foreign ones died out. Indeed, one model verdict on the *Code* puts forward historical instances to support such a position: both the Qin and Wu were “barbarian” states in ancient times; by marrying Chinese, they were eventually transformed, becoming Chinese. Although Chinese and “barbarians” were different “kinds,” the institution of marriage could achieve “great [cultural] harmony” (LMBJ, 2.65a). The Ming assumed that the powerful Chinese civilization would transform foreign customs, rather than the other way around. If, on the contrary, Mongols were allowed to marry each other, their customs would not only survive, but also influence the Chinese, just as levirate marriages, where a younger brother inherits his older brother’s widow or a son inherits his father’s secondary wives, had during the Yuan and early Ming (Holmgren 1986; Birge 2002, 201–8). Therefore, human beings were secondary to cultural values in determining the boundary between the Mongols and Chinese. By establishing interracial unions and enforcing Chinese cultural values, the *Code* was designed to erase ethnic differences and make the Mongols and *semu ren* become Chinese, thus enlarging the Chinese domain.

Here, a related issue emerges: Mongol “pollution.” Generally speaking, the Ming considered the Mongols a source of cultural pollution (TS, 401–4, 1351–54) and frequently launched military expeditions in an attempt to destroy their forces (MS, 24, 45). They banned Mongols from changing their names, fearing that they might mix themselves with the Han but still harbor malicious intentions (TS, 999–1000, 1815–16). In 1372, the year when the Ming issued the order urging Mongols and *semu ren* to marry the Chinese,⁵⁰ they also sent troops along three routes to attack the Mongols in Mongolia, and condemned the Mongols for “polluting” Chinese civilization (MS, 26–27).

Moreover, one of the crimes with which the famous general Lan Yu (DMB, 788–91) was charged was that of having sexual intercourse with and being “polluted” by a Yuan imperial consort. Hence the question: When the early Ming ruling elite endeavored to transform “barbarians” by encouraging intimate ethnic interaction, did they not fear that the Han Chinese might eventually be “polluted” by foreigners?

Multiple factors may have led to their assimilation policy. For one thing, the Ming claimed to be the rulers of the whole human race, and could incorporate the Mongols into the Ming empire—as long as they knew Chinese rituals and righteousness and were willing to subject themselves to Chinese rulership (TS, 404, 1000). In 1378, when twenty-five former Yuan officials were captured at Liangzhou garrison, Zhu Yuanzhang instructed the garrison officers:

Human nature can be taught to be good. And it is an age-old practice to use the Chinese to transform barbarians. Captured former Yuan officials and others who have surrendered should be moved inward to be immersed in the education of our Chinese sages. Gradually, they will come to follow rituals and righteousness, and abolish their old customs.⁵¹

Zhu saw in it a necessary measure to transform ethnic minorities with Chinese values and customs. He seems to have been confident that in the course of ethnic intermarriage, it was the Chinese who would change the ethnic minorities, not the other way around. With the same purpose, he ordered officials to compile the *Chinese-Mongolian Dictionary* (Huayi yiyu), a dictionary in which Mongolian terms were translated into Chinese and organized according to the Chinese Heaven, Earth, and human beings worldview (Huo 1993; TS, 2223–24). With this, the Chinese had an effective tool for understanding and transforming the Mongols.

A second factor concerns the perceived cultural “closeness” between the Mongols and Chinese. Although the Mongols were considered “contaminating,” as the rulers of China for about a hundred years, they were the only “barbarians” who were accepted by the Ming as “true men” (*zhenren*) chosen by the Mandate of Heaven (YZWJ, 21). Edward Wang (1999, 303) finds that in the early Ming version of Yuan history, “the center-periphery relation was not determined along ethnic lines, but decided by the realpolitik arrangement.” In fact, the Ming not only accepted the reality of Mongol rule and acknowledged its temporary legitimacy in Chinese history, but also believed that, after nearly a century of acculturation, the Mongols and *semu ren* had

become culturally closer to the Chinese than other foreigners (ZPZZ, 3.54b). Even for the Qincha Muslims who were allowed to marry among themselves under the *Code*, some Ming jurists maintained that these “barbarians” had lived in China for many years, so their customs had been transformed by the Chinese. If the Chinese were willing to marry them, they could do so; if they were unwilling, then the Muslims could marry endogenously (LLFJ, 6.20b). In other words, their being allowed to marry among themselves was not because of their cultural difference, but because of their “ugly” biological features. Like the Mongols and *semu ren*, Muslims were “qualified” to establish intimate relationships with the Chinese.

Thirdly, the threat of danger played a role in promoting exogenous marriage. The promotion of mandatory interracial marriage hints that it was considered dangerous to let “barbarians” marry within their own groups. But what was the danger? According to the abovementioned commentaries on the *Code*, the danger was twofold. First, if they were allowed to marry among themselves, the foreign population might grow (JJFL, 711). Second, within endogenous marriages, foreigners would continue to practice their own values and customs; in which case, “China may end up imitating the barbarian Mongols’ evil customs” (LFQS, 3.34b). The Ming, therefore, did fear being polluted by foreigners, but the perceived danger came from ethnic separation rather than from ethnic interaction. The solution to this problem was to let the Chinese and “barbarians” mingle, which would change the latter’s biological features and erase their ethnocultural identity. Once surrendered “barbarians” were transformed, both the boundary and frontiers of “cultural China” would be relocated: the Ming would have moved outward to meet new challenges and to conquer new territories.

In brief, the *Ming Code* indicates an active program for shifting the boundary of “cultural China.” This suggests that within the Ming realm, two cultural domains—those of the “barbarians” and “China” (the Central Kingdom)—were competing to gain ground (JJFL, 710; LFQS, 3.34b; ZPZZ, 3.54b). By subjecting foreigners to Chinese legal authority and forcing them to marry Han Chinese, the *Code*’s goal was to erase the “barbarian” cultural identity and make Chinese culture prevail. Like the American concept of “melting pot” that developed centuries later, what was expected to emerge out of this interaction was a geographically greater and culturally purer “Central Kingdom.”

Nevertheless, while the *Code* adopted an aggressive strategy to expand “cultural China,” it fell short of formulating a comprehensive plan to transform “barbarians.” Articles 36 and 122 of the *Code* support this conclusion.

First, in Article 36, an issue concerning the *huawai ren* outlines which crimes were punishable. Many commentaries on the *Code* state that all crimes committed by *huawai ren* were to be regulated under Chinese law.⁵² He Guang's *Lüjie bianyi*, however, records a slightly different interpretation: only crimes committed among people of different ethnic groups should be punished under the *Ming Code*. He explains that because different ethnic groups have different customs and laws, their crimes should be decided by Chinese instead of “barbarian” laws (LJBY, 56).

He Guang's interpretation seems plausible for several reasons. First, it is supported by a special imperial commandment (*ling*). On December 2, 1384, officials at the Yunnan Provincial Administration Commission memorialized to the throne petitioning that a regulation on crimes by “aboriginal officials” be made, since no articles in *The Great Ming Code* dealt with such matters. The emperor ordered officials from the six ministries to deliberate on the issue. They finally made the following decision:

In all cases where the appointed aboriginal officials commit crimes, they shall be punished the same as ranked officials (*liuguan*) according to the *Code*. If hereditary [aboriginal officials commit crimes], the government offices shall not interrogate without authorization. First, depend on witnesses to obtain the facts, and then deliberate on the matter and memorialize to the throne. [For crimes punishable by] beating with the heavy stick or lighter, [the offenders shall have their offences] recorded and continue to perform services. [For crimes punishable by] penal servitude or life exile, [the offenders shall] be banished to Beiping. (TS, 2559–60)

Apparently, this legislation was made because Article 36 of the *Code* provided no legal basis for judging crimes committed by aboriginal officials.⁵³ Even with this commandment, crimes committed by aboriginal officials would not necessarily be punished, since the law provided no specific rules—everything depended on imperial ruling. In addition, this commandment did not regulate the acts of ordinary aborigines, the majority of residents of ethnic minority communities. Finally, the imperial court did recognize the power of non-Han communities: relocating the offenders out of their community boundaries was considered a harsh penalty.

Second, He Guang's interpretation is also consistent with the imperial court's overall policy toward non-Han peoples. During the Hongwu reign, the imperial court generally discouraged close contact between the Han and other ethnic groups. In 1382, for instance, an aboriginal Maozhou subprefect (Sichuan) named Yang Zheqi was secretly colluding with local “crude bar-

barians" (*shengfan*) to capture Maozhou City. When the plot came to light, Yang Zheqi was beheaded, and the Qiang people in the city were relocated to outside settlements (TS, 2285). In 1394, some eight hundred minority people in the Xining area petitioned to be allowed to move to the heartland of the empire (*neifu*). Zhu Yuanzhang replied that, although "barbarian hearts inclining to transformation" should be encouraged, the essential way to govern them gracefully was to make them not lose their original nature (*benxing*). He thus ordered them to live in their native place (TS, 3412). It seems that the Ming court saw those ethnic groups as a threat to the Han people, and, in order to prevent future danger, preferred to separate those ethnic minority communities from Chinese society. As long as local ethnic minorities did not challenge imperial authority, they would enjoy a considerable degree of political autonomy in their own communities under their own chieftains.

Third, the stance of nonintervention was often seen in early Ming law enforcement. In 1392, for example, the Siming prefect Huang Guangping killed Siming subprefect Men Sangui upon learning that Men was plotting to murder him. Huang falsely memorialized to the Ming court that Men had died of illness. Later, when Huang was brought to Nanjing to be interrogated, Zhu Yuanzhang decided: "It is due to their original nature that barbarian bandits kill each other. Guangping shall only be punished by law for not memorializing true matters. We may pardon him today and make him correct his transgression."⁵⁴ The emperor only handled the matter involving central-local relations (a false memorial), leaving the local people's crime (homicide) untouched; furthermore, the crime of disloyalty was also exempted from punishment for political considerations. The Ming, of course, would not tolerate armed revolt against the dynasty. But after having suppressed the revolt of an ethnic minority, the court would usually only have the leaders executed, releasing the other members of the gang without prosecution.⁵⁵ In 1395, the aboriginal Si'en subprefect (Guangxi) named Cen Yongchang⁵⁶ was charged with evading taxation and using the seals of the former Yuan dynasty. Zhu Yuanzhang first ordered a punitive force sent against the aboriginal office for "disobeying court decree," but eventually gave up pursuit because their location was "wild and distant" (MS, 8239).

If He Guang's interpretation of the scope of Article 36 is accepted, then the *Ming Code* is mainly concerned with disputes between different ethnic groups, and basically leaves legal affairs within an ethnic group unregulated. For legal, ideological, political, and geographical reasons, to a great extent, the Ming adopted a noninterventionist legal policy toward non-Han peoples.

Article 122 also makes concessions regarding the transformation of non-Han peoples. First, although it enforced marriage between Mongols, *semu ren*, and Chinese, it left Muslims out of the picture. Second, even for compulsory interracial marriage, it stipulated a proviso: “It is essential that both parties be willing.” In other words, if either Mongols or Chinese were unwilling, they need not intermarry. In expounding the entire article, Yu Yuan’s *Standard Forms of Judgments for the Great Ming Code* (Zhaopan zhengzong) proposes a hypothetical case: A Chinese man engages his daughter to a Mongol but then regrets and breaks off the engagement; he is supposed to be punished according to Article 122 of the *Code* (ZPZZ, 3.52b–54b). This example reveals ethnic tension: peoples of different ethnic backgrounds might still feel uncomfortable over their union in spite of the law. Indeed, even though the law could punish those who broke off an engagement or dissolved their marriage, it did not punish those who were unwilling to make such an arrangement. The *Code* itself created a dilemma: if Mongols, *semu ren*, or Chinese were not willing, the *Code* allowed them to refrain from entering such marriages; at the same time, however, it prohibited Mongols and *semu ren* from marrying among themselves. How could such a rule be enforced? Obviously, if this rule were enforced, it might result in two scenarios: either some parties might be unwilling, or some Mongols or *semu ren* might end up staying unmarried throughout their lives. No commentary on the *Ming Code* ever discusses this problem. Perhaps this inherently contradictory rule could not realistically be enforced, which would leave marriage among Mongols and *semu ren* unregulated. After all, the Ming could not possibly make Mongols and *semu ren* remain celibate due to reciprocal unwillingness to intermarry.

The *Code* is also silent about marriage among non-Han peoples other than Mongols and *semu ren*. No articles in the *Code* require compulsory marriage between them and the Han. This nonintervention again leaves the matter in the hands of those ethnic minorities. Such special treatment might be attributable to several factors. For one thing, the Ming perceived that, compared with the Mongols and *semu ren*, other “barbarians” were more distant from Chinese civilization. For another, there was no political necessity to force them to marry Han Chinese—it was not perceived as dangerous to let them marry among themselves. Furthermore, due to the remote locations of non-Han communities, it was simply impractical to enforce such a law. For whatever reasons, the silence on marriage between the Han Chinese and other ethnic minorities presents a striking contrast to the injunction in Article 122 of the *Code*. It pointedly demonstrates the dynasty’s nonintervention stance toward the affairs of non-Han peoples.

These concessions, silences, and coercions suggest an effort in the *Code* to negotiate a compromise between the Ming government and local societies. While the law was enthusiastic about expanding the boundary of “cultural China” in terms of Chinese values and practices, it still recognized the power of non-Han cultures. The result was a mixed, fluctuating system allowing for dynamic interaction between different cultural forces. C. Pat Giersch (2001), in expounding social change in southwest China’s frontier region during the Qing, uses the historian Richard White’s model of “middle ground,” and finds that frontier Yunnan was a place of diverse cultural interactions. Borrowing their concept, it can be argued that efforts to expand “cultural China” also resulted in a “legal middle ground” occurring in the Ming cultural frontiers. Ming law attempted to impose Chinese values and customs upon ethnic minorities, hoping to erase their ethnic identity, remove a source of cultural pollution, and make the realm more Chinese. However, it also conceded to the cultural values and practices of those ethnic minorities. The *Code*, therefore, constructed a diverse legal domain outside of “cultural China.”

PURIFYING “ZHONGGUO”

In organizing an ideal human realm, the early Ming ruling elite encountered an unprecedented problem in Chinese history: the alien Mongols ruling the whole of China. To Zhu Yuanzhang and his officials, Mongol rule was a major cause of the corruption of Chinese civilization. In November of 1367, Song Lian drafted an imperial proclamation denouncing the Mongol “barbarians” for causing the “net-ropes” of government to become lax. According to reports, at the Yuan court, the elder was set aside and the younger was put on the throne; the emperor was killed by ministers; the elder brother was poisoned to death by the younger brother; and younger brothers took elder brothers’ wives and sons and committed incest with their father’s concubines. Thus, the fundamental relationships of father-son, ruler-subject, husband-wife, and senior-junior had been desecrated and tossed away (TS 401–4).

The foreign Mongols were also blamed for the defilement of Chinese social customs and organization. In 1372, Zhu Yuanzhang issued a proclamation lamenting the moral degeneration of the times and calling for the rectification of rituals and customs. In this programmatic document, Zhu listed twelve major social rituals and customs that required transformation.

These social rituals and customs involved issues of slavery, eunuchs, community mutual aid, support of the elderly and disabled, community greeting rituals, community wine-drinking, marriages, funerals, stabilizing vagrants, dress, Buddhist and Daoist rituals, and castration. The emperor believed that a time of peace and prosperity would not be achieved until “barbarian”-polluted customs were transformed by Chinese civilization (TS, 1351–54). On other occasions, he also criticized that the classical Chinese institutions—rituals, music, and schools—had been completely abolished under Mongol domination (TS, 924–25, 1245–46); it was under the Mongol government that peasants had become lazy in farming the land, scholars had ceased cultivating virtue, and artisans and merchants had started idling about (DGXB, 257; TS, 2687–88). The denunciation of Mongol government indicates that the early Ming ruling elite realized the vulnerability of Chinese values in the face of alien cultures. It seemed imperative that foreign customs be eliminated and Chinese culture restored (Dardess 1978).

While attributing the loss of Chinese values and social dysfunction to the Yuan government can be understood as a bid for Ming dynastic legitimacy, it is also true that the early Ming ruling elite saw social purification as an urgent mission. Just as Zhu Yuanzhang lamented in the *Grand Pronouncements*:

It was formerly the case in our China that when a dynasty fell, the teachings of the former sages and worthies remained, so that Heaven would appoint men of virtue and the new dynasty could rely on the elders, and so bring about a rapid restoration of good rule. But the ninety-three-year rule of the barbarian Yuan caused the empire’s customs to change and things were run by men who lacked resolve, so that despite all my words and efforts I cannot bring about a transformation. Alas, how difficult!⁵⁷

Indeed, the early Ming ruling elite perceived these cultural changes as so profound that they designated them as “pollution.” In the imperial proclamation above drafted by Song Lian, Zhu Yuanzhang lamented that the Chinese in the Central Plain had been “polluted by the smell of mutton for such a long time” (*jiuwu xingshan*). He announced that the Chinese people should be governed by Chinese, and “barbarians” had no right to rule (TS, 401–4). The term “smell of mutton” points to the Mongolian nomadic lifestyle based on herding animals. The derogatory expression evinces tension between the pastoral nomads and a sedentary agricultural society, besides their different ruling groups. And the tension was so deep that the term was frequently repeated in the early Ming ruling elite’s political remarks. One day in 1370

when the Ming court was informed that the desert beyond the Great Wall had been pacified, Zhu asked his ministers why the Yuan had perished. Liu Ji responded: It was because Heaven disliked foreign “customs with the stinking smell of mutton” (TS, 1045–46). Zhu also frequently instructed his officials to restore the school system and establish legal institutions so that “polluted customs” (*wuran zhi xi*) would be eliminated and society purified.⁵⁸ Pollution and purity was a constant cultural theme in early Ming world-saving projects, and *The Great Ming Code* was employed as an instrument to purify polluted Zhongguo, the Central Kingdom.

While *The Great Ming Code* addresses a variety of issues, such as the ones mentioned in the imperial proclamations above, this study cannot include a full narration and interpretation of all the early Ming social purification programs. Instead, one representative issue will be discussed here—marriage customs.

Marriage customs had long been viewed as a touchstone in judging degrees of cultural purity in Chinese history. In the early Ming, the new Han government explicitly identified four specific “barbarian”-influenced marriage practices: lavish betrothal gifts (TS, 1353, 2624), same-surname marriage, cousin marriage, and levirate marriage (YZDG, 214–15). In fact, except for levirate marriage, all of the other three practices had existed in Han communities for centuries (Chen 1990, 129–43, 398–402, 406–10). However, the Ming ruling elite claimed that it was during the Mongol Yuan that these practices, including levirate marriage, had become widespread among Han Chinese (TS, 1353, 2575–76, 2624).

The Great Ming Code dealt with the last three practices.⁵⁹ Same-surname marriage was punished by sixty strokes of beating with the heavy stick (Art. 113). According to the *Collected Commentaries* on the *Code*, “marriage” in this respect refers to taking either a wife or a concubine. Such marriages were prohibited because they violated the classical ritual code of “emphasizing distinction” (*houbie*) and “damaged human moral principles” (*dulun*). Thus, not only would such marriages be annulled, but the wedding gifts would also be forfeit to the government (JJFL 668). In 1383, the Shandong regional military commissioner Wang De petitioned the throne to bestow a title of honor on his wife *née* Wang. Zhu Yuanzhang rejected the request because their same-surname marriage violated ritual codes of the past (TS 2415). It is interesting to note that, in making his decision, the emperor did not invoke legal rulings. Furthermore, the record does not suggest that the military officer was punished or the marriage annulled. It seems that although occasionally a same-surname marriage would cause trouble, as in this imperial

rejection of a special request, the practice was tolerated by the new regime to a great extent. What caused the lenient treatment of the couple in this case could be that the two Wangs had married before 1368, and hence would be accepted by the new dynasty; it might also be possible that the practice was so widespread that the government was reluctant to enforce the law.

Cousin marriage caused a more serious problem for the early Ming. In the *Code*, if one married a cousin, including daughters of one's own father's sisters or daughters of one's mother's brothers or sisters, both the man and woman would be punished. In addition, the marriage would be annulled, the females returned to their own lineage, with all wedding gifts forfeit to the government (Art. 114). Since cousin marriage takes place among relatives of the same generation, it was punished less severely than marriage between relatives of different generations, which would be punished by either one hundred strokes of beating with the heavy stick and penal servitude for three years, or only by one hundred strokes of beating with the heavy stick (Art. 114). The relatively light punishment for marriage between cousins—who are within the fifth degree of mourning relationship—was based on the fact that the couples were from the same generation and thus did not violate “proper status” (*mingfen*) (JJFL, 675–76). Although the cousin marriage injunction aimed to “guard strictly against illicit unions” (JJFL, 676), its enforcement caused some social anxiety. In early 1385, a Hanlin official named Zhu Shan memorialized that he had seen a number of litigations occurring among the people, with most of the lawsuits concerning cousin marriage. While many practiced this custom, their enemies could take advantage of the legal injunction and bring suits against them. This caused tremendous chaos among the people: many who had been engaged broke up; many who had been married divorced; and many who had already had children were forced to give them up. Thus, the law code was utilized by some people to disturb society and defile customs. In his memorial, Zhu Shan did not see cousin marriage as a problem, because it did not violate Chinese tradition. However, he claimed that implementation of the law did not produce harmony; on the contrary, it resulted in numerous litigations and made bribery popular, which eventually caused social customs to become decadent. Therefore, Zhu Shan petitioned the emperor to allow court officials to deliberate his proposal and eliminate the legal prohibition so that “law cases would be fewer and social customs honest.” Zhu Yuanzhang “agreed to his remarks” (TS, 2575–76).

Zhu Shan's memorial brought up a number of issues, including the relationship between litigation and customs, and the extent to which law was enforced among the people. But the popularity of cousin marriage at the

time is striking. It was almost twenty years into Zhu Yuanzhang's reign, but a large number of people were still practicing this custom despite legal injunctions.

But how do we understand Zhu's "agreement" (*ran*) to Zhu Shan's memorial? Did Zhu agree to concede to popular custom by deleting the stipulation from the law code? The prohibition seems to have existed throughout the Ming, so the answer is negative. Then what does it really mean? Huang Chang-chien (1977c, 249) asserts that the record quoted above was a dishonest report by Ming imperial historians. But an imperial order in the *Grand Pronouncements* contradicts Huang's assertion.

The *Grand Pronouncements* was promulgated in late 1385 (Yang 1988, 7), the same year that Zhu Shan presented this memorial. In one of the sections in this imperial ruling, Zhu Yuanzhang stated his policy regarding the prohibition of Mongol marriage practices: While foreign marriage practices should be eliminated, those who had married in the foreign way before the founding of the dynasty should not be prosecuted. Thus, his law was not retroactive. He then went on to blame "crafty persons" who took advantage of the legal prohibition and colluded with corrupt officials to prosecute those who had married during the Yuan. Because Mongol customs involved too many people, Zhu explained, a retroactive law would cause widespread chaos. Therefore, those who prosecuted others for Mongol marriages made prior to the Ming should be severely punished. Zhu Yuanzhang's proclamation indicates that he did agree with Zhu Shan's petition, but not completely—he only acceded to the policy that pre-Ming marriages should not be judged retrospectively. With regard to social customs in his dynasty, he was steadfast in his stand: "From now on, if there is anyone who violates the teachings of previous [sage-] kings, even death cannot atone for his crime" (YZDG, 214–15). At any rate, the cousin marriage controversy indicates the depth of the impact of Mongol rule, and accounts for the establishment of new legal regulations.

The strongest Mongol influence on marriage customs is seen in the practice of levirate marriage, i.e., marriage between a man and his deceased brother's widow, his deceased uncle's widow, or his deceased father's secondary wives (nonbiological mothers) (Holmgren 1986; Birge 1995). A common practice in steppe societies, it "illustrated the concept that rights over the woman's body and labor belonged now to her husband's family, in perpetuity" (Birge 1995, 115). The Han Chinese, however, abhorred this practice, calling it incest. In 1385, Zhu Yuanzhang offered an example in the *Grand Pronouncements*. In levirate marriage, a woman "serves" a man and gives birth to a child; after

the man (the child's father) dies, the woman (as a concubine) again "serves" the man's principal wife's son and gives birth to another child. That was how "husband and wife were not separated and fundamental principles were greatly damaged" during the Yuan. In order to eliminate the practice, the emperor invoked the death penalty (YZDG, 215). In 1394, toward the end of his reign, Zhu again blamed the Mongols for polluting China with levirate marriage and lamented that a great number of people, ignoring the prohibitions stipulated in the *Code* and the *Grand Pronouncements*, continued to follow the "barbarian" practice. He ordered officials at the Ministry of Rites to proclaim again the *Code's* injunction in order to "restore the teachings of the previous sage-kings and rectify social relationships" (TS, 3391–92).

The *Ming Code* severely punished levirate marriages, stating that if someone "takes in" (*shou*) his father's or paternal grandfather's concubines or father's brothers' wives, he would be punished by decapitation; if someone "takes in" his elder or younger brother's wives after the said brother's death, he would be punished by strangulation (Art. 115). Two points are worth noting in this rule. First, decapitation and strangulation were the harshest penalties the *Code* imposed upon marriages between relatives. Second, levirate marriage was considered the severest form of "incest" and hence could not be termed "marrying" (*qu*); instead, it fell under the category of "taking in," stressing the illegitimacy of the act (JJFL, 679). The severe penalties and disapproving appellation convey a strong message—this alien custom would not be tolerated by the government and must be eradicated in order to "correct social customs" (JJFL, 683).

For their marriage purification program, the early Ming ruling elite applied two legal strategies. First, while they blamed the Mongols for polluting Chinese civilization, they deemphasized or even kept silent on the fact that the Yuan government had also outlawed the abovementioned marriage customs among Han Chinese. Indeed, in order to rule the vast pluralistic empire effectively, the Yuan adopted a dual legal system (Ratchnevsky 1993, 161) in which Mongols and Han Chinese were regulated differently. In terms of marriage customs, while Mongols and Central Asians continued to practice customs such as levirate marriage and multiple wives, the Han Chinese were forbidden marital relationships that were out of keeping with Chinese tradition. For marriage ceremonies, for instance, the Yuan law adopted the *Family Rituals of Master Zhu [Xi]* (Zhuji jiali). For engagements, the law required a written agreement and limited the amount of betrothal gifts. For divorce, the law emphasized the traditional "seven grounds" (*qichu*) and "three restrictions" (*sanbuqu*), and annulled marriages on the grounds of

“breach of the bond of righteousness” (*yijue*).⁶⁰ The Yuan law prohibited marrying those with the same surnames, having more than one wife, and marrying relatives (Han 1999, 641–85). Most of these regulations can be found in both the classic *Tang Code* and the later *Ming Code*. Yuan law particularly punished levirate marriages among Han Chinese. Although the Mongol government forced the Chinese to practice levirate marriage for a short period of time during the early Yuan, it soon changed its position and outlawed the practice, instead calling for the cultivation of widow chastity (Birge 1995). In fact, the Yuan not only enforced fundamental Chinese laws on marital relationships, but also transformed such Chinese traditions to accord more closely with the patrilineal ideals advocated by the Song Neo-Confucian school of Zhu Xi (1130–1200). It would not be an exaggeration to say that for the Han Chinese, the Yuan government adopted a more Confucian legal policy over marriage institutions than had previous Chinese regimes. If the Chinese did practice foreign marriage customs during the Yuan, it was voluntarily rather than due to Mongol coercion. But Zhu Yuanzhang and his officials blamed the Mongols for the social problem.

Another legal strategy used by the early Ming ruling elite to purify marriage customs was borrowing laws directly from the Yuan dynasty. The classic “Chinese” *Tang Code* of 653 had served as a legal model for Chinese governments throughout the second half of the imperial age. This was particularly true in the process of codifying social norms in the early Ming, a time during which the ruling elite endeavored to restore Han values and seek the roots of Chinese identity. However, while the *Ming Code* to a large extent modeled itself on its Tang ancestor, it also created many new regulations to meet new social needs (Farmer 1995, 78–79). In terms of marital relationships, compared to the *Tang Code*, the *Ming Code* contains nine sets of new regulations in the section on marriage, with six entirely new articles and three new rules included within old articles. Undoubtedly, Ming law enriched the Chinese legal tradition. But how did the Ming create these new regulations? Did they make them on the basis of their own experience, or did they borrow them from somewhere else? A comparative study of the *Ming Code* and Yuan law⁶¹ reveals that, generally speaking, the “new” regulations on marital relationships in the *Ming Code* (i.e., those not appearing in the *Tang Code*) had all existed under Yuan law.⁶² The major difference concerned regulations on Mongol marriages.⁶³ For a number of reasons, the Ming outlawed marriage between Mongols and *semu* people (see the discussion in the preceding section of this chapter). Under Yuan law, however, to preserve Mongol identity, Mongols were exempt from the legal rulings made for other

ethnic groups. Another difference appears in regulations on levirate marriage, for which the Yuan established more elaborate rules than the Ming to punish Chinese who engaged in such a practice—in spite of the fact that Mongol laws underwent several changes regarding this issue.⁶⁴ Apparently, of these nine sets of regulations, eight are similar in the Ming and Yuan legal systems (although the Ming naturally did not follow Yuan examples when dealing with Mongols). Hence, the Ming government borrowed extensively from Yuan marriage institutions in formulating their purification program.⁶⁵ In fact, this borrowing went beyond the *Code*. In *The Great Ming Commandment*, for instance, both the requirements on uxori-local marriages (*zhaoxu*) and the injunction on the practice of pointing to the belly and cutting the front of the woman's garment (*zhifu geshanjin*) (Farmer 1995, 160, 163) derived from Yuan law (TZTG, 176–77, 166). The “barbarian” Mongol legal legacy, therefore, became an essential component of the “Chinese” anti-“barbarian” discourse in the Ming.

Marriage legislation in the early Ming, as reflected in the *Ming Code*, illustrates the general social program to purify “Zhongguo,” the core area of the Ming empire. The ruling elite identified particular problems in Chinese society and attributed them to Mongol “barbarian pollution.” They consequently created legal rulings to facilitate the reconstruction of the social order and purify their subjects’ minds. However, they confused Mongol influence with voluntary lifestyle choices made by Han Chinese. To be sure, Mongol influence was strong, leading to the widespread adoption of Mongol customs by Han Chinese; but the popularity of alien customs appears to have been more the result of Chinese choice than of Mongol governance. In fact, the Yuan dynasty had outlawed all of the social practices among the Chinese which were later viewed as “polluting” by the early Ming ruling elite. Furthermore, the Mongol government enacted more elaborate rules than previous Chinese regimes to guide the Chinese according to Confucian social ideals as interpreted by Song Neo-Confucians, which were inherited by the early Ming. The Mongol legislation and its impact on the Ming, however, never existed in the legal and social discourse of the Ming regime.⁶⁶ Zhu Yuanzhang and his officials intentionally ignored the Mongol efforts to promote Confucianism among the Han Chinese, silently borrowing legal rulings from the Mongol legacy. Both strategies facilitated the early Ming social purification programs.

The early Ming ruling elite envisioned two boundaries in their realm. The first was located on the edges of the empire, symbolized and institutionalized

by frontier land passes and seaports. Although often fluctuating and vague, this outer borderline marked the geopolitical domain of the “Ming,” or “geographical China,” and functioned to defend dynastic security and resist “foreign pollution” in Chinese civilization. The second boundary lay primarily along the edges of Han communities (the so-called “China proper”), but could also exist within larger Chinese communities in the form of ethnic minority subcommunities or even individuals. More symbolic and cultural in nature, this inner borderline was perceived to separate the Han Chinese from other ethnic groups, and defined the sphere of “Zhongguo,” or “cultural China.” For the Ming government, its main function was to guard against the “inner barbarian pollution” of Chinese civilization, and to interact with and thus transform “barbarian” cultures. The two boundaries differentiated the two Chinese spheres—the Ming and the “Central Kingdom”—and represented three political strategies of the imperial court. Along the first boundary, the Ming utilized a defensive strategy; for the second, the Ming adopted an offensive strategy to enlarge the domain of “cultural China”; and within the second sphere, the Ming endeavored to eliminate foreign “pollution” and purify Zhongguo.

This multilayered spatial arrangement was supported by early Ming cosmology. According to an ethnocentric worldview partially based on their “demarcation system,” the Ming empire and the Chinese people were considered a yang aspect of the cosmos—the superior, positive force—while territories beyond the Ming empire and non-Han ethnic peoples were considered yin—the inferior, negative element. The yang force ought to be promoted, manifested, and expanded; whereas the yin sphere should be repressed, subdued, and reduced. Since the yin element tended to erode or even destroy the yang (TS, 1811–16), the Ming ruling elite saw it as their mission to uphold the yang force in every way, including through the legal apparatus.

The Great Ming Code played a significant role in creating and maintaining the dual boundaries of the Ming. It safeguarded the outer boundaries by controlling the flow of personnel, goods, and information through land and sea frontiers. To prevent danger along the frontiers, it provided harsher penalties for going outside the Ming territories. Strictly maintaining the “distinction between barbarians and Chinese” constituted the cornerstone of their legal policy. Regarding inner boundaries, the *Code* imposed Chinese values and practices upon ethnic minorities by subjecting their mutual offences to Han Chinese legal institutions and enforcing interracial marriages. Its goal was to eliminate sources of “barbarian cultural pollution,” erase the “barbarian” ethnic identity, and thus expand the sphere of “cultural China.” At the

same time, however, it acknowledged the cultural presence of ethnic minorities. As a result, the dynastic law code produced a cultural middle ground between the two boundaries. For “Zhongguo,” the cultural core area of the empire located within the inner boundary, the *Code* aimed to erase foreign influence and restore Han values and practices. To achieve such goals, the early Ming ruling elite incorporated legal institutions of the Yuan into the *Code*. Therefore, the reestablished Chinese values and practices in Zhongguo combined both Chinese and foreign cultural elements.

In discussing rituals concerning “external boundaries” in primitive societies, Mary Douglas points out four kinds of “social pollution,” two of which are worth mentioning here. One is “danger pressing on external boundaries,” and the other, “danger in the margins of the lines” (Douglas 1966, 114–28, esp. 122–23). For the purpose of this study, the former can be understood as a reason for the early Ming to create and defend a geographical line against foreigners; the latter was cause for constructing a cultural line against the minorities under their control. The basic assumption of the Ming toward all of these aliens is summed up by Douglas: “all margins are dangerous” (ibid., 121). Insofar as the marginal peoples were not “our kind,” as a Ming official memorialized to the emperor, “their” hearts must be different from “ours,” and they must cherish hidden “evil intentions” and hatred. Hence, they might pollute and desecrate Chinese civilization (TS, 1916). By distinguishing themselves from alien peoples, the Ming shaped a world order in their own terms. And by creating and maintaining legal boundaries for different cosmological spheres, *The Great Ming Code*, to borrow Romeyn Taylor’s (1997, 93) words, turned the empire into a “vehicle of universal salvation, where salvation is understood as social harmony, and as harmony between human society and the ever-unfolding cosmos.”

5 | *The Great Ming Code and Officialdom*

Rectifying Mediating Representatives

On February 15, 1382, the Yellow River burst its banks in Henan. Thousands of people lost their homes and were suffering from hunger and cold. Zhu Yuanzhang immediately dispatched the commandant-escort (*fuma duwei*) Li Qi to coordinate the relief of victims in the stricken areas.¹ At the same time, the emperor issued a rescript to all Henan officials:

The waters of the Great [Yellow] River are a spring from Heaven [*tianquan*]. There must be a deity in charge of it. If local officials are correctly chosen and government affairs properly administered, the water will wind its way to the east without the perils of crushing mountains and smashing rocks. Then the people will live in peace. If local officials are not correctly chosen, [the water] will shatter cities and wash away people's houses; and local officials will also suffer from the disaster. This is the necessity of cosmic consonance! Last year, [officials from] Henan came to report that the Yellow River floods had inundated several departments where fields and gardens became empty and mulberries and hemp were washed away. That was all because local officials had not been correctly selected. . . . You, the incumbent officials [at

Henan], should more attentively examine yourselves and cultivate moral character so as to benefit the masses. Do not disobey my order! (TS, 2231–32)

Historical records do not inform us about the legal consequences for the officials of Henan. The rescript itself, however, reveals much about the status of officials in early Ming cosmology. Specifically, it demonstrates the close relationship between government officials and the three fundamental cosmic forces: the Son of Heaven, deities, and the people. It was officials who were designated to carry out the orders of the emperor. It was their character that resulted in the deities' favorable or unfavorable response. And it was their behavior that affected the people's livelihood. These officials, therefore, would ultimately determine whether peace and prosperity would exist in the empire and cosmos.

Indeed, in early Ming cosmology, although the emperor was the mediator who maintained cosmic harmony between the spirit and human realms, he could not see to everything himself; he would have to rely on his officials to carry out the Mandate of Heaven and care for "all under Heaven." Commonly defined as the "fathers-and-mothers" of the people and "arms and legs" of the emperor, government officials were charged with responsibilities of cosmological significance.

This chapter focuses on stipulations in *The Great Ming Code* in order to study the legal definition of officialdom's unique role in achieving cosmic harmony. First, the early Ming perception of the officials' position in the cosmos will be examined. Then, regulations in the *Code* relating to the official's responsibilities from Zhu Yuanzhang's (the ruler's) perspective will be explored: officials should recompense the ruler who had granted them authority and wealth, the parents who had given them life, and the people who supported them with food and clothing; they should also worship the spirits, the overseers of human affairs. Despite tension between officials and the emperor, together they mediated between spirit and human realms. The regulations governing officials in *The Great Ming Code*, in essence, became rules to restrain the ruler.

OFFICIALS IN EARLY MING COSMOLOGY

In early Ming cosmology, government officials occupied a unique position. According to the ruling elite, Heaven, the supreme cosmic deity, had engendered the people and established the ruler. The ruler, the mediator between

spiritual and human forces, received the Mandate from Heaven and was entrusted to nurture the myriad living things (HMZL, 12). In this initial cosmic-social act, only the ruler and the people were directly created by Heaven, through which they gained primary cosmic significance. The “great enterprise” of harmonizing human society, however, could not be achieved by the ruler alone. The cosmic mediator would have to select various worthies and appoint the most talented to take care of the human realm (TS, 1698, 2299). Zhu Yuanzhang once made this worldview explicit to his subjects:

Since ancient times, rulers have represented Heaven in managing human affairs by setting up separate offices to order various affairs and bring peace to the lives of the people. . . . Since the world was unified, I have set up cardinal principles, promulgated laws, and established offices according to ancient rules: in the capital, the six ministries and the Censorate; in the provinces, the provincial administration commissions, the provincial surveillance commissions, prefectures, subprefectures, and districts. Although the titles are different from previous dynasties, the system of government is the same. (JMBW, 1405–6; Farmer 1995, 197)

According to Zhu Yuanzhang, the appointment of government officials at various levels represented one of the ruler’s efforts to carry out the Mandate of Heaven. Therefore, officials came into existence not out of Heaven’s design, but because of the ruler’s need. It was the ruler, in other words, who defined and determined an official’s position and role in the cosmos.

The secondary cosmic status of government officials did not make them insignificant in managing human affairs. On numerous occasions, Zhu Yuanzhang pointed out their critical role in achieving an ideal society. He believed that no prosperous dynasty could be built without able officials (TS, 972), and great order could only be attained by employing worthy persons (TS, 1181).² Historically, he attributed the fall of earlier dynasties, by and large, to the evil behavior of officials. The Mongol Yuan, for example, had come to an end primarily because officials had usurped authority from the ruler and endeavored to pursue their own selfish interests. The ruler, on the other hand, only erred in failing to make resolute decisions, rather than by practicing tyranny (HMZL, 8; TS, 1215–16, 1325). To admonish his officials about the treacherous acts committed by their counterparts in the past, the Ming founder had the pamphlet *Record of Warnings* (Zhijie lu) compiled. Containing more than one hundred infamous crimes committed by officials during the Qin, Han, Tang, and Song dynasties, this booklet was issued to all officials and government schools (TS, 2712).

Cosmologically, the emperor saw a connection between official behavior and cosmic movements. When the moon entered the constellation of Xuanyuan, or Mars entered the constellation of Yugui, Zhu Yuanzhang would suppose that some of his high-ranking officials had violated cosmic principles and should be either dismissed or executed (TS, 1639, 1885–86). He would also conclude that many natural disasters were caused by assigning the wrong persons to government posts (TS, 2153–54). In the fourth month of 1378, an earthquake struck the area of Ningxia Military Guard, destroying city walls and leveling civilian houses. The emperor issued a written rescript to the Ningxia Guard Commander Geng Zhong (d. 1392), urging him to examine his mind-and-heart and subdue selfish desires. The son of a meritorious official, Geng Zhong had previously been demoted and sent to defend the frontier due to transgressions. This time, the emperor characterized the disaster as another heavenly warning. Only by cultivating heavenly virtues (*tianjue*), the emperor instructed him, could the ranks of nobility (*renjue*) be preserved (TS, 1926). These concerns indicate, of course, that while officials could be a source of cosmic disorder, they could also engender cosmic harmony. The connection between cosmic order and government officials defined the pivotal role of officialdom in early Ming cosmology.

Early Ming cosmology also emphasized the oneness of the ruler and officials in mediating between the deities and human beings. As early as 1366, Zhu Yuanzhang articulated the significance of the ruler and officials' joint cultivation of virtue to achieve cosmic harmony. By sharing one principle, the future emperor said, Heaven would respond to humans according to what the ruler did. If the ruler cultivated virtue, the cosmos would be orderly and harmonious; otherwise, it would devolve into a state of chaos. The cultivation of virtue, however, was not a cosmic task assigned only to the ruler. All officials, Zhu urged, should cultivate virtue so as to assist the ruler. "The joint cultivation by both ruler and officials lays the foundation for communicating with Heaven" (TS, 298–99). For Zhu, if the ruler were a swan, the officials were its wings, making the swan fly far and high; if the ruler were a dragon, the officials were the scales and bristles, helping the dragon ascend (TS, 1465). Zhu even lowered his status to that of the officials: if the empire were a great mansion, then, the ruler was only one piece of wood, and the officials were the other necessary materials. Together, they formed one magnificent building (TS, 2040). The best metaphor, perhaps, was the traditional image of the ruling elite as one body: the ruler was the head, and the officials were the legs and arms. With one heart and one mind, the ruler and officials would jointly achieve an ideal order and nurture living beings (TS, 2257–58).

To ensure that dynastic officials fulfilled their duties, Zhu Yuanzhang either personally drafted or had his officials create a large number of moral guides and legal regulations. For instance, the *Great Ming Commandment*, organized according to the functional categories of the six ministries—personnel, revenue, rites, war, justice, and public works—provided officials with rules for handling government affairs (TS, 422–23; Farmer 1995, 150–94). The *Collected Rituals of the Great Ming* laid out rituals for all the major aspects of cosmic communications (TS, 1113–14; Ming jili); the *Ancestral Instructions of the August Ming* offered guidelines for imperial princes (TS, 3503–4; Farmer 1995, 114–49); and the four compilations of the *Grand Pronouncements* promoted dynastic principles by inflicting extremely severe penalties on guilty officials (Yang 1988; Andrew 1991). The most fundamental set of regulations was *The Great Ming Code*, the “constant law” of the dynasty. In its final 1397 form, the *Code* deals with problems exclusively related to officials in nearly 60 percent of its articles (260 out of 460). It established the basic principles, specific rules, and corresponding punishments for officials throughout the realm. The early Ming state apparatus wove a tight legal net to ensure the fulfillment of officials’ envisioned roles.

The following sections examine the specific cosmic obligations of officials as seen in *The Great Ming Code*. To understand the legal status of officialdom from a Ming perspective, it helps to consider what Zhu Yuanzhang required of his officials in the *Comprehensive Instructions to Aid the Realm*. As mentioned earlier, in that moralistic document, the emperor pointed out four categories of obligations for officials: to recompense the ruler, to recompense parents, to recompense the people, and to sacrifice to the deities. Here, “recompense” (*bao*) refers to the reciprocation of kindness and grace that the officials had received from the major components of the cosmos as well as human society. These “three recompenses and one sacrifice,” according to the emperor, summarized the cosmic role of officialdom. “Whoever violated any of them would come to no good end” (ZSTX, 1453–56).

RECOMPENSING THE RULER

The officials’ duty to recompense the ruler derived from their status in the cosmic order. Just as Heaven created and nurtured a myriad of things, the human ruler created and maintained officialdom to govern the human realm (TS, 801; Wang 1981, 70–71). It was the ruler, then, who decided the officials’ blessings and misfortunes, although his decisions should be based on heav-

only principle and human sentiment. To be sure, the ruler and his officials were supposed to act as one ruling body, but their unity was cosmologically significant only toward the other cosmic components: deities and the people. Regarding their internal relations, the hierarchical order of ruler and minister should not be confused. As Zhu Yuanzhang explained to his officials: “The service of ministers to the ruler is like that of ruler to Heaven” (TS, 967). In essence, the status of the ruler and his ministers was exactly like that of superior Heaven and inferior Earth. If officials exceeded their boundaries and usurped authority, they would eventually bring disgrace and ruin upon both themselves and their families (TS, 1819–20). Recompense to the ruler became the cosmic obligation of the inferior, receptive yin force to the superior, generating yang force.

The Great Ming Code translates the officials’ cosmic status into a variety of special criminal responsibilities.³ One heinous offense against the throne involved forming “treacherous cliques” (*jiandang*). Article 60 of the *Code* delineates four types of acts: (1) “treacherous or evil persons” put forward calumnious whispers and tricky words to cause the throne to execute others; (2) when someone commits a crime punishable by the death penalty, high ministers or low officials put forward cunning words to the throne to petition for exemption from punishment in order to court popularity; (3) court officials form cliques to subvert the government of the court; and (4) officials or functionaries do not enforce the law but obey their superiors’ instructions to implicate the innocent or exonerate the guilty. Article 62 stipulates a fifth category: memorializing in praise of the admirable achievements, talents, or virtues of high officials. The *Code* thus sets forth a broad definition of “treacherous clique.” In fact, except for the third category, the other four acts only indicate the possibility of forming a clique; the requisites for engendering this crime do not necessarily comprise the existence of a disloyal group. In the case of praising high officials’ achievements, even one person could be convicted of forming a clique, regardless of whether or not the persons who are praised knew the circumstances. The broad definition attests to the court’s anxiety about possible group resistance.

The gravity of the crime is demonstrated by severe punishments and rewards. The offenders were to be decapitated, their wives and children enslaved, and their property confiscated. Meanwhile, those who disobeyed “treacherous officials” and reported criminal acts to the throne were rewarded with the criminals’ property. Moreover, if the informers were officials, they would be promoted two ranks; if they were not officials, they would be rewarded with an official position or two thousand *liang* of silver (Art. 60). The reward clause

is particularly noteworthy: as one of only twenty-one articles (out of the total 460 in the *Code*) that provide rewards to accusers,⁴ it offers the highest value, that is, the criminals' property plus two thousand *liang* of silver (if the accusers do not accept a government position);⁵ and it is only one of two provisions that reward both property and position.⁶ Apparently, "forming treacherous cliques" is one of the most heinous crimes in *The Great Ming Code*, and various commentaries on the *Code* condemn "forming treacherous cliques" to betray the ruler and destroy the government. The commentaries reinforce the danger of the crime by referring to historical cases such as the assemblage of three thousand retainers by Tian Wen (d. 279 B.C.E.) in the State of Qi (Lewis 1999, 635–36) and the "eight important figures and sixteen gentlemen" under Li Fengji (758–835) in the Tang dynasty (Dalby 1979, 644–45, 648). Both groups ignored their rulers and dominated court politics (JJFL, 457–58; XTFL, 1.17b–18b; LMBJ, 31a; ZPZZ, 2.27a-b). For the prohibition against praising high officials' virtues and talents to the throne, the jurist Ying Jia (1494–1554) expounded the law by using another historical case where nearly five hundred thousand people memorialized Wang Mang's merits and virtues at the end the Western Han, which led to the eventual "disaster of usurpation" (MLSY, 37). The *Code*, therefore, attempted to forestall any threat to imperial authority.

Although factionalism was "natural to politics" throughout Chinese history (Mote 1962, 176), the crime of "forming cliques" was a Ming legal innovation. The formal charge, "treacherous clique," appears in the case of Hu Weiyong (Fu 1963; Massey 1983). In 1380, Grand Councilor Hu and his followers were accused, among other things, of plotting rebellion and forming treacherous cliques, and were executed (MS, 7906–9; TS, 2043; DMB, 638–41). The subsequent pursuit of alleged Hu-clique members lasted over a decade.⁷ As a result, the court executed more than thirty thousand people, including at least twenty-two meritorious officials and nobles such as the former Grand Councilor Li Shanchang (1314–1390) (MS, 3769–73; DMB, 638–41, 850–54; Qian 1985, 2126–42; Pan 1968, 73–81). To warn and educate his officials, Zhu Yuanzhang had several documents published: *Instructions for Ministers* (Chenjie lu, 1380) and *The Prime Minister's Mirror* (Xiang jian, 1380), both of which listed historical figures as good or bad examples; and *Revelations of the Treacherous Clique* (Zhaoshi jian-dang lu, 1388), a record of the testimony and confessions of the accused Hu-clique members (Langlois 1988, 142; Qian 1985, 2134–40). By 1386, the crime of "forming treacherous cliques" had been included in *The Great Ming Code* (LJBY, 70). In 1393, the rule was applied in the case of Lan Yu, Dynastic Duke of Liang (Fu 1963; Massey 1983). Lan faced the same charges as Hu Weiyong: plotting rebellion and forming a clique. Consequently, Lan Yu and more than ten

thousand other people were put to death. Then, the emperor again had a tract published, *Record of Rebellious Ministers* (Nichen lu), which listed the crimes of sixteen prominent members of the Lan-clique: one duke, thirteen marquises, and two earls (MS, 3863–70; DMB, 788–91; Langlois 1988, 169–72; Wang and Zhang 1991).

In early Ming law enforcement, “treacherous cliques” merited the gravest punishments, illustrating the emperor’s animosity toward such groups. Brutal purges like the cases of Hu and Lan suggest an intriguing relationship between “forming treacherous cliques” and “plotting rebellion and great sedition,” the most heinous group of crimes stipulated in *The Great Ming Code* (Art. 277). Whoever committed the former always seemed to intend to carry out the latter—any official who desired to topple the dynasty would always seek the assistance of colleagues. Either way, the conclusion seems clear: no “treacherous cliques” could be formed without endangering the dynasty, hence the draconian treatment of clique members, including extralegal punishment like “clan extermination” (*zuzhu*).

The closeness of the two sets of crimes is also demonstrated in the cosmological explication of their effects. For “plotting rebellion and great sedition,” the early Ming jurist He Guang, following the *Commentary on the Tang Code*, defends the ruler as the one who “occupies the most honorable position and receives Heaven’s precious Mandate” and who, “like Heaven and Earth, acts to shelter and support, thus serving as the father and mother of the masses.” Endangering the dynasty, according to He, “runs counter to Heaven’s constant virtues and human principles” and “offends against Heaven” (LJBY, 30–31, 173).⁸ Other commentaries on *The Great Ming Code* also explicate the rule in terms of Heavenly Mandate and the hierarchal order of Heaven/ruler and Earth/minister (XTFL, 91a–92a; LMBJ, 6.2b–6.3a; ZPZZ, 8.2a–b). For “memorializing in praise of the virtues and achievements of high officials,” a model verdict also blames the criminals for “offending Heaven” (XTFL, 1.20b; LMBJ, 1.33b). Indeed, when the emperor is revered as the Son of Heaven and identified as the cosmic intermediary between Heaven and humans, any act against him brings cosmological consequences.

Another major legal liability for officials concerned deceiving the throne. For Zhu Yuanzhang, to exercise imperial authority and govern the realm effectively, it was crucial to keep the “information channels” (*yanlu*) unimpeded. “Information,” he claimed, was like “water,” which should flow constantly. “If water is blocked, all the rivers will be obstructed. If information is stopped, [the relationship between] ruler and subjects will be impeded” (TS, 196–97). He was fully aware of the limits of his own governing capacity, and therefore

urged his officials to take opportunities to air their views; he also allowed every subject in the empire to send sealed memorials directly to him. Otherwise, he feared, the ruler would become deaf and blind (TS, 1830, 1864). To facilitate the flow of information, the emperor created new government offices. In 1370, the Office for the Scrutiny of Memorials (Chayan si) was established to take charge of receiving memorials from all over the empire (MHY, 602). In 1377, the more enduring Office of Transmission (Tongzheng shi si) was established to manage memorials submitted to the throne. The official title, “tongzheng” (lit., “government circulation”), according to the emperor, was precisely named for the “water” metaphor: government was like water, which should circulate without obstruction. Viewed as the mouthpiece of the imperium, that office was founded to prevent officials from concealing information and monopolizing authority (TS, 1868–69; MHY, 602–3).

The Great Ming Code prevented the obstruction of information to the throne. It not only required that officials memorialize to the throne on all important matters (Art. 68), but also punished them for preventing others from presenting memorials to the throne or attending court audiences (Arts. 189, 190, 262). Each of these crimes might merit the penalty of strangulation or decapitation. The goal here was preventing a monopoly of authority, and deception of the throne (JJFL, 487). Indeed, the *Code* also stipulated other “obstruction”-related crimes (*liunan*), such as “creating obstructions in receiving or issuing government goods” (Art. 142) and “causing obstructions at checkpoints” (Art. 243). But only “obstructing others from attending court audience” entailed the death penalty, since other “obstructive acts” only delayed matters, whereas preventing the attending of court audience deceived the ruler and hence was more harmful to the dynasty (LJBY, 136; JJFL, 954, 957, 1255). The commentaries on the *Code*, again, justified these rulings in cosmological terms: the emperor with his “celestial countenance” (*tianyan*) lives in the “celestial city” (*tiancheng*). While the establishment of the “nine-layered celestial palace” (*tianque jiuchong*) signified the cosmic hierarchy, this complex arrangement might also cause the concealment of information, thus keeping the ruler from maintaining sharp eyes and keen ears for the events taking place in the “four quarters” of the realm. To uphold the “dynastic body” (*guoti*) and “court principles” (*chaogang*), therefore, it was imperative that any act of “deceiving the ruler” be swiftly subject to severe penalties (XTFL, 1.17b, 6.13a–14b; LMBJ, 1.42a-b, 4.18b–20b; ZPZZ, 2.37a-b, 5.15b–17a).

The *Code* protected several institutions to facilitate the transmission of information to the throne. The first was “intercepting the carriage of the emperor,” in which petitioners appealing for legal redress were allowed to prostrate

themselves outside the area of an imperial procession and await the imperial decision on their petition. While the law prohibited making false accusations, it exempted those who “intrude into the procession” from the penalty of strangulation, as long as they presented true information (Arts. 215, 355). According to the commentaries, by pardoning those who offended the “celestial majesty” (*tianwei*) of the ruler, this rule helped him to “hearken to the people’s sufferings” (XTFL, 7.11b–12a; LMBJ, 4.47b–48a).

The *Code* also protected the institution of “beating the petitioner’s drum,” by which an accuser might also bring his case directly to the emperor (Art. 355). Also intended to help the government “hearken to the people’s sufferings” (DLSY, 401), the petitioner’s drum was first set up in 1369 outside of the Meridian Gate of the Forbidden City, and a censor was assigned to supervise its operation. Later, it was moved outside the Chang’an Gate and supervised by members of the Six Offices of Scrutiny and Imperial Bodyguard in rotation (MHD, 905). When someone beat the drum, the official on duty had to present the case to the throne immediately; anyone who obstructed that process would be put to death (TS, 708–9). According to court regulations, only cases involving “important matters” of great grievances or dynastic secrets would receive imperial attention by beating the drum; no one should use it for such “trivial matters” as household, marriage, or land disputes (TS, 708–9; MS, 2313–14). In practice, however, either category could receive attention under the system. A clerk at Longyang district (Huguang province), for example, went to the capital to memorialize to the throne on serious local flooding, but received no reply. He then beat the drum and hanged himself under the instrument. The emperor was shocked by the suicide and exempted Longyang from over 24,000 *shi* worth of grain taxes (MS, 4010). On another occasion, in 1391, a functionary at the Longjiang Guard was punished for copying documents. At that very moment, his mother died. He accordingly requested to go home to mourn his mother. When his request was rejected by the minister of personnel, the functionary beat the drum to air his grievance. Hearing about the case, the emperor criticized the minister and permitted the functionary to observe the three-year mourning period (MS, 2314). While the first of these two cases could be counted as an “important matter,” the second might be categorized as a “trivial” household matter. But, ironically, it was the emperor, the ultimate source of authority in making court regulations, who acceded to this appeal. Two factors might have motivated the emperor in this case: either he did not view the mourning period as “trivial,” or else he was eager to employ the institution to punish his subjects’ deceitful acts.

Zhu Yuanzhang’s active role in enforcing the law on “deceiving the

throne” is more clearly revealed in the establishment of the institution known as “matching half-seal tallies” (*banyin kanhe*). During the early years of the Hongwu reign, local officials adopted a practice of prestamping government documents for the sake of convenience. Each year, when they shipped money, grain, or military supplies to the central government, they bore with them pre-stamped but blank report forms. If the Ministry of Revenue discovered errors in the original reports, the local officials could fill out the new ones without going back to their native place. In 1376, when Zhu became aware of the practice, he suspected the officials involved of deceit; in a surge of fury, he had them either executed or exiled (MS, 2318–19; Meng 1981, 55; Langlois 1988, 135–36; Danjo 1985). A direct result of this “Prestamped Documents” case (Kongyin *an*) was the establishment of the “matching half-seal tallies” system in 1382. The new system required that each page of the official registers have two (left and right) sheets, with the Palace Treasury seal stamped so that part of it could be seen on either sheet. The right sheets were held at the Palace Treasury, while the left sheets were issued to local civil and military units. If the central government needed to transfer funds from local governments, they filled out the left sheet and sent it to the responsible subordinate office. The subordinate office would only transfer funds when they saw that the seal and register number of the two sheets matched (TS, 2222–23; MHD, 292). In *The Great Ming Code*, if officials did not use the matching tallies for receiving or spending money, grain, or other items, the penalty might be one hundred strokes of beating with the heavy stick and life exile to a distance of three thousand *li* (Art. 135). What really mattered was not the physical loss entailed, but rather the potential threat posed by the act. A model verdict for the law equates failure to use matching tallies with “fabricating imperial rescripts,” since it “treacherously deceives the ruler” (XTFL, 4.14b; LMBJ, 3.22a).

In order to detect and eliminate deceitful acts, the Ming instituted more sophisticated surveillance agencies. The Ming surveillance system included censors in the Censorate and provincial surveillance commissions (MS, 1771–72; You 1998, 22–29; Hucker 1966). Also known as “guardians of the customs and laws” (*fengxian guan*), these surveillance officials were mainly responsible for investigating and impeaching officials for their transgressions (MS, 1767–69; You 1998, 29–45; Guan and Yan 1996, 133–42). Zhu Yuanzhang was well aware of his limits in getting the crucial information he needed to rule the empire. He was too busy; he had to “attend to numerous dynastic affairs every day,” which could prevent him from making well-founded judgments (TS, 1207). He was also too isolated; he lived in seclusion in the imperial palace, whose high walls obstructed his view and hearing (TS, 1871). He therefore needed his “ear-eye

officials” (*ermu zhi guan*)—the censors—to “shake up officialdom” and “remove evildoers and promote the pure” (TS, 616, 854–55, 1207).

While the *Code* endowed censors with authority to investigate matters and review documents (Arts. 4–6, 63, 73, 190, 357, 421), it also imposed special obligations on them. When censors went to local areas for inspection or investigation, local officials were forbidden to go outside the walls of their cities to greet them or bid them farewell. If the censors allowed them to do so, they would be punished along with the local officials (Art. 192). This law prevented the obstruction of official duties and precluded any potential collusion between censors and local officials (ZPZZ, 5.18a-b). In addition, due to their special government position, if censors committed crimes involving illicit goods, the penalty would be two degrees heavier than for other officials (Art. 373). The *Collected Commentaries* justifies this rule: “Officials and functionaries who guard the customs and laws are in charge of investigation; if they commit crimes involving illicit goods, how can they discipline others?!” (JJFL, 1778)

According to the commentaries on the *Code*, surveillance officials’ legal obligations also had cosmological significance. The law required censors and surveillance commissioners to “reverse unjust judgments” by reviewing court verdicts and rectifying any incorrectly ruled cases (Art. 434). Surveillance officials should also be scrupulous in deliberating on the death penalty, to ensure that no injustice would occur (Art. 435). Regarding the general rule on “reversing unjust judgments,” one model verdict points out that the cosmic phenomena of fire, water, thunder, and lightning—i.e., law—are dangerous and stern; that is why “gentlemen” (*junzi*) always stay away from litigation, and the ancient kings were cautious in their use of punishment.⁹ It then uses a number of historical anecdotes illustrating the significance of careful enforcement of the law codes. One such anecdote concerns a “filial daughter-in-law” who was wrongly executed, which led to the “disaster of the drought god” (*hanba*) (LMBJ, 10.22a; ZPZZ, 10.73a-b).¹⁰ Another model verdict warns that “when red writing-brushes are used to judge difficult [law cases], the ghosts and gods are lined up [watching]; and when the ‘autumn frost’ [is imitated] to carry out the law, Heaven and the Sun make [the judicial results] abundantly clear [to the world]” (XTFL, 15.18b–19a; ZJQS, 10.60a-b). These texts delivered a clear cosmological message to surveillance officials: the law code, which imitates the cosmic design, should be handled with great care; wrong law judgments will cause cosmic misfortune. Regarding surveillance officials’ obligation to deliberate on the death penalty, a model verdict again explicates the rule in cosmological terms: “Spring generates and autumn exterminates—the ruler should follow the times of the heav-

only way; deliberating on law cases and suspending penalties, and officials with authority should carry out the virtues of the sage-ruler” (LMBJ, 10.24b; ZPZZ, 10.74b). The commentary, then, correlates the value of human life with the heavenly virtue of generation and elucidates the cosmological relationship between Heaven, ruler, and officials.

Other categories of offenses against the throne by government officials had to do with imperial authority, dignity, and personal safety. To protect imperial authority, the *Code* prohibited high-ranking officials from appointing their own civil or military subordinates. The authority to select and assign officials, the *Code* stipulated, belonged exclusively to the throne; any violation would result in decapitation (Arts. 48, 49). The harsh penalty for this crime targeted two related acts: “usurping imperial authority” and “seeking private interests” (JJFL, 385, 388). In the commentaries, both imperial authority and official duties are again explicated in terms of Heaven. Because officials hold “Heaven-appointed offices” (*tianzhi*), they are selected according to “heavenly words” (*tianyu*)—imperial decrees. If officials take any of the “eight handles” (*babing*)—including the appointment of officials—away from “heavenly authority” (*tianheng*), they are likely to foster personal cliques and thus cause dynastic collapse (LMBJ, 1.3b–4a; ZPZZ, 2.3b–4a; DLSY, 72). In the eyes of the Ming court, usurping imperial authority by appointing subordinates and cultivating private cliques were closely related.

Infringement on imperial dignity was mainly concerned with ritual regulations. For instance, in the case of an imperial audience, congratulatory ceremony, or greeting imperial edicts, neither the officials in charge of the ceremonies nor the participants were allowed to make errors. Offenders were blamed for “forgetting the deep grace of Heaven and Earth and ignoring the fundamental principles of ruler and father” and sentenced to forty strokes of beating with the light stick (Art. 186; XTFL, 6.11b). In 1370, when the influential court advisor Song Lian failed to appear at court, he was punished—not by beating but by demotion from the position of chancellor (rank 3a) to Hanlin Academy compiler (rank 8a) (MS, 3785; DMB, 1227). Song Lian might have escaped corporal punishment due to his official status, but his demotion reveals that the emperor would not tolerate ceremonial errors, even by his most trusted advisors.

Regarding ritual behavior, the *Code* also prohibits officials, when paying court audience, from making mistakes in prostrating or ascending the hall, or misbehaving by falling to the ground, being sloppily dressed, or whispering to each other (Art. 187; JJFL, 951). One model verdict depicts the grand cos-

mic scene: “The celestial gates in the nine heavens follow the ecliptic and open widely [to demonstrate] the loftiness of the palaces, and dignitaries from ten thousand countries surround the purple court and worship from afar the magnificence of the imperial crown gems” (XTFL, 6.12a). By including the heavens and humans, the commentary places government officials in an important cosmological setting, even though such acts of “irreverence” (JJFL, 951) comprised a very minor threat to the throne, entailing only a fine of one half month’s salary (Art. 187).

Crimes against the emperor’s personal safety were regarded as a greater threat to the throne, mainly falling into the category of “great irreverence” (*da bujing*)—one of the “Ten Abominations.” Such crimes included mistakenly failing to follow the correct prescription when preparing imperial medicine or making mistakes in writing or attaching the label, mistakenly violating dietary proscriptions when preparing imperial food, failing to exercise or train carriage horses properly or failing to make the harness or equipage sturdy and complete, and mistakenly failing to make the imperial touring boats sturdy. The primary offenders were the physicians, cooks, or artisans employed by the court. Nevertheless, supervisory officials such as those at the Imperial Academy of Medicine could also be punished, although their penalty was usually reduced by two degrees (Arts. 182, 183). A key factor in deciding these cases was the offender’s mental state, i.e., whether they had intentionally committed these acts. Therefore, as long as no actual harm was done, the punishment was relatively light—limited to one hundred strokes of beating with the heavy stick. However, because these acts all involved the emperor’s personal safety, the cases were not considered closed even after the offenders had been punished. The *Code* further required that these cases be memorialized to the throne requesting the emperor’s special decision, which according to specific circumstances might increase the penalty significantly. In addition, because most of these acts are grouped within the “Ten Abominations” (Art. 2), offenders would be deprived of their legal privileges (Jiang 2005, lxvi).

In sum, to defend the ruler’s superior status in the envisioned cosmic order, *The Great Ming Code* indicated special crimes and punishments for officials. In particular, it prohibited them from forming “treacherous cliques,” deceiving the throne, usurping imperial authority, infringing upon imperial dignity, or threatening imperial safety. These regulations basically defined the cosmological role of officialdom toward the ruler, so that officials would repay the emperor, who as the Son of Heaven had provided them with the opportunity to serve as his representatives in governing the realm.

In the Chinese intellectual tradition, parents occupy a crucial position in the cosmos; they are a person's biological origin and nurture them as a cosmic being. For any individual, parents constitute an all-important link in their cosmic existence and continuity. They are one's ancestors: deceased ancestors after their physical death, and "living ancestors" while alive (Yao 2000, 202). To recompense parents for such cosmic grace, one must practice filial piety. Confucius states that "Filial piety and brotherly respect is the root of humanity" (Chan 1963, 20). The *Classic of Filial Piety* (*Xiaojing*), one of the fundamental Confucian documents that first received dynastic support during Han times, views filial piety as the "constant way of Heaven, the fundamental principle of Earth, and the eternal virtue of human beings" (*Xiaojing*, 2549). Filial piety, therefore, was considered to be a basic element in the cosmic order. As Yao Xinzong (2000, 202) puts it: "Filial piety is more than a secular attitude; it has become part of religious ritual and a constituent element of spirituality."

The early Ming court emphasized the significance of governing the realm with filial piety. Zhu Yuanzhang believed that because all humans loved their parents, they should be provided with the opportunity to fulfill their filial duties. One day in 1370, when he saw a bird caring for her chicks, Zhu connected the bird's labor with a human mother's grace, and ordered that any officials with elderly parents wishing to return home and care for them might do so. The emperor claimed that filial piety was an essential component of human nature; sage-rulers were supposed to govern the realm on the basis of human sentiment. Filial piety, the emperor concluded, is "the cornerstone for the transformation of customs" (TS, 962–63).

Zhu Yuanzhang provided specific plans for his subjects on how to exercise filial piety for living or deceased parents. During the parents' lifetime, to recompense them, one had to "keep them warm in winter and cool in summer, give them delicacies to eat, be diligent and attentive rather than idle, admonish their misdeeds sincerely even to death instead of implicating them."¹² This definition of filial piety is expanded in the *Grand Pronouncements* to include additional deeds, such as serving the ruler with loyalty, making distinctions between husband and wife, maintaining precedence between seniors and juniors, preserving sincerity among friends, behaving sedately, accomplishing official duties with honor, fighting battles with great valor, not violating dynastic law, not damaging one's own skin and body, and not cursing others (DGXB, 267–69). Apparently, Zhu Yuanzhang had redefined the traditional concept of filial piety.

To the emperor, filial piety extended far beyond the parent-child relationship. Rather, it involved a broad spectrum of social relations, including self-respect and self-cultivation; husband-wife and senior-junior family relationships; friend-friend community relationships; the empirewide ruler-subject relationship; and within an administrative region, the official-commoner relationship. By regulating these social relations, the emperor incorporated fundamental dynastic values into the law and brought them to bear upon the single concept of “filial piety.”

After one’s parents pass away, Zhu Yuanzhang commanded, one had to “sacrifice to them at the appointed times to show filial respect.” To facilitate the ceremony of ancestor worship, the emperor prepared a “standard prayer text” for his subjects to follow. In it, one was supposed to acknowledge blessings from the ancestors for the continuation of the family line, and serve the ancestors with food and wine (JMBW, 1434–37; Farmer 1995, 206–7). By communicating with and serving deceased parents, one was expected to unite the worlds of the living and the dead and connect the past, present, and future, which was the quintessence of filial piety.

In *The Great Ming Code*, officials are subject to three categories of special regulations on recompensing their parents.¹³ First, officials could have their parents enjoy certain legal privileges. For example, if the parents of officials of the first through third ranks committed crimes, they could not be interrogated without authorization. Their case was handled in three steps: first, reporting the facts to the throne and petitioning an imperial rescript authorizing an interrogation; second, setting forth the crimes and circumstances to be deliberated, and memorializing to request permission to deliberate; and third, after deliberation, memorializing to petition a decision from the throne. If parents of officials of the fourth or fifth rank committed crimes, although their cases could be interrogated by the authorities, the final judgment regarding their crimes and the severity of punishment had to be approved by the emperor (Art. 9). The mid-Ming jurist Ying Jia explained the privilege in terms of extension of the family line: “Parents are where officials come from,” therefore, they should be treated the same as their children (MLSY, 15). These regulations, of course, were not a legal guarantee of such privileges; they merely provided officials with certain opportunities, for all final decisions on these cases came from the emperor. Nevertheless, the preferential treatment of officials’ parents testifies to the dynasty’s endorsement of filial sentiment in officialdom.

Another category of special regulation for officials concerns their criminal liability in “abandoning parents to take government office.” According

to the *Code*, if their parents were eighty years of age or older or incapacitated, and had no other adult male to rely on, an official could not leave them to take government office (Art. 199). This article, obviously, aims to promote the sentiment of filial piety. The commentaries on the *Code* see treating parents as strangers and discarding them as an “evil” act, and view an official who shows filial sentiment as a crucial link between the ruler and the common people: “If they lose the way of filial piety, they will certainly fail to serve the throne with loyalty; if their own bodies are not upright, how can they enforce orders on the masses?!” (ZPZZ, 5.26a). Meanwhile, the commentaries also tie this article to a classic source of tension in Chinese political history: how does one achieve balance between being a filial son and loyal subject? As a son, one should “serve the parents to fulfill filial piety”; as a subject, however, one should “labor for the dynasty and forget the family” (XTFL, 6.21a). The solution involved compromise: “If parents are desperate, [the officials] should first love them with benevolence; if the ruler’s matters are pressing, they should serve the ruler urgently with righteousness.” In this particular case—when aged or sick parents need substantial care, it is “blood relatives” (*tianqin*) who take precedence over governmental duties (ZPZZ, 5.26a).

A third category of special regulation concerning an official’s filial piety has to do with their responsibility in caring for deceased parents. When parents pass away, according to the *Code*, officials could not stay in office and had to take mourning leave; nor could they, before the mourning period was over, return to carry on government service (Art. 198). Such a “monstrous crime” would stem from lack of filial piety. Indeed, one’s parents are the source of the greatest grace, which “is illimitable like the Great Heaven” (ZPZZ, 5.25a). When officials continued to fulfill their official duties, ignoring the grace they had received from their parents, they undermined the foundation of human relationships and violated principle; furthermore, an unfilial person would never be utterly loyal (XTFL, 6.20a; LMBJ, 4.28b–29a; MLSY, 95). Here, as seen in various commentaries, the Ming jurists looked at the law in terms of how officials should “recompense” their deceased parents who “gave birth to them” and who “nursed them in their arms for three years” (ZPZZ, 5.25a). Taking care of the dead is connected to fulfilling duties and setting an example for the living. Again, the law sought a balance between filial piety and dynastic loyalty, emphasizing their correlation and unity. Based on Ming cosmology, however, it also seems likely that the law aimed at promoting a reciprocal relationship between the worlds of the living and the dead, ensuring that ancestors would react positively and send blessings to the living. The location of the two above-mentioned articles (Arts. 198, 199) within the *Code* is also noteworthy: they

are found neither in “Administrative Affairs” nor in “Households and Corvée Services”; instead, they are located in “Ceremonial Regulations.” This arrangement signified the ritual dimension of the acts and emphasized the cosmological connection between parents and their sons.

To understand an official’s filial obligation toward his parents, it must be viewed in conjunction with his loyalty toward the ruler. “Filial devotion of officials for their parents is transformed into loyalty to the ruler,” a worldview termed by Norman Kutcher (1999, 2) as a “parallel conception of society.” Kutcher also observes “a serious commitment to the parallel conception of society” under Zhu Yuanzhang’s revivification of Confucianism during the early Ming (*ibid.*, 40). Indeed, in the two law articles above where the punishment for lack of filial piety is specified, the *Code* also forbids officials from cheating the throne by providing incorrect information on their parents. If, for instance, officials fraudulently claimed that their parents were aged or infirm and petitioned to return home to take care of them, they would be punished the same as for “abandoning parents to take government office,” because they were using their parents as “instruments of deception” and discarded the “righteousness of serving the dynasty in officialdom” (Art. 199; JJFL, 984; MLSY, 96). In the same way, if their parents were not dead, but officials fraudulently claimed them deceased or falsely claimed an old death as of recent occurrence, they would be punished the same as for “concealing a parent’s death,” because they displayed a lack of loyalty (Art. 198; JJFL, 980–81; MLSY, 95). In fact, the early Ming was a time when scholar-officials were severely punished for refusing to serve the new dynasty (Mote 1962, 178–79, 239; DGSB, 385–87, 390–91). The close connection between filial sons and loyal subjects in these injunctions testifies to a broad definition of “filial piety” by the early Ming court.

In the *Code*, an important institution to balance filial piety and loyalty is “returning officials to government service by curtailing sentiment” (*duoqing qifu*). That is to say, when an official’s parents died, the emperor could order either to shorten or completely ignore the mourning period. In case of “curtailing sentiment,” therefore, officials remained in or returned to government office without going home to mourn their deceased parents (Art. 198). Clearly, while urging officials to serve the public (LTSY, 12.17a), this proviso enabled the emperor to make the ultimate decision on loyalty and filial piety. In his account of imperial efforts to promote filial piety among officials in the Hongwu reign, however, Kutcher stresses Zhu Yuanzhang’s “disdain for *duoqing*.” Unfortunately, while Kutcher uses the prohibition of *duoqing* as the most conspicuous example of the emperor’s acceptance of the “parallel conception of society” (1999, 42–43), he does not provide any evidence for his proposition. To

be sure, Zhu earnestly encouraged officials to observe the mourning rituals. In 1375, for example, he reformed the legal procedure to facilitate the mourning process. When officials were first informed of the death of a parent, their office would verify the death. Only after verification could the officials hasten home to mourn. This often delayed or prevented them from attending a parental funeral. Therefore, in 1375, the emperor ordered: “When officials hear of the death of their parents, they may leave office without awaiting a verification report.” By speeding up the process, the emperor hoped that officials would participate in the rituals to bury their parents and, as result, the court would enhance the “way of filial principle” (*xiaoli zhi dao*) (TS, 1700). Nevertheless, during an era of centralization that is often labeled “Ming despotism” (Mote 1961), it seems unlikely that the strong-willed Zhu Yuanzhang would restrict imperial authority.¹⁴ Even if he did prohibit *duoqing*, as the evidence shows, his law compilers took no heed of what he ordered and codified the institution, which undoubtedly benefited imperial authority.

RECOMPENSING THE PEOPLE

As one of the primordial forces in early Ming cosmogony, the “people” constituted the basis for an official’s existence. Zhu Yuanzhang once said that the cosmos inspired him with “three awes”: he was in awe of Heaven above, of Earth below, and of the people in the middle. He, the human ruler who had Heaven as a father and Earth as a mother, and who himself was the father and mother of the people, cherished a cosmic mission to combine the Way of Heaven and Earth and bring peace to the people (TS, 1447–48). In this cosmic structure, there was initially no place for officials. Officialdom served as the ruler’s instrument to achieve his cosmic mission, and thus depended on the people as well as the ruler.

In early Ming cosmology, because of their significant position in the cosmic order, the people were closely associated with Heaven. Their feelings were considered a determinant of the Mandate of Heaven and the location of heavenly principle; their opinions represented Heaven’s views. The cosmological definition of the people led to the adoption of the age-old political ideology—“the people are the foundation of the country” (*min wei bang ben*) (TS, 1232)—by the early Ming ruling elite. According to Zhu Yuanzhang, the people served as the foundation of the country by supporting both the ruler and officials. Due to the ruler’s primordial cosmic standing, he and the people were considered “one unit” (*yiti*). If the people could not live in

peace, the ruler could not sit firmly on his throne (TS, 1401). Because of the officials' lack of primordial cosmic status, their existence could not be taken for granted. While the ruler conferred official titles on them, it was the people who supplied them with food and clothing (TS, 1451). The government, therefore, should protect and nourish the people by implementing a policy of "recuperation and multiplication" (*anyang shengxi*) (TS, 506); otherwise, if the ruler and officials abused their power and bullied the people, it would undermine the source of their food and clothing. Zhu used a metaphor to describe the relationship between the ruling elite and the people—a horseman and his horse. If the horseman never rested his horse but blindly whipped it to a gallop, it was rare for the horse not to stumble and fall. "When the horse stumbles and falls how can the rider not be injured?" (TS, 1401). Here, the political tone is clear: while officials were urged to repay the people, it was the interests of the ruling elite that were the dynasty's ultimate political concern.

The Great Ming Code outlines a variety of measures to prohibit officials from exploiting or disturbing the people. Here, the focus will be on two major categories of legal liability that were prescribed for officials: crimes involving "illicit goods" (*zang*), and those committed by local officials. The *Code* defined "six types of illicit goods" (*liuzang*),¹⁵ three of which either exclusively or primarily involved the interaction between government officials and the common people: accepting property and subverting the law, accepting property without subverting the law, and committing crimes involving illicit goods obtained through malfeasance. As these acts had a direct impact on people's lives, they were extensively regulated in the law.

For "accepting property and subverting the law," the *Code* provided a sentencing scale to punish offenders according to the value of the illicit goods, and had the officials' certificates of appointment and registration revoked. If officials accepted property from more than one person, the value of the illicit goods would be calculated on the basis of the entire amount of goods received (Art. 367). This rule deviates from the general legal principle requiring that when two or more crimes are discovered together, offenders would be punished for only the most serious crime (Art. 25). This exception indicates the special attention law compilers paid to the problem of "illicit goods."

"Committing crimes involving illicit goods obtained through malfeasance" referred to cases where officials received property for matters of which they were not in charge (Art. 368). In the *Code*, however, this crime was applied on broader terms than the legal definition.¹⁶ Here, receiving goods was not a necessary component of the crime; any property damage or

pecuniary loss could be punished under this crime. For example, when officials assessed merchandise prices, if they set prices unfairly high or low, they would be punished as if the increased or reduced prices were for illicit goods obtained through malfeasance, even though they had not taken any property for themselves (Art. 172). Similarly, if officials used labor to make things, but the products were substandard and unusable, they would be punished based on the amount of money wasted, as if they had obtained illicit goods through malfeasance (Art. 449). Such regulations complemented those on other crimes involving illicit goods, thereby making the law against official corruption more extensive.

Officials who committed crimes involving illicit goods were one of the main targets for law enforcement during the early Ming. Learning from the corrupt practices of late Yuan dynasty officials, the Ming founding emperor believed that “the most corrupt practice in government is committing bribery and embezzlement” (TS, 2332). In 1371, he ordered: “From now on, if officials or functionaries commit crimes involving illicit goods, they shall not be pardoned” (TS, 1288). About a decade later, he again ordered that if officials or functionaries took bribes, both parties—those receiving and those who paid—were to be punished by banishment to the frontiers.¹⁷ Indeed, “severely punishing corrupt officials” (*zhongsheng zangli*) became one of the fundamental legal policies of the Hongwu reign (MS, 2318). The Ming emperor frequently employed harsh remedies to punish officials who committed crimes involving illicit goods. This is best illustrated by cases collected in the special law, the *Grand Pronouncements*, compiled by the emperor himself. In this law, which metes out punishment to corrupt officials, two features stand out. The first is the relative preponderance of laws dealing with corrupt officials. Out of 156 law cases collected in the four compilations of the *Grand Pronouncements*, 128 are concerned with official crimes, of which 59 (about 46 percent) target bribe-taking officials (Yang 1988, 86).

The second feature has to do with the severe penalties used to punish corrupt officials. In the well-known case of Guo Huan mentioned in chapter 2, for example, Zhu Yuanzhang acknowledged that within a half-year period, innumerable people lost either their lives or their families; the penalties inflicted included death, exile, confiscation, pulling out tendons, severing fingers, cutting off feet, head-shaving, and tattooing (DGSB, 393). The emperor believed that corrupt officials “courted their own ruin” by “taking bribes” and “maltreating my honorable people” (YZDG, 228, 245). To guide his officials, Zhu asked for their compliance: “I have compassion for the people and stand in awe of Heaven. Will you subjects follow me?” (DGXB, 273).

Another major category of official crime was the failure of local officials to dutifully care for the people. The Ming emperor had great expectations for his so-called “father-mother officials” (*fumu guan*): “It is the ruler who governs the people on behalf of Heaven; it is local officials who nurture the people on behalf of the ruler” (TS, 2815). He named the provincial government offices, which were supposed to “carry on good traditions and transform the people” (TS, 2140), the Office of the Commissioner for Undertaking the Promulgation of Imperial Orders and for Disseminating Government Policies (Chengxuan buzheng shi si) (Hucker 1985, 127). He admonished district and prefectural officials, the ones who had the most direct contact with the people, to attend strictly to their duties and to become “gentlemen” (*junzi*) who “cherish splendid heavenly principle,” rather than “mean persons” (*xiaoren*) who “harbor sordid, selfish desires.” These “shepherds of the people” (*mumin zhi guan*) should shoulder the task of transforming social customs (TS, 1421–23).

Severely punishing corrupt local officials was an essential part of the early Ming legal policy of protecting the people (Watt 1972, 109–10). In 1369, shortly after the founding of the dynasty, Zhu Yuanzhang admonished his officials, using his own experience from late Yuan times:

In the past when I was among the people, I often saw that subprefectural and district officials mostly did not assist the people, but frequently sought wealth and sexual indulgence, drank alcohol, and neglected their work. They completely ignored the weal and woe of the masses. My heart was filled with anger towards them. At present, therefore, I strictly enforce the law. As long as I am aware of officials and functionaries who commit corruption and harm my people, I will punish them without pardon. (TS, 800)

In combating corrupt local officials, the emperor imposed severe penalties on them (Yang 1988, 80–93). For example, some sources record that Zhu Yuanzhang practiced skinning corrupt officials. Zhu had a “skinning ground” (*pichang*) created nearby the government offices and temples at the seat of each prefecture, subprefecture, military garrison, and battalion. Any corrupt official who received bribes worth at least sixty *liang* of silver would be beheaded and skinned. The skins would then be used to make office chairs—when future officials sat down to work, they would be reminded of the ignominious fate of their predecessors (He 1640, 418; Zhao 1987, 480–81).¹⁸ The emperor not only employed legal and extralegal remedies, but also institutionalized a practice in which commoners might directly seize corrupt local officials for trial (YZDG, 236–37; DGXB, 272–72; DGSB, 408–9). Indeed, the Ming

founder identified the common people in local communities as his trusted allies in reconstructing the ideal society (Watt 1972, 110–15; Andrew 1991).

The Great Ming Code provided fourteen special articles to punish crimes committed by local officials,¹⁹ twelve of which deal with the relationship between officials and the people within their jurisdiction. First of all, the law required local officials to take care of the people's basic needs. When natural calamities occurred within their administrative units, damaging fields and produce, "the officials who shepherd the people shall not sit back and merely watch people's sufferings" (JJFL, 600); they had to report disasters immediately to their superiors, and, at the same time, inspect the fields so as to manifest the "loving heart" of Heaven and Earth (Art. 97; XTFL, 2.18a). This article instructed emissaries sent down from superior offices, as well as local officials who had direct jurisdiction, in order to ensure timely disaster relief. When some districts in Shandong suffered from flooding, for example, Zhu Yuanzhang sent emissaries to examine the number of households affected. The emissaries recorded some 170, only one-tenth of the actual figure. As a result, many victims continued to be burdened with taxes. After the emperor learned the truth, he had the emissaries punished by beating with the heavy stick, and exempted the local people from taxation.²⁰ On another occasion, the court sent a bureau secretary from the Ministry of Revenue named Zhao Qian to relieve flood victims in Jingzhou and Qizhou, Huguang Province. Zhao, however, "did not consider people's difficulties, but sat and looked on and procrastinated," which caused many people to die of hunger. The emperor had Zhao executed to "warn those who do not assist my people."²¹

To help poor and weak people, the imperial court required that "nourishment houses" (*yangji yuan*) be built throughout the empire to provide helpless people with food and clothing (MHD, 459; LMBJ, 2.25a). The *Code* ruled that if widowers, widows, orphans, the childless, the elderly, or the incapacitated were poor, had no relatives to rely on, and could not survive on their own, officials should "grant grace" to them and support them with government facilities (Art. 95; JJFL, 588). According to one model verdict, supporting helpless people signified imperial grace based on cosmic principle: "The myriad things all flourish thanks to the shelter and support of Heaven and Earth; and the people have their livelihood assured because of the moisture of rain and dew. . . . The sun shines upon the nine heavens, illuminating every dark and distant place on the Earth; [imperial] grace spreads throughout the realm, first nourishing the desolate and childless" (ZPZZ, 3.20b). Failing to show concern for the weak and poor disrupted the cosmic order and was not in keeping with "human sentiment" (*ibid.*).

Second, the *Code* forbade local officials from harassing the people when levying corvée services and collecting taxes. In levying miscellaneous corvée services, officials were required to check the number of individuals and field products registered, and establish upper, middle, and lower household degrees. If they released the rich and oppressed the poor or altered the degrees to practice fraud, the *Code* encouraged aggrieved poor people to report them to their superior officers (Art. 86). Similarly, in assigning corvée services to able-bodied adult males or artisans for work in government offices or workshops, if the assignments were unequal or if the adult males or artisans fulfilled their duties but were not released, the officials would also be punished (Art. 87). In addition, officials should not exempt the relatives of influential people from performing corvée service, because it would increase the burden on the poor (Art. 88). In collecting grain taxes, granary officials or measurers should allow taxpayers to use rods to level off the measures; they had to assume legal liability if they kicked the measures or piled grain up cone-wise and thus collected excessive amounts of grain (Art. 128). These rules prevented the abuse of authority in officialdom.

The early Ming court seemed to have been determined to protect the people from excessive taxation in order to maintain a stable agrarian economy (Huang 1998, 106–7). In 1374, for example, officials at the Commercial Tax Office of Zhangde Prefecture, Henan, taxed the local people on things like melons, vegetables, persimmons, and jujubes. On hearing of this, Zhu Yuanzhang sighed: “These officials are just like what people in ancient times said: ‘Officials who collect taxes are worse than officials who steal.’” He ordered the officials punished (TS, 1571). The Ming court even punished officials whose proposed use of labor might drain the people of their resources. In 1376, when the assistant magistrate of Pingyao at Fenzhou subprefecture, Shanxi, finished his term of office, the subprefectural official gave him an excellent personnel evaluation for “being able to expand commercial taxes.” But the emperor held that the assistant magistrate’s responsibility was to “assist the district government to pacify the masses.” Expanding commercial taxes beyond fixed rates would certainly “exploit the people.” The assistant magistrate, then, was not capable of governing the people and had neglected his duties. The emperor ordered the Ministry of Personnel to investigate the case (TS, 1776–77). A year later, the vice magistrate at Linzi district, Shandong, memorialized to the throne on exploiting natural resources in the mountains and seas so as to open more sources of wealth. The emperor believed that his idea would “tire the people” and thus had him dismissed from office (TS, 112.1859). Due to special circumstances, however, Zhu Yuanzhang imposed heavy punitive taxes on Suzhou City and its

surrounding prefectures (Mote 1962, 212). Revenge on his former enemies and precaution against future rebellions seems to have superseded his compassion for the people of the southeast triangle.

Third, the *Code* prohibited local officials from exploiting the people within their jurisdiction. Former or incumbent local officials were forbidden to extort or borrow property from or sell their own goods to the people under their jurisdiction. If they accepted gifts of local products from local people, both the recipients and the presenters would be punished (Art. 371). If the officials' household members, including relatives and bondservants, committed such offenses, their penalty would be reduced by two degrees from that for officials; if the officials knew of the circumstances, they would suffer the same punishment (Art. 372). Officials were also prohibited from purchasing fields or houses in their service locations (Art. 100). This group of regulations, according to the *Collected Commentaries*, regulated local officials along moral and economic lines, encouraged them to become "upright" before ruling the masses, and prevented them from "encroaching upon the people's interests" (JJFL, 614). A major feature of these rules is that they were not limited to crimes involving actual damage—officials could be punished even when engaging in fair transactions with local people. The important issue was to prevent any harm to commoners, who were vulnerable to government power. Another feature of these rules concerns the tension evinced between the interests of officials' own families and those of the dynasty. Such rules targeted the officials' efforts to build up their own family possessions and financial resources, which potentially conflicted with the dynastic cause. As articulated in one model notice:

The court appoints officials to protect people; [the officials] shall not oppress the people and covet wealth. The officials in authority should be willing to die for the dynasty; how can they put their individual families ahead of the dynasty? Officials shall worry about whether they fulfill their duties and shall not worry about their offspring's housing and food; they shall be anxious for the management of government affairs, not for the convenience and comfort of their fields and houses. (ZPZZ, 3.29a)

The notice urges local officials to "devote themselves to the dynasty with loyalty and faith and govern their families with purity and honesty" (ibid.).

Fourth, the *Code* forbade local officials from engaging in any kind of sexual relationship with local women, regardless of whether it was consensual marriage or violent assault. If during their term of office, local officials married oth-

ers' wives, concubines, or daughters under their jurisdiction, or if they arranged such marriages for their relatives or household servants, not only the officials but also the women's husbands or fathers would be punished. Remarried wives or concubines would be taken away from both the officials and original husbands and returned to their natal families, and daughters would be returned to their parents. If officials forced women into marriage, their penalty would be increased by two degrees, while the women's families would not be punished (Art. 116). Therefore, neither consensual nor forcible marriage was allowed for officials within areas under their jurisdiction. For consensual marriage, in particular, both sides of the marital relationship (i.e., officials and commoners) would be punished. The political message is clear: officials might take advantage of their power and coerce people, while commoners might present their women to gain personal favors. Therefore, they would both be penalized and lose the remarried wives or concubines. But the symbolic meaning of this rule also seems significant: officials were the "father-and-mother," and commoners the "sons or grandsons"; their marriages undermined the "principles of the three bonds and five constant virtues" (*gangchang zhi li*) (LMBJ, 2.58b–59a). Similarly, if officials committed either consensual or forcible fornication with local wives, daughters, or imprisoned women, they would not only be punished more severely than ordinary persons, but would also lose their official status (Art. 395).

Finally, the *Code* severely punished local officials who "provoke honorable persons to revolt," a serious problem in the early Ming. According to the *Veritable Records*, hundreds of rebellions took place during the Hongwu reign. While a great number of those rebellions were caused by ethnic conflict and regional rivalry, many of them originated from official corruption. In 1388, several regional military commissioners were punished for certain crimes, including the Guangxi Regional Military Commissioner Geng Liang, who "provoked honorable persons to revolt." Zhu Yuanzhang, therefore, specifically issued the "Decree Calling for Military Officers to Protect Themselves" (*Wuchen baoshen chi*). In it, the emperor instructed officers how to defend the empire, uphold their reputation and rank, enjoy legally acquired wealth, and pass happiness on to their offspring. He hoped that his officers would review the text daily and master its lessons (TS, 2916–17).

The *Code* stipulates: "If officials who shepherd the people fail to nourish and care for the people but act contrary to the law and provoke honorable persons to revolt, so that a crowd gathers to rebel and cities are lost, they shall be punished by decapitation" (Art. 231). This is the harshest penalty against local officials in the *Code*, indicating the gravity of the crime. Indeed, if local officials failed

to perform their duties as “father-and-mother,” but instead applied cruel policies like tigers or vultures, they risked “causing the water to capsize the boat” (LMBJ, 4.74b). The fate of the dynasty was at stake. The *Collected Commentaries* states: If local officials “do not harbor caring hearts to care for the people but constantly act tyrannically, they will inevitably cause turmoil. Heavy penalty is therefore meted out to make those who shepherd the people know what they should deeply ponder over” (JJFL, 1128).

If such a case occurred, due to the criminal liability of the officials, the rebels were likely to be pardoned. In 1383, when Jiangxi provincial officials petitioned for more military guards to fight bandits in the mountains and forests, Zhu Yuanzhang responded: It was not the people’s original intent to become bandits. People revolted because their officials failed to assist them and provide them with food and clothing. By asking for more troops, the local officials knew only the “branch” instead of the “root” (TS, 2446). The emperor’s remarks brought up the issue of legal liability for such a grave matter. If officials were to blame, the commoners who turned to banditry should be treated leniently. In 1388, because of local officials’ corruption and garrison troops’ harassment, some people in Ganzhou, Jiangxi, fled to the mountains and forests and became bandits. When the emperor found out that the rebels had been forced into banditry, he ordered the captured rebels released and pardoned those who were still at large, as long as they took up their original occupations (TS, 2871). Although the imperial decision in this case appears more a political resolution than a legal judgment, the exoneration of the rebels attested to the gravity of official liability.

In short, to protect the people, one of the fundamental elements in early Ming cosmology, *The Great Ming Code* was enacted to combat corrupt officials. Its general objective was prohibiting officials from exploiting the masses, and, in particular, urging local officials to fulfill their duties. In law enforcement, the Ming court seems to have carried out these regulations.

SACRIFICE TO THE DEITIES

The duty of “sacrificing to the deities” was assigned by Zhu Yuanzhang to local officials in the *Comprehensive Instructions to Aid the Realm*:

The “one sacrifice” means sacrifice to the deities and ghosts. An official receives a posting outside the capital in either a district or an outpost. When the ruler entrusts him with a district, none of the matters in the district or outpost which ought to

be done can be left undone. The reason officials throughout history suffered natural disaster and human catastrophe is that they were lax in teaching the people to sacrifice to the deities. In entrusting them, the ruler's intention was that decrees be carried out and ghosts and deities sacrificed to. Besides, the ghosts and the deities depend on it and must wait for sacrifices to be completed. How can officials just rejoice in their happiness, fill their bellies, ignore what they sacrifice to, and have no concern for the suffering of the people? That will cause the deities to be angry. Therefore, they [corrupt officials] will come to no good end.²²

This passage expresses the emperor's views on the relations between deities and local officials. Appointed by the ruler, the mission of local officials was to perform sacrifices to the deities and care for the people under their jurisdiction. The deities were seen as empowered to control the local officials' fate, and could eliminate those who neglected their cosmological duties. The punitive destruction imposed by the deities would affect not only their own localities, but would also endanger the dynasty. Hence, the ruler also benefited through sacrifices conducted by local officials.

In *The Great Ming Code*, Article 178 contains several key points relating to the sacrifices required of local officials, indicating the major spirits to whom local officials should perform sacrifices. The spirits recorded in the dynastic sacrificial statutes (*sidian*) included those of Soil and Grain, Mountains, Rivers, Wind, Clouds, Thunder, Rain, as well as sage sovereigns, wise kings, loyal subjects, and martyrs. Although they were inferior to those worshipped by the Ming court in the hierarchical order of the spirit world, they were by no means denigrated by the early Ming legal order. In 1380, the government office of the Lishui district, Nanjing, substituted minced beef for minced deer meat in worshipping the Spirits of Grain and Soil. On hearing this, Zhu Yuanzhang ordered the local officials in charge punished. But officials at the Ministry of Rites tried to exempt the officials from criminal liability by reminding the emperor of a court "commandment" (*ling*): when sacrificial objects were lacking, other objects could legally be substituted. The emperor disputed this statement:

What "lacking" means is that [the sacrificial objects] are not produced in the local areas. As a matter of fact, there are deer in Lishui. How can you call them "lacking"? It is due to the officials' lack of sincerity in worshipping the deities that they made [the ceremony] simple and careless. That government officials are able to do their duty and take care of the people is because they harbor reverence and awe in their heart. Now, the officials at Lishui are even disrespectful to deities, what can they fear in human affairs?! (TS, 2117)

The emperor insisted that the local officials be punished according to the *Code*, also issuing a rescript to government offices across the empire reiterating that sacrificial objects could only be substituted when they were not locally produced and could not be purchased (TS, 2117–18). To the emperor, reverence and sincerity should be manifested in ceremonies to deities, whether the ceremonies were conducted at the capital or in local areas. Actually, outside the official pantheon there were other spiritual figures whose meritorious deeds were outstanding. Although local officials were not required to perform sacrifices to these figures, their temples had to be protected (TS, 760).

In fact, Article 178 of the *Code* lists only a few major deities and martyrs that local officials should worship. Important deities worshipped throughout the empire but not listed in the law were the spirits of walls and moats (*cheng-huang*) (Romeyn Taylor 1977). Early in the Hongwu reign, the spirits of walls and moats were worshipped throughout the realm and were granted various honorary titles and noble ranks by the imperial court (TS, 755–59; HMZL, 19). In 1370, to purify the official pantheon, the Ming court did away with spirit titles. At the same time, it institutionalized sacrifices to the spirits by making prefectures, subprefectures, and districts establish temples for the spirit of walls and moats (TS, 1033–36, 1050; HMZL, 26–28). In daily government, the ruling elite apparently petitioned this spirit for aid. At the capital, for example, the emperor prayed to the spirits of walls and moats to cure sick horses and for rain during times of drought (YZWJ, 236, 245); in local districts, officials invoked the spirits of walls and moats to repel tigers (TS, 1223, 1998). Apparently due to the belief that these spirits, like many others, could “generate the myriad things, make people live in peace, and bring people ample food” (MHD, 534), the Ming court intended to incorporate the spirits of the walls and moats in each locality into “a unified religious community” (Romeyn Taylor 1977, 43).

Article 178 of the *Code* also requires local officials to serve the spirits: each office had to establish tablets and write on them the names of the spirits and the dates of their sacrifices, and officials were to hang the tablets in clean places and perform sacrifices in accordance with the schedules. According to the *Collected Commentaries*, this article precluded “mistakenly forgetting to perform sacrifices,” rather than intentionally undermining rituals. Nevertheless, the oversight warranted punishment because “deities are disrespected” (JJFL, 925). The requirement that spirit tablets be placed in clean spots is also noteworthy. That the fundamental law of the dynasty paid attention to this detail reveals how seriously the law compilers viewed it—lack of proper hygiene was considered profanation of the deities, which could dissuade them from positively influencing human affairs.

Furthermore, Article 178 prohibits local officials from performing sacrifices to spirits that should not be worshipped. Considered as “nonclassical” (*bujing*) or “heterodox” (*yin*) activities (JJFL, 925; MLSY, 88), such sacrifices fell into two categories. One concerned “deformed” sacrifices for the spirits within the official pantheon. For example, although the Three Illustrious Emperors (Sanhuang, i.e., the legendary cultural heroes Fu Xi, Shennong, and Huangdi) were officially acknowledged spirits, they had been worshipped throughout the empire as gods of medicine. In 1371, viewing it as “profaning” and “against propriety,” Zhu Yuanzhang ordered that the prefectures and districts of the realm stop “blasphemously worshipping” (*xiesi*) these spirits; only the officials of the districts where the spirits’ mausoleums were located should worship them as sage-rulers (TS, 1199–1200). The other category concerned sacrifices performed for spirits outside the official pantheon. In 1371, Zhu Yuanzhang ordered the Ministry of Rites to reformulate a list of past rulers who should receive official sacrifices. Eventually, thirty-five rulers of previous dynasties were accepted into the official pantheon on the grounds that they had once ruled the Central Plain and brought peace to the people. Sacrifice to any other rulers, including those who were worthy but had only ruled remote areas and those who had ruled the Central Plain but were comparatively unimportant, were considered “heterodox” (TS, 1200–1201).²³ Indeed, as Romeyn Taylor (1997, 117) points out: “The Ming founder took great pains to reform the religious life of the empire, with particular attention to the official religion.” *The Great Ming Code* aimed to eliminate “heterodox” sacrifices by punishing such “profaning” acts (JJFL, 925).

Sacrifices to local deities constituted an essential part of Ming official cosmology. Local deities governed local affairs. And just as the emperor served as the chief priest-mediator between Heaven, Earth, and human beings, local officials—as the emperor’s representatives—functioned as mediators between the deities and local people. Zhu Yuanzhang once stated that the task of local magistrates was not just to “shepherd the people,” but also to sacrifice to “ghosts and deities”; together, these represented the yin and yang sides of the “way of humans.” The emperor required local officials to bid farewell to deities when going out and report to them when coming in. Only when officials were models for commoners of reverence to the deities would the deities be at peace; and only when the deities were at peace would local areas avoid disaster and receive blessings (YZDG, 238). To establish and maintain a harmonious relationship with the deities, local officials had to fulfill a variety of duties, such as reporting on anomalies to the capital court (TS, 659), performing timely sacrifices to deities, and keeping temples of the deities clean and

tidy (TS, 2363). Zhu Yuanzhang warned that if local officials failed to carry out these tasks and “treated deities rudely and oppressed the people,” they would be punished by the “constant law of the dynasty” (TS, 2115).

In conclusion, *The Great Ming Code* lay out extensive regulations on the cosmological roles of officialdom. By legislating the “three recompenses and one sacrifice,” it obligated officials to obey the supreme authority of the emperor, to be filial toward their parents, to care for the welfare of the masses, and to maintain a harmonious relationship with the deities. These regulations defined the nature of officialdom with reference to cosmic forces. The emperor offered them official posts on behalf of Heaven; parents gave them cultural meaning and were their biological origin; the people provided them with material necessities and were also the *raison d’être* for the office they held. Lastly, the deities oversaw the performance of their duties. All of this attests to the cosmological status of officialdom—to serve as representatives of the Son of Heaven in mediating between the spiritual and mundane worlds and governing the human realm. Although some legal documents do not explicitly include cosmological terminology, their contents should nevertheless be understood within the early Ming definition of officialdom’s cosmological status; moreover, many such laws were interpreted by Ming commentators as cosmologically meaningful.²⁴

To be sure, relations between the Son of Heaven and his representatives were often tense. The emperor was notorious for his harsh laws against errant officials (Yang 1988, 80–93); from time to time, those harsh laws even contradicted the dynastic basic law—*The Great Ming Code*. This is illustrated by a case wherein the emperor used “extra-Code” methods to punish a corrupt official. In 1396, an investigating censor reported to Zhu Yuanzhang that the vice magistrate of Xiangyin, Huguang, had a whip made of rawhide with inset copper coins used for flogging people to the point where the skin was torn and the flesh laid open. When a local police chief did not come out to greet the vice magistrate, his wife was nearly beaten to death. Zhu was outraged at such cruel, unsuitable punishment: the *Code* had clear regulations on penal instruments. With his cruelty, the vice magistrate had “discarded my law and thus cannot be punished by the regular *Code*.” The emperor had him executed in the open market (TS, 3561–62). Here, the emperor punished an official accused of disregarding the dynastic legal code, so the punishment was also outside of the dynastic code.

This harsh extralegal punishment raises two questions: Was the *Code* really the fundamental law of the dynasty? And were officials regarded as the

emperor's representatives in fulfilling his cosmological functions? The answer to both is yes. First, acceptance of *The Great Ming Code* as the fundamental law of the dynasty was evident in both the holistic nature of the document and its intricate relationship with other legal establishments of the Hongwu reign. By restructuring the *Code* into six main categories of cosmological significance, the early Ming ruling elite envisioned a legal text that comprehensively regulated all important social relations. Practically, the *Code* incorporated a number of legal documents, such as the *Commandment*, and made them enforceable by means of punishments. Most of the special laws, with their own sentencing, functioned as minor supplements to the *Code*. The single major piece of legislation that challenged the supreme authority of the *Code*—the *Grand Pronouncements*—was employed by the emperor as an educational handbook. By the end of the Hongwu reign, this text's legal authority only extended to the death penalty, and its influence faded from the Ming legal system soon after the death of its author, the founding emperor. *The Great Ming Code*, on the other hand, was revered by the succeeding emperors (MS, 2286) and served as the standard imperial law throughout the dynasty.²⁵

Furthermore, Zhu Yuanzhang's hostility toward a large number of officials did not negate their perception of their cosmologically ordained function. On the contrary, the emperor's harsh punishments of accused officials revealed his anxiety that his chosen representatives had not lived up to his high expectations. In his study of the Hu Weiyong and Lan Yu cases, Fu Yiling (1963) points out that a great number of officials during the Hongwu reign abused their power, exploited the people, and thus endangered the stability of the new regime. Zhu's cruel purges testified more to his intention to eliminate "evildoers" than to his personal paranoia. In his brilliant study of the ruler-official relationship during the early Ming, F. W. Mote also observes that as a semieducated but experienced ruler, Zhu "accepted completely the values of his civilization, and in his way, cherished goals in common with his scholar-officials. He wanted the same things for China that the scholars wanted." Mote particularly argues that when Wei Guan (d. 1374), Prefect of Suzhou, endeavored to achieve those "common goals" at the local level, he perceived one of his tasks as making local people "feel that this new dynasty mediated for all men universally with the cosmic order"; this task was also identified by the emperor as his own personal responsibility (Mote 1962, 212–13). Undoubtedly, while Zhu aimed to achieve dynastic peace and prosperity, and cosmic harmony, his goals could not be achieved if his officials failed to implement his world-saving plans. Therefore, what

the emperor did demonstrated the unity of the cosmic status of the emperor and officialdom.

The early Ming ruling elite shared a common belief that the ruler and his officials formed one body, the body politic. The ruler was the head (*yuan-shou*); his officials were the legs and arms (*gonggu*); his surveillance and transmission officials were respectively his ears and eyes (*ermu*) and throats and tongues (*houshe*), corresponding to the law-enforcing stars (*zhifa*) in Heaven; and his guards and soldiers were his talons, teeth, armpits, and elbows (*zhaoya* and *yezhou*). Together, these parts shared one heart and constituted a single governmental body. In order for the body to be healthy, the ruler and officials must live with a single heart and mind (*tongxin yide*) (TS, 1215, 1869; YZWJ, 62; XTFL, 1.19a, 7.3b). Together, they served as a cosmic unit mediating between the spiritual and human realms. The regulations governing officials in *The Great Ming Code* were essentially rules for restraining the ruler. In fact, this is exactly what Zhu Yuanzhang told succeeding emperors:

It has been more than forty years since I first took up arms. I have personally ordered the affairs of the realm. The good and bad, true and false of human nature have all been experienced by me. Those who were wicked and crafty by nature and committed serious crimes obvious beyond doubt have been ordered to be punished by extralegal penalties with the intention of making people take heed and thus not lightly dare to break the law. Nevertheless, this is just an expedient measure to punish the wicked; it is not the permanent law (*changfa*) of the ruler. From now on, when my descendants become emperors, they shall only enforce the *Code* and *Grand Pronouncements*. They shall certainly not employ any punishments like tattooing, cutting off the feet, cutting off the nose, and castration. Because succeeding rulers will be born and raised in the palace, they will not have complete knowledge of human nature's good and evil. I fear that in time, untoward events will transpire and innocents will be mistakenly harmed. If there are officials who dare to memorialize requesting the use of these punishments, civil and military officials shall immediately submit accusations against them, and the criminals shall be executed.²⁶

Apparently, this "imperial instruction" justified the emperor's use of extralegal punishments. What is interesting here is the order that later rulers should observe the *Code*²⁷ and the injunction to prohibit them from employing extralegal punishments. Reading the *Code* as a whole, the legal responsibilities prescribed for government officials were also intended for the human ruler.

6 | Conclusion

Manifesting the Mandate of Heaven

To demonstrate the interconnection of law, society, and worldview in imperial China in general, and during the early Ming dynasty in particular, this case study of *The Great Ming Code* argues that *The Great Ming Code* was established on the basis of early Ming legal cosmology—the ruling elite’s understanding of the nature and role of cosmic law. To Zhu Yuanzhang and his officials, the cosmos consisted of three components: the world of spirits, the realm of human beings, and the emperor. As the cosmic mediator, the emperor received the Mandate of Heaven and served as both ruler and teacher. The Mandate of Heaven endowed the emperor with the privilege and responsibility of building a prosperous and peaceful human society, educating his subjects, and maintaining a state of harmony between the spirit world and human realm. The legal establishment was a key measure in achieving this mission.

In keeping with the cosmic order, the early Ming ruling elite defined the Mandate of Heaven in terms of “heavenly principle” and “human sentiment,” both of which constituted the foundation of law. The ruling elite’s understanding of the connection between law and cosmic order is illustrated

in their identification of crime with the violation of “principle,” and in their view that law served to eliminate violence and wickedness, and to promote education and transformation according to cosmic principles—the “three bonds and five constant virtues.” A number of legal principles in *The Great Ming Code* specify “heavenly principle” and “human sentiment,” the cosmological foundation of law, including the “ten abominations,” “five punishments,” and “mourning degrees.” The articulation of heavenly principle and human sentiment in the *Code*, of course, does not suggest a division of cosmic principles. Rather, these principles were perceived as different manifestations of the same pattern.

The Great Ming Code constructs three essential components of the envisioned cosmic order: the world of spirits, the realm of human beings, and the ruling elite as intermediaries. The world of spirits is represented by the ritual regulations of the legal establishment. The different rules on official, popular, and prohibited rituals suggest that the early Ming ruling elite visualized a pantheon of deities centered on Heaven, Earth, and human ancestors. This spirit pantheon provided the ruling house with legitimacy that could not be challenged by other belief systems.

Regarding the human realm, this study focuses on the *Code*'s legalization of two Ming boundary lines that were based on cosmic principles. The law was designed to defend “geographical China,” expand “cultural China,” and purify Han beliefs and customs. This legal program articulates an elaborate cosmological scheme: based on the “demarcation system” and yin-yang theory, the law protected and expanded the superior and central part of the cosmos—Han Chinese civilization.

With respect to mediation between the spirit and human worlds, the *Code* conceptualized the cosmological role of officialdom by legislating the “three recompenses and one sacrifice.” The law thus obligated officials to obey the supreme authority of the emperor, to observe the filial principle toward parents, to care for the welfare of the masses, and to maintain a harmonious relationship with deities. This set of regulations defined the nature of officials in reference to the basic cosmic forces, making them the representatives of the Son of Heaven to mediate between the spiritual and mundane worlds and govern the human realm.

A product of legal cosmology, therefore, *The Great Ming Code* was established to balance the cosmic forces. Based on officially recognized cosmic principles, it promoted effective communications with the official pantheon, and duplicated the envisioned cosmic order within the human realm. The *Code*'s purpose, then, was to educate the people and transform

their worldview in line with officially conceived and endorsed cosmic principles.

This study questions some widely shared assumptions regarding the function and nature of legal culture in imperial China: that law was an oppressive tool for political ends designed to enforce behavioral control, and that law represented the secular Confucian tradition and had little to do with superhuman forces. These conventional viewpoints are closely interrelated: if law is secular, it will overlook the people's inner world—if law is exclusively tyrannical, it will not be restrained by any belief in superhuman forces.

This study, however, suggests a different interpretative framework: *The Great Ming Code*, the fundamental form of “positive law” in Ming dynasty China, was very much concerned with educating people (in addition to asserting political control), and was replete with religious meaning. The educational function of *The Great Ming Code* was based on early Ming legal cosmology. For early Ming law compilers, law was a way to embody the cosmic order, as manifested in heavenly principle and human sentiment. Hence, breaking the law was violating cosmic principles; and observing the law was following heavenly instructions. One of the ruler's key missions was precisely to reveal the cosmic order to his subjects through legal texts. Law codes, then, became moral textbooks to be used to educate people and thus transform their minds-and-hearts.

As a textbook to transform the people, *The Great Ming Code* transformed the abstract cosmic order into legal principles, positing three essential components of the cosmos: the world of spirits, the realm of human beings, and the ruling elite as intermediaries between the two domains. A guideline for defining crimes and meting out punishments, the law constituted a core educational program for early Ming empire-building. Regulating the belief system, social structure, and official responsibilities was not a simple bid for political control; rather, it manifested the spiritual orientation of the ruling elite.

In order to educate people through *The Great Ming Code*, the early Ming government took a number of measures to publicize its contents; these included promulgating annotated versions like *The Code and Commandment Directly Explicated*, having its contents and legal cases engraved on the walls of exhibition pavilions, ordering readings at community wine-drinking ceremonies, and offering courses on the *Code* at government schools. The early Ming ruling elite, particularly the founding emperor Zhu Yuanzhang, intended to transform people's minds-and-hearts with *The Great Ming Code*, thus fulfilling the cosmological role of the sage-emperor as the people's teacher and ruler.

The cosmological foundation of *The Great Ming Code* points to the essential religiosity of the legal establishment. By articulating the envisioned cosmic order and specifying cosmic principles, the *Code* was compiled to promote cosmic harmony and replicate cosmic structure. Based on early Ming legal cosmology, the law was closely associated with superhuman forces and was designed to ensure smooth communication and harmonious relations between humans and deities. Due in part to its religious nature, it served as an integral component of the early Ming educational project to transform the people's beliefs.

Although a 2002 article by Randall Peerenboom denies the role of religion in the "whole area of positive law" in imperial China, the basic tenets underlying Ming legal philosophy and institutions echo the basic principles of Huang-Lao thought, which, according to Peerenboom, represented the true "religious law" in imperial China. For instance, as Peerenboom states, "Huang-Lao clearly advocates a natural law system in which the legitimacy of the legal system as a whole as well as the legitimacy of specific institutions, laws and practices are grounded in a transcendent normative natural order" (Peerenboom 2002, 97). As for relations between the Way, the ruler, and the law, Peerenboom also observes that in Huang-Lao, "it is the sage-ruler in particular that is supposed to know the Way, and on the basis of the direct apprehension of the Way, put the state in order by promulgating and ensuring the correct application of laws. . . . The Way is the ultimate authority; thus, the ruler, like all others, must abide by the law. Accordingly, Huang-Lao law is not merely a political tool to be used by the ruler to further his own ends. The ruler cannot change the law at will" (ibid., 97–98). By replacing the concepts "transcendence" and "natural law" with the phrase "superhuman forces," it could be argued that the basic Huang-Lao legal philosophy was shared by the Ming ruling elite. The early Ming witnessed a unity of theoretical articulation and institutional legislation in religious laws for the spiritual transformation of the people. Whether or not those religious rules were practiced cannot change their fundamental orientation.

The debate over the educational function and religious nature of *The Great Ming Code* is not confined to contrastive terminologies, and its significance extends beyond *The Great Ming Code* per se. In line with the thesis of a "China-centered Chinese history," a new epistemology for examining Chinese imperial history in general and legal culture in particular is considered here. The heart of the disputation is the question of how to understand Chinese legal and religious history: should it be viewed from an ancient Chinese or a modern perspective? In other words, should present-day Western legal

philosophy and institutions be brought to bear on Ming law; should Judeo-Christian conceptual frameworks be used for judging Chinese religion and its relation to Chinese imperial law?

Recounting the efforts of the early Ming official Wei Guan to revive the age-old “community wine-drinking ceremony” (*xiang yinjiu li*), F. W. Mote makes an explicitly historicist statement:

Could such ceremonies really transform a society, teach it to be courteous and orderly, improve morality and refine popular customs? If it is easy for us to be cynical about it, it was equally easy for a Chinese of the fourteenth century, reared in the Confucian tradition, to be sincere about it. Such were the ideal institutions of his world. They were ideals that could be realized, and institutions that appeared to be operative. In the face of the historical facts, it is difficult to say that they were not. (Mote 1962, 217)

Mote’s work, published over forty years ago, still offers illuminating insights on Chinese history. Following his argument, it seems clear that while interpretations of historical events are often shaped by the worldview of historians, those events would have been understood differently by the people who lived through them. Only by looking at individuals and institutions in the context of their own values and practices can rigorous historical scholarship be established. This study of the cosmological foundation of *The Great Ming Code* utilizes a holistic approach for understanding Chinese imperial law and religion. From the perspective of the early Ming ruling elite, the cosmos was an integrated unit; law, religion, and political authority were not differentiated, nor were the tasks of political control and spiritual transformation separated. This holistic approach is remarkably different from the modern compartmentalized worldview. Utilizing this holistic framework, the present study supports the conclusion that *The Great Ming Code* was a cosmological instrument to manifest the Mandate of Heaven and transform “all under Heaven.”

The paradigm of “China-centered Chinese history” supports the present argument for the cosmological foundation of *The Great Ming Code*. Based on this interpretative framework, a general assessment of the religiosity of Chinese imperial law can be ventured. Indeed, envisioning a close connection between law and superhuman forces was not exclusively a Ming ideology. Although certain ideas changed over time, there is still a discernable pattern in Chinese legal cosmology. That is, law was founded on the envisioned support of various superhuman forces; it was designed to achieve officially

endorsed cosmic harmony. The conclusion drawn here is that Chinese official cosmology served as the philosophical foundation of legal culture in imperial Chinese history. An expression of cosmic principles, the legal apparatus endorsed, implemented, and protected the official interpretation of the cosmic order. Law in pre-Republican China, therefore, was not secular; rather, it represented a powerful religious worldview.

Indeed, Chinese imperial law was profoundly interrelated with religion on both philosophical and practical levels. It not only served as a punitive tool for social control, but, more importantly, was envisioned as a schema to carry out the Mandate of Heaven and transform human beings. In imperial China, as in many other societies,¹ legal culture would not have been considered justified without the intercession of superhuman forces. Chinese imperial law codes were utilized as cosmological instruments for carrying out the Mandate of Heaven and as spiritual textbooks to deliver the human race from evil. And this was a religious mission.

Notes

1 | *Introduction*

- 1 Zhu Yuanzhang was posthumously known as Ming Taizu (Grand Progenitor of the Ming). A comprehensive treatment of him in Chinese is Wu 1965. For English accounts of this emperor, see DMB, 381–92; Taylor 1975; Chan 1975; Mote 1999, 541–82.
- 2 For general treatments of the Ming history in English, see CHC7 and CHC8. For accounts of the Ming founding, see Farmer 1976; Dreyer 1982; Dardess 1983.
- 3 Up to the present, the most detailed studies of *The Great Ming Code* are Jiang 1997a, 1997b, and 2005. In addition, the contents and structure of the *Code* have briefly been mentioned in Hucker 1978, 44–45; Farmer 1993, 181–87; Farmer 1995; Langlois 1998. Huang (1977b) and Yang (1992) have studied the text of the *Code*.
- 4 As discussed below, *The Great Ming Code* was widely disseminated and accessible.
- 5 Bailey and Llobera 1981, 18. Most Western understandings of Chinese legal culture discussed below and throughout this work are closely related to theoretical paradigms such as “oriental despotism,” “Asiatic mode of production,” and “modernization.” Due to the topic and scope of this study, these will not be discussed—only a few arguments concerning Chinese law will be touched upon. For discussions on such concepts, see Anderson 1974, 462–549; Brook 1989; Rapp 1987; Rozman 1981; Said 1979; Wittfogel 1957.
- 6 See Jerome Cohen 1979; Pfeffer 1970.

- 7 Liang and Qi 1988, 26, 34, 53. These arguments can also be seen in Liang's other works. See, e.g., Liang 1988 and 2002, 35–61.
- 8 Since the 1990s, a group of scholars has attempted to seek the value of Chinese law by studying “civil justice” in imperial China (see, e.g., Bernhardt and Huang 1994). I will critique their findings in a separate work.
- 9 Maine, *Ancient Law*, 23, cited in Ch'ü 1961, 207.
- 10 The differences between Judeo-Christian and non-Judeo-Christian religions have been studied by many scholars. See, e.g., Benz 1959; Gernet 1982.
- 11 For Marxist views on religion, see Marx 1957; McKown 1975.
- 12 They have also effectively attacked the conventional “elite/folk” or “great/little traditions” bifurcation in the study of religion. Catherine Bell (1989), drawing on Natalie Davis, calls their contributions a second-stage position as opposed to the first-stage “elite/folk” dichotomy.
- 13 For Skinner's studies of hierarchical regional systems in Chinese society, see his works of 1964–65, 1977, and 1985.
- 14 I prefer the term “superhuman” to “supernatural” because in Chinese cosmology, the spirit world is not perceived as a transcendent entity above nature, but rather as a realm that operates together with humans simultaneously within an all-encompassing cosmos. Consult Hall and Ames 1998, 219–52.
- 15 For more on this theme, see Benson 1960, 134–42; Rodney Taylor 1990, ix–x, 1–3; Romeyn Taylor 1990, 128; Hooper 1987, 286.
- 16 For a collection of articles on early Chinese cosmology, see Rosemont 1984.
- 17 Jiang 2005, lxlvi–liv; Huang 1977b and 1977c; Yang 1992, 224–47.
- 18 The model verdicts and notices were probably composed to assist both magistrates and civil service examination candidates in writing law case judgments and answering examination questions. They often used historical anecdotes and hypothetical circumstances to explicate the philosophical, cultural, social, political, and legal meanings of the *Code*.

2 | *Early Ming Legal Cosmology*

- 1 The City of Nanjing was captured by Zhu Yuanzhang in 1356; the city's name was changed from the then current Jiqing to Yingtian (lit., “in response to Heaven”), “a name that announced a claim on the Mandate of Heaven” (Mote 1977, 128).
- 2 For the tradition of the Chinese city as a “cosmo-magical system,” see Wheatley 1971, 411–51; for the historical development of the Chinese capital city as a cosmological system, see Wright 1977.
- 3 For general descriptions of Nanjing during the Hongwu reign, see Farmer 1976, 51–57; Mote 1977. For maps of Nanjing, see Wang 1987; Mote 1977, 135; Dreyer 1988, 75; Langlois 1988, 110. Wright (1977, 66–72) points out that Peking, the capital city of the Ming since 1421, “was in closer accord with the canonical cosmology” than capitals of the Sui, Tang, and Song dynasties. In fact, according to Mote (1977, 141), Ming Peking was basically a replica of Nanjing.

- 4 Gao 1999. The practice of building the capital city in the shape of the northern and southern dippers can be traced back at least to the Han dynasty, whose capital city Chang'an was known as the "City of the Dipper" (*doucheng*) (Wright 1977, 44; Wheatley 1971, 442–43).
- 5 According to some treatises on astronomy (e.g., Fang 1974, 294; Wang and Wang 1988, 20–21), there are nine stars in this group, which might more accurately match the nine judicial offices that were relocated in the early Ming. But it is unclear why Zhu Yuanzhang referred to a different figure.
- 6 HMZL, 70. For the religious significance of the dynastic title "Ming," see Wu 1965, 141–43.
- 7 On Chinese traditional thought regarding the Mandate of Heaven, see Pankenier 1995; T'ang 1962; Tateno 1983.
- 8 TS, 3138–39. For specific regulations on how princes should react to omens, see the sections entitled "Observance," "Proper Sacrifice," "Precautions on Coming and Going," "Prudence in Affairs on State," and "Ceremony" in HMZX, translated in Farmer 1995, 123–30.
- 9 For a brief description of such astrological concepts, see Needham 1959, 351–57.
- 10 Liu 1993, 86; TS, 165, 168–69, 3348–50; DMB, 61–63; Seidel 1970, 488–91. The emperor treasured their magical feats in assisting him in founding the dynasty so much that he personally composed a biography for Crazy Zhou and had the important court advisor Song Lian write a biography for Zhang Zhong (Chan 1973; 1975a, 701–5). In his study of the creation and transmission of the legend of Zhang Zhong, Hok-lam Chan (1975b, 102) observes a shared belief "in fate, in prognostication, and in the endowment of supernatural powers in gifted person-ages" in the Ming intellectual world.
- 11 Mote (1962), Dardess (1983), Langlois (1988), and DMB render "Wang Yi" as "Wang Wei." In an earlier essay, however, Dardess (1974) calls him "Wang Yi." Farmer (1995) has him as "Wang Wei" in the body of the text and index, and as "Wang Yi" in the glossary. Wang's given name should be pronounced as "Yi" (instead of "Wei"); its character bears radical #113, rather than #145.
- 12 For those who participated in the codification of the first *Ming Code*, see Jiang Yonglin 2005, xlii–xliv; Naito 1963.
- 13 On Song Lian and Liu Ji's Neo-Confucian thought, see Hou et al. 1987, 2:55–93.
- 14 Liu 1967, 175. Here a related problem arises—is it true that "Liu vehemently denies that Heaven can warn, punish, or purposively intervene in any way in human society" (Dardess 1983, 134)? This issue can be viewed in the following two ways. First, judging from Liu's other works as well as the two essays "On Heaven," it seems that the term "Heaven" (*tian*) has different meanings. It is sometimes described by Liu as a superhuman deity in the cosmos, such as when he says "Heaven is the common father of the myriad things" (1967, 89); on other occasions it is used in a natural sense, as when he states "The substance of Heaven is material force" (*ibid.*, 175). (This is exactly how Xunzi dealt with this term in his "Treatise on Heaven." See Eno 1990, 131–69.) In the latter case, in Liu's opinion, there is still a superhuman entity above the natural *tian*: the principle (*li*). (See

the argument in Hou et al. 1987, 2:78–81.) So Liu’s statement that the substance of Heaven is material force, and therefore heavenly disasters like winter thunder and summer frost are not the means heaven utilizes to warn people, is ambivalent regarding the exact meaning of “Heaven.” Second, when Liu Ji denies that thunder is a heavenly measure used to punish people, it does not mean Heaven has no authority to punish evildoers. In fact, according to Liu Ji, the heavenly pattern (*tianju*) is like this: Heaven engendered human beings and established the herdsman (*mu*) for them, and bestowed on him the power of life and death. The phrase “heavenly punishment” (*tiantao*) means that the ruler enacts law (*xing*) in accordance with the Heavenly will so as to “assist Heaven and Earth in transforming and nourishing [the masses],” rather than that Heaven carries out punishments by itself (1967, 177). To Liu Ji, the question does not lie in whether Heaven has authority, but in how to interpret the heavenly pattern: Heaven holds ultimate authority, which in turn becomes the source of imperial authority. Moreover, Liu Ji does stress the interaction between material force and human beings (Hou et al. 1987, 2:90.). In a word, Liu Ji has his own perception of the superhuman world, which is why he could, as an able astrologer, serve as Zhu’s important advisor; this also accounts for Liu Ji’s important role in making the *Ming Code*.

- 15 Zha 1986, 1399; MS, 3777; Lu 1987, 117; Liu 1993, 72.
- 16 For the establishment, structure, function, and evolution of this agency in the Ming, see Ho 1969. For the instruments used and observations conducted in this agency, see Deane 1994.
- 17 TS, 610–11; Zha 1986, 1401; Huang Bosheng 1991, 483; *Guochu lixian lu*, 123; Zhang 1567, 7a; Zhu Guozhen 1992, 1770.
- 18 TS, 1690; MS, 3781; Zha 1986, 1402; MTJ, 327–28; *Guochu lixian lu*, 124; Huang Bosheng 1991, 484; Zhang 1567, 7b–8a. The place name is recorded as “Danyang” in Zha 1986, 1402, which is followed by DMB, 935.
- 19 On the basis of this recommendation, Zhu Yuanzhang responded: “According to what I have heard, no one knows astrology and divination better than Liu Ji of Qingtian.” Both Liu and Song were accordingly recruited by Zhu to assist in his empire-building enterprise. See Zha 1986, 1394.
- 20 The metaphor “net-ropes” refers to the fundamental principles and institutions of the government. In imperial China, the whole governmental apparatus was likened to a fishnet; and its fundamental principles were viewed as the headrope of the net. The idea was that once the headrope of a fishnet is pulled up/shaken, all its meshes open—once the key link is grasped, everything falls into place.
- 21 Yang Yifan (1992) lists many harsh laws (including both codified documents and special statutes) of the Hongwu period. Zhang Dexin (HWYZQS, 52–65) lists more than twenty legal texts that were produced under Zhu Yuanzhang.
- 22 TS, 2191. The specific regulations designed to enact these principles in *The Great Ming Code* will be examined in detail in the following chapter of this study.
- 23 For a study of the history and organization of the Zheng family commune, see Dardess 1974.
- 24 Of the cases in the *Veritable Records* where crimes were pardoned, most were con-

- cerned with family relations; see, for example, TS, 1652, 2347, 2445–446, 2662, 3173, 3013, 3418, 3261, 3467, 3519–520, 3588–589.
- 25 This might be the Taiping Prefecture at Nanjing, not the one in Guangxi.
- 26 JJFL, 9. For general discussions of the Five Punishments in Ming law, see Jiang 2005, lxix–lxx; Langlois 1998, 180–82.
- 27 Established as a separate legal text, the *Great Ming Commandment* provides basic rules regarding government personnel, revenue, rites, military affairs, penal matters, and public works. For its making, see Naito 1963; for its relationship to *The Great Ming Code*, see Jiang 2005. The text can be found in HMZS, 4:7–117, which is translated in Farmer 1995, 150–94.
- 28 Throughout this study, unless otherwise specified, all article numbers indicate those in *The Great Ming Code*. For their specific contents, refer to Jiang 2005.
- 29 The explanation in parentheses is the legal note provided by the early Ming law compilers. This is the same in other quotations from *The Great Ming Code*.
- 30 “Three recompenses and one sacrifice” refers to recompenses for the ruler, parents, and the people, and ritual sacrifice to spirits and ghosts. See the detailed discussion in chapter six of this study.
- 31 TS, 389, 2398. In these two passages, although what Zhu Yuanzhang emphasized was that the meshes of the net should not be too closely woven, the metaphor he used illustrates his understanding about the function of law.
- 32 *Shangshu zhengyi*, 135; Legge, *Classics*, 3:58–59. Zhu Yuanzhang quotes it in his preface to *The Great Ming Commandment*, see HMZS(a), 1:8.
- 33 See, for example, TS, 933–34, 967, 972, 1203, 1279, 1306, 1432, 1673, 1860–61, 2151, 2227, 2430, 2666, 3047, 3193–194, 3201, 3353, 3359, 3455, 3456, 3461.
- 34 This refers to a penal policy requiring that the death penalty be carried out only after the emperor had approved the petition for execution for three or five times.
- 35 Regarding “cleansers,” Kuang Fan’s *Bianmin tuzuan* records that in addition to regular water and soap, other materials used during the Ming period for washing off dirt and stains include herbs, ginger, beanstalk ash, pig-foot soup, plum leaf, almonds, crab gills, sesame oil, pig intestine, pine nuts, lime, salt, goose- and duck-dung ash, donkey-hide gelatin, pineapples, bananas, and the water from washing rice. I am grateful to Professor Bruce Rusk for bringing my attention to this source.
- 36 Langlois 1988, 152–56, 159–60; Andrew 1991. For a Chinese study of this legal document, see Yang 1988, where its text is reprinted on pp. 195–452.
- 37 YZDG, 239. In *The Great Ming Code*, violating imperial rescripts is punished by one hundred strokes of beating with the heavy stick (Art. 64).
- 38 As the “constant law” (*changjing*) of the dynasty, the *Code* usually metes out lighter punishments than the *Grand Pronouncements* (Yang 1984).
- 39 Elsewhere (Jiang 1997a, 167–247), other legal principles in the *Code* that were established in line with cosmological meanings have been indicated, including the Five Punishments, carrying out punishments in autumn and winter, and mourning degrees.
- 40 The Ten Abominations first became a legal principle in the Northern Qi Dynasty

(550–577) under the title “ten items of heinous crimes” (*zhongzui shitiao*) rebellion, plotting great sedition, treason, surrender, contumacy, depravity, irreverence, lack of filial piety, unrighteousness, and incest. The *Kaihuang Code* (581) of the Sui dynasty (581–617) revised it into Ten Abominations, which was continued by subsequent dynasties. See Wei 1973, 706, 711; LJBY, 30; Liu 1996, 87–103; Liu 1998, 327–21; Qiao 1985, 82–100.

- 41 While the ten groups of criminal acts are all listed in Article 2, their specific punishments are stipulated in different articles of the *Code*.
- 42 LJBY, 30–31. This Ming commentary copies verbatim the statement in the *Tang Code* (Tanglü) (TLSY, 6–7). The translation is based on Wallace Johnson 1979, 63.
- 43 In Confucian classics, the “three followings” demands that the woman follow the man: “In her youth, she follows her father and elder brother; when married, she follows her husband; when her husband is dead, she follows her son” (*Liji zhengyi*, 1456; *Yili zhushu*, 1106); the “four virtues” requires the woman to be dutiful in “virtue (chastity and obedience), speech, appearance, and work” (*Zhouli zhushu*, 687). Ko renders the “three followings” as “Thrice Following.” For her critique of this Confucian dictum and the concept of the “inner-outer” boundaries, see Ko 1994, 6–14.
- 44 In a special regulation enacted in 1383, mothers who received honorific titles due to their sons’ official positions should not remarry; any violations would be punished in accordance with the *Code* (Art. 111; TS, 2405.)
- 45 Waltner 1996, 34–35. The legal note to Article 360 of the *Code* lists the circumstances under which the bond of righteousness is broken: “The husband is in a distant place and his wife’s parents marry her to someone else; they drive [the son-on-law] out and call in another son-in-law; or where they permit others to commit adultery with [the wife]; the husband himself strikes the wife and injures her to the extent of fracture; he forces her to commit adultery; although he is married, he deceitfully claims that he is not and thus fraudulently marries another woman; he makes his wife a concubine; he accepts consideration to sell his wife or concubine by *dian* [i.e., mortgage] or hire her out; or he fraudulently claims his wife or concubine as his sister and marries her to another person.”
- 46 While Ko masterfully re-depicts women’s life experience in seventeenth-century China, she seems to exaggerate the negative legal impact on women when she asserts that law codes represented “a dark age of tightening restrictions” for women in late imperial China (1994, 9). The complex legal rules on gender relations deserve more careful study.
- 47 Although “stealing the clothing or personal effects of the emperor” and “stealing or counterfeiting imperial seals” are included in “great irreverence” in the legal note to Article 2, they are both omitted in the body of the *Code*.
- 48 This discourse originates in the ancient thinker Xunzi’s (ca. 313–238 B.C.E.) essay on propriety (1986, 233).
- 49 Neither in the main text nor in the bibliography is Hsu Dau-lin’s work mentioned in MacCormack 1990. In an earlier essay, Hsu’s work is assessed as “a valuable dissenting view” (MacCormack 1989, 255).
- 50 By “lip-service,” MacCormack means that “statements about cosmology or about

the correspondence or interaction between man and nature are not to be understood as affirmations of a seriously held belief, but merely as a reiteration of conventional formulae” (1989, 266).

51 Chan 1975a; Qian 1985; Pan 1968, 35–114; Huang 2002, 1–31; Xie 2003, 122–31.

3 | The Great Ming Code and the World of Spirits

- 1 Zhu Yuanzhang, “Ji meng”; TS, 526–27. This narration is adapted from Taylor 1976 and Chan 1975a, 705–6.
- 2 Hok-lam Chan (1975a, 708) argues that the “presentation of the Taoists, not the Buddhists, in his dream investing him with the title of celestial king, indicates the strength of religious Taoism at this time and the popular belief in the agency of Taoists as transmitters of the Heavenly Mandate.” Chan is right in pointing to the significance of Daoist rituals in the imperial dream account, but it should not be inferred that the emperor preferred Daoism to Buddhism in his empire-building program. In the dream, Buddhist gods (*jingang*, two deities who guard Buddhist law with diamond clubs in Buddhist tradition) did play an important role (making a pronouncement). At the beginning of the imperial essay (“Ji meng,” 194–95), Zhu relates that his final decision to join the rebels was made after praying a number of times to the “celestial gods” in his Buddhist temple. In fact, Chan (1975a, 708, n. 86) also maintains that Zhu Yuanzhang’s “ideological affinity was built on the syncretic doctrine of three religions (San chiao [Sanjiao]), i.e., Confucianism, Buddhism, and Taoism.”
- 3 Based on ritual texts such as the *Decorum and Rites* (Yili) and the *Kaiyuan Ritual Code of the Great Tang*, the “five rituals” in the *Collected Rituals of the Great Ming* are labeled “auspicious rituals” (*jili*), “felicitation rituals” (*jiati*), “rituals for guests” (*binli*), “military rituals” (*junli*), and “rituals at the time of ill omen” (*xiongli*). They are also found in the *Collected Statutes of the Great Ming* (Da Ming huidian).
- 4 In addition to a group of articles in the fourth chapter of *The Great Ming Code*, “Laws concerning Rituals” (Lilü), many other articles in the *Code*, such as those in the sections on “marriage” and “committing fornication,” also deal with ritual matters.
- 5 See Article 410 of the *Code*: “Doing What Ought Not be Done.”
- 6 For instance, Article 178 quotes the Sacrificial Statutes (Sidian), Article 194 refers to the *Great Ming Commandment*, Article 200 cites the *Collected Rituals of the Great Ming*, and Article 201 consults rules in *Responsibilities and Authorities of Various Offices* (Zhusi zhizhang). Moreover, Article 409 prohibits any act which “violates the *Commandment*.”
- 7 In the Ming, there was no longer a distinction between “relaxed” and “intensive” abstinence. The author of the “Collected Commentaries” suspected that this stipulation in the *Code* merely followed the “old text” of the Classics, and was devoid of practical use (JJFL, 917).
- 8 The only exception is that the emperor could order such officials to return to government service by “curtailing sentiment” (*duoqing*) (Art. 198).

- 9 For a collection of articles on death rituals in late imperial China, see Watson and Rawski 1988.
- 10 For a case study on how popular gods were incorporated into the official pantheon in late imperial China, see Watson 1985.
- 11 See, for example, Johnson, Nathan, and Rawski 1985. For studies on Chinese popular religion, see Bell 1989 and Teiser 1995.
- 12 For some recent studies of Buddhism and Daoism in the Ming, see Yü 1998 and Berling 1998.
- 13 A model official notice expresses the fear that among those who became Buddhists or Daoists, some may have deserted from their military posts, escaped from artisan duties, evaded taxes or services, broken out of prison, or committed robbery or homicide. Without tight control, these people would cause serious problems to society. See XTFL, 2.4b–5a; LMBJ, 2.6b.
- 14 For some general studies on the Buddhist and Daoist body, see Schipper 1993; Saso 1997; Collins 1997; Williams 1997.
- 15 For general studies on Buddhism in China, see Zurcher 1959; Ch'en 1964, 1973.
- 16 For imperial policies toward Buddhism during the Hongwu reign, see Brook 1997, 163–69; Guo 1982, 8–20; He 2000, 1–13, 26–29; Mano 1979, 243–75; Schneewind 2001, 345–55; Yü 1981, 144–69; 1998, 899–912. For the government treatment of Daoism in the early Ming, see Berling 1998, 959–64; Ma 1994, 157–61.
- 17 Although Brook primarily discusses Buddhism in his essay, his study also sheds light upon Daoism.
- 18 Early Ming Confucianism was certainly an outcome of ongoing negotiations between different intellectual and political forces. In 1369, for example, when Zhu Yuanzhang ordered that sacrifices to Confucius could only be held at Confucius's hometown—Qufu, Shandong, the Minister of Justice Qian Tang and his subordinate Vice Minister Cheng Xu tried to persuade the emperor to establish empirewide sacrifices. They argued that Confucian teachings had been handed down for ten thousand generations and were honored throughout the empire, and that Confucius had manifested the Way of “Three Bonds and Five Constants” of ancient sage-rulers; hence, sacrifices to Confucius were not to him as a person but to his Way. Qian Tang also contested the imperial decision that Mencius be moved out of the Confucian Temple, regardless of the imperial decree that those who remonstrated would be punished for “great irreverence,” a crime that might entail the death penalty. Although Zhu Yuanzhang did not follow their advice at that time, he eventually ordered that sacrifices to Confucius be conducted throughout the empire, and had Mencius be reinstated at the Confucian Temple (MS, 3981–82). This controversy ended in Zhu conceding to his Confucian advisors. To cite another example, for Zhu's reform of the great sacrifices to Heaven and Earth, see Ho 1978.
- 19 In 1389, for example, Zhu Yuanzhang praised Buddhist teachings for “benefiting the world, restraining the wayward, assisting kingly principles, and establishing the Way” (Huanlun 1992, 2.24a). In both the *Shenming Fojiao bangce* of 1391 and the *Biqu tiaoli* of 1394, the court encouraged teaching monks to go to people's

- homes to perform Buddhist rituals, so that they could teach people to be “filial sons and obedient paternal grandsons,” repay the kindness of the ancestors, and give compassion and love to younger generations (Ge 1980, 233, 252–53). For other examples, see Huanlun 1992, 2.18b–19a, 2.22a, 2.23b, 2.24b–25a, 2.28a.
- 20 In 1382, for example, the emperor had the Buddhist patriarch Zongle (1318–1391) (DMB, 1319–21) preside over Empress Ma’s funeral, arranging the performance of ceremonies and the recitation of Buddhist sutras. He was also responsible for recommending a number of priests, including Daoyan (1335–1418) (DMB, 1561–65), to assist imperial princes in the ceremonies (Huanlun 1992, 2.19a–b). Daoyan later became the chief counselor of the third emperor Zhu Di (1360–1424) (DMB, 355–65), who also “had a genuine concern for the propagation of Buddhism” (DMB, 363). Buddhist services in government affairs continued in the later years of the Hongwu reign. In 1392, according to the imperial decree, Buddhists at the Tianxi Temple were organized by the Ministry of Rites to pray for rain on “clean altar ground” there. In 1394 and 1397, Zhu Yuanzhang ordered Buddhists to perform rituals at Buddhist monasteries to help the souls of military personnel who had died during military campaigns, garrison defense, and maritime transport to pass on to the next state of existence. For such services, the government provided items like rice, wheat, salt, oil, sauce, incense, paper, tablets, and utensils (Ge 1980, 241, 257–58, 260–261). Regarding Daoism, the forty-third Heavenly Master Zhang Yuchu (d. 1410) (DMB, 107–8) was ordered by the emperor to pray for rain in the Shenle Temple in 1386, and was also put in charge of authenticating Daoist charms in 1391 (Berling 1998, 955). Another Daoist specialist Qiu Xuanqing, who “was in Emperor T’ai-tsu [Taizu]’s good graces and stayed at court until his death in 1393,” (d. 1393) had been in different high positions in the government since 1385 (Seidel 1970, 486; Ren 1999, 16).
- 21 In 1381, for example, when Jiangshan Temple and Baogong Pagoda were relocated, the emperor employed fifty thousand imperial bodyguards and more than five thousand convicts to work on the projects. The new monastic complex, which was finished in 1382 and renamed Linggu Temple, was spacious enough to accommodate a thousand monks. The court allotted the temple more than 250 *qing* (3,500 acres) of land and issued ordinance certificates to one thousand monks. The emperor not only wrote an essay commemorating the temple’s construction, but also ordered the instructor of the Confucian School at Hangzhou, Xu Yikui (1318–ca. 1400) (DMB, 589–90), to compose a tablet inscription (*beiwén*) in 1383. When the reconstruction was over, Zhu Yuanzhang released all the convict laborers to demonstrate, as recorded by Xu, the imperial “extraordinary device” for “punishing the evil and rewarding the good”: he “employed them [the convicts] in the land of mercy; and guided them to the path of life” (Ge 1980, 342; see also Ge 1980, 206, 313–16, 338–45; Huanlun 1992, 2.17a). Even in 1398, at the end of the Hongwu reign, the aging emperor decreed that two reception temples be built at the Jiangdong and Jianghuai postal relay stations for the convenience of itinerant Buddhist priests (Ge 1980, 262).
- 22 From 1382 to 1384, for example, the court issued 20,945 certificates to Buddhist

- and Daoist priests. It continued to issue certificates in 1388, 1392, and 1395 (Ge 1980, 218–19, 224, 258).
- 23 Huanlun 1992, 2.27a; Chan 1975b, 89–90. It seems that the record in Huanlun's *Shishi jugu lüe xuji* is a copy of an account in the emperor's own essay "Yuzhi Zhoudian xianren zhuan," which was composed in 1393 in honor of the Daoist Crazy Zhou the Immortal.
- 24 For example, when the bureaucratic structure was established under the Ministry of Rites according to the 1381 regulation, it was Buddhists and Daoists who filled the offices. Furthermore, the regulation endowed the Buddhist and Daoist patriarchs with the authority to handle cases where priests violated Buddhist or Daoist rules; regular government judicial offices would only judge cases where priests committed fornication or robbery involving military personnel or non-clerical civilians (Ge 1980, 206–11). For other examples of imperial decrees and cases regarding the handling of law cases by Buddhist and Daoist offices or monasteries, see Ge 1980, 215, 226, 227, 229, 242.
- 25 An imperial decree of 1391, for example, allowed Buddhist temples to hire peasants to farm monastic lands and to run business shops. A decree in 1392 exempted a Buddhist temple from grain taxes and corvée labor services on its hilly grounds and farm lands. The *Biqu tiaoli* of 1394 reaffirmed the exemption from grain taxes on imperially bestowed lands and corvée labor services on all land owned by Buddhist monasteries. And an imperial decree from the same year facilitated the collection of rent by Buddhist monasteries. See Ge 1980, 230–31, 241, 251, 256–57.
- 26 For example, an imperial decree in 1386 prohibited treating Buddhism with contempt, cursing Buddhists, or disturbing Buddhist affairs. In the *Shenming Fojiang bangce* of 1391, the court decreed that any lay person—or "dirty body" (*gouhui zhi qu*)—who imitated yoga practitioners to conduct Buddhist rituals should be punished. And the *Biqu tiaoli* of 1394 prohibited anyone from insulting itinerant monks or entering Buddhist temples to eat their food. See Ge 1980, 223, 239, 252–53, 254; Yü 1981, 151.
- 27 During the Yuan, for example, public monasteries were also divided into three categories: meditation, scriptural study, and discipline (YS, 4524; Yü 1998, 906); Yuan law stipulated various prohibitions against Buddhist monks (YS, 2643, 2654, 2684; TZTG, 702–73; YDZ, 1039–42, 1219–34, 1328–29).
- 28 Jiang 2005, 1xlviii–liv; Huang 1977b; 1977c; Yang 1992, 224–47.
- 29 It is interesting to note that the compilation of the *Code* of 1376 was led by the Grand Councillor Hu Weiyong, but the *Code* remained mostly intact after Hu was executed on the charge of plotting rebellion.
- 30 It seems problematic when Brook, in order to support the post-1380 suppression thesis, states that "[w]hat was in effect a ban on the private founding of monasteries or chapels after 1391 [referring to the *Shenming Fojiang bangce* of 1391] was incorporated as such six years later into the *Great Ming Code* [referring to the final version of the *Code* of 1397]" (1997, 168). That law article already existed in the *Code* of 1376 (LJBY, 84) and was carried over in the *Code* of 1389 (Ko and Kim 1994, 469) and 1397 (Art. 83). In addition, the prohibition on priests presenting black-paper

charms or yellow-paper prayers to worship Heaven that is stipulated in Article 180 of the *Code* of 1397 also originated in an imperial decree dated 1370 (Huang Jin 1991, 161).

- 31 John Langlois Jr. states that after Empress Ma's death in 1382, "the emperor and the princes became more dependent on the advice of Buddhist monks" (1988, 147).
- 32 According to the late Qing historian Xia Xie, before Zhu Yuanzhang adopted a patronizing policy toward Buddhists and Daoists, he had employed harsh laws to restrain them. It was due to the "delusion" (huo) by Zongle and other monks that the emperor again favored these popular religions. Later, when Zhu Yuanzhang discovered unlawful acts committed by Buddhist specialists, he started regretting his order to kill the Confucian official Li Shilu in 1382 (MTJ, 397–98). It seems that in the later years of his reign, after the emperor became more aware of the unlawful activities of Buddhists and Daoists, he began using stricter regulations to reform and control them. It does not seem that the imperial court attacked their belief and ritual systems.
- 33 These religions are often termed "sectarian movements," "secret societies," or "secret religions" by present-day scholars (Overmyer 1976; Yu 1987). For some general features of sectarian beliefs and organizations, see Harrell and Perry 1982.
- 34 For a historical account of Zhu Yuanzhang's cooperation with sectarian movements during the founding of the Ming, see Dardess 1970. For a general study of the White Lotus/Maitreya doctrine and its application to popular movements in the Ming, see Chan 1969; Wu 1961b.
- 35 TS, 1036–37. Wu Han (1961, 267) might be mistaken when he quotes Wang Shizhen's (1526–1590) *Records of Famous Ministers* (Mingqing jiji) and states that the memorial was presented and the imperial order issued in 1368. Wang (1994b, 997) does not specify the date in his text.
- 36 A similar passage is found in the third compilation of the *Grand Pronouncements* (DGSB, 900–901). Dardess (1983, 188–89) provides a partial translation of that passage.
- 37 For other crimes punishable by "death by slow slicing," see Arts. 277, 307–9, 337–38, 341–42.
- 38 In the *Tang Code*, the penalty for "inflicting captive spirits on others" and "making spells or incantations" in order to kill others is "reduced by two degrees from that for 'plotting to kill others'" (TLSY, 340); whereas the *Great Ming Code* provides that the penalty shall be "the same as that for 'plotting to kill others'" (Art. 312).

4 | The Great Ming Code and the Human Realm

- 1 The "bronze pillar" here might have referred to one of the bronze pillars that were allegedly erected by the Han general Ma Yuan in about 43 C.E. (Bielenstein 1986, 271). By the early Ming, while these pillars might have been long disappeared, "they delineated a border (or borders) that must have been important to people" (Kelly 2005, 5–9, 192).

- 2 TS, 3600–3601, 3620–27; MS, 8234–35, 8312; Yan 1993, 174–76; Wang 1994, 441–43; Whitmore 1985, 50–51; Lo 1970, 159.
- 3 An earlier petition was presented in 1381 (the fourteenth year of the Hongwu reign). The Ming court responded by blaming Annam’s provocation and deceit and refused their tribute (TS, 2168–69). Lo Jung-pang (1970, 158) relates that, in 1378, after occupying five districts of the Ming Siming prefecture, the Annamese rejected the proposal of the Ming government to settle the border dispute. Lo’s source (*Ming shi*, jun 321), however, does not specify the time. What is actually recorded there is that the border dispute took place between the tenth and twenty-first years of the Hongwu reign. In addition, neither the *Veritable Records* nor the *Ming History* states that the Annamese had already occupied the five districts by 1378.
- 4 It was not until the reign of the expansionist Yongle emperor Zhu Di (1360–1424) (DMB 355–65) that, when Le Qui-ly seized three more districts from Siming, the Ming finally launched punitive expeditions against Annam, annexing it as a province of China. See MS, 8312–16; Whitmore 1985, 77–95; Lo 1970, 166–74.
- 5 The Ming court, for example, sent emissaries to Korea and Annam in 1368; to Japan, Champa, Java, and Tibet in 1369; and to Cambodia, Siam, and Srivijiva in 1370. See Lo Jung-pang 1970, 155; MS, 8279, 8309, 8341, 8383, 8394, 8402, 8406, 8539.
- 6 See, for example, TS, 827, 1574–75, 1581–82, 1936, 2017, 2125, 2169, 2187–88; MS, 8407.
- 7 Besides installing them in military offices such as the pacification commissions and tribal offices, some civilian positions like prefect or subprefect mentioned in the *Gazetteer* might have also been granted to non-Han peoples. For instance, Huang Yingyan, the chieftain of the Gelao people in Taiping, Guangxi, was appointed the aboriginal prefect in 1369. See MS, 8230. In addition, the aboriginal military offices listed in the *Gazetteer* might not be complete. For example, the Baojing Pacification Office (*xuanwei si*), which was upgraded from a pacification commission in 1368 (MS, 7995), was omitted in the record.
- 8 For some general treatments of the “aboriginal office” system, see Li 1993; Gong 1992, 52–109; Wiens 1967, 214–26; and Herman 1997, 50–51.
- 9 For a concise historical survey of the “loose-rein” policy, see Yang 1968, 31–33.
- 10 Lo 1970, 156–57. Zhu Yuanzhang’s instruction appears in *Zuxun lu* of 1373 and *Huang Ming zuxun* of 1395. For a translation of the earlier text, see Wang 1998, 311–12; for the latter, see Farmer 1995, 119–21.
- 11 Lo 1970, 156. For a brief account of general features of the tribute system within the Chinese world, see Fairbank 1968b. For an example of Ming tributary relations, see Clark 1998.
- 12 See, for example, MS, 8407, 8592. The Japanese prince Kanenaga also referred to his relationship with the Ming emperor as “ruler-subject,” even when challenging Ming dominance. See MS, 8343–44.
- 13 MS, 8279–84, 8341–44. For English accounts of Ming-Korea and Ming-Japan relations, see Clark 1998 and Wang 1953.
- 14 The countries and kingdoms which paid tribute to the Ming were: Korea, Annam, Japan, Liuqiu, Luzon, Champa, Cambodia, Siam, Java, Srivijava, Sumudra, Brunei,

Battak, Pahang, Byzantium, Mdo Khams, Dbus Gtsang, Samarkand, Bishbalik, Nepal, Uighur, Burma, the Western Oceans [South India], Shepo (a place in Java or Sumatra), Anding, Quxian, Shazhou, Handong, Changhexi-Yutong-Ningyuan, Dajianlu (a place in Mdo Khams), Hameili, Xitian'a'ngongdeguo, Danba, Sari, Xiyangsuoli, Sali, Lanbang, and Mola. See MS, 19–57, 8279–8462, 8511–8627. Some of these tribute missions may have been fabricated, and tributary relations were not stable. See 1988, 258–59.

- 15 TS, 53. For a brief account of the Yunnan campaign, see Langlois, 1988, 143–46.
- 16 Under the Yongle emperor Zhu Di, China proper was further expanded, and more countries paid tribute to the Ming court more frequently. See MS, 79–91, 93–105.
- 17 According to Abe Takeo (1956), the idea of “all under Heaven” (*tianxia*) was put forward during the fifth century B.C.E. It was then realized by the Qin First Emperor (r. 246–210 B.C.E.), and expanded by Emperor Wu of the Han Dynasty (r. 140–87 B.C.E.).
- 18 The five zones were *dianfu* (royal zone), *houfu* (guarding zone), *suifu* (pacified zone), *yaofu* (controlled zone), and *huangfu* (uncultivated zone). This plan arranged the world in connection with Chinese civilization. The royal center was defended and served by the guarding zone, which was further surrounded by an area where Chinese teachings were naturally practiced. At the next level, inhabitants were forced by royal regulations to practice the Chinese way of living. The outermost zone represented totally alien cultures, where people were so different from the Chinese that they were left to live with their own customs. See *Shangshu zhengyi*, 153. Yü Ying-shih (1986, 379–80) finds that the five-zone theory “played an important historical role in the development of foreign relations during the Han period.”
- 19 Jiangpu faces Nanjing across the Yangzi River.
- 20 TS, 1815–16. The passage is translated in Serruys 1959, 62–63.
- 21 Western terms are paired with Chinese names. Within each group of lunar mansions, which are presented in parentheses, the number following the first lunar mansion refers to the beginning of the degree in the said mansion; and the number following the last lunar mansion shows the last degree in that mansion that is located within the limit of the celestial region. For a list of the twenty-eight lunar mansions, see Needham 1959, 234–37.
- 22 According to this arrangement, one province might be grouped into several sections; however, as is evident in the list, in most cases one celestial region covered regions in more than one province.
- 23 See *Zhouli zhushu*, 819. For a brief discussion of the tradition, see Jiang 1992, 62–74.
- 24 It is not certain why Korea was assigned a place under the celestial region Ximu/Sagittarius. Perhaps the Ming continued a tradition of regarding north Korea as part of the Chinese empire, because this area had not only accepted tremendous Chinese cultural influence throughout history, but more importantly was the region where the kingdom known in Chinese as Chaoxian was founded in the early second century B.C.E. by Wei Man, a native of the Chinese state of Yan. In the traditional “cosmic demarcation” system, the state of Yan belonged to the

celestial region of Ximu/Sagittarius. (For more on Wei Man's regime, see Yü 1986, 447–48.) However, in Li Xian's *Da Ming yitong zhi* (5469–70), Korea is not incorporated into the Ming "cosmic demarcation" system. In addition, according to Xia Xie (1959, 515), the *General Gazetteer of the Realm* (Huanyu tongzhi), the Ming official geographical work that was first completed in 1394 and finalized in 1456 (Franke 1968, 237), included both Korea and Jiaozhi (Annam) in the Ming realm (this is also cited in Lo Jung-pang 1970, 164). In the *Veritable Records of Ming Taizu* (3423–26), however, the work, entitled *Book of Thoroughfares in the Realm* (Huanyu tongqu shu), did not include those two countries in the Ming empire. It is interesting to note that in 1395, eleven years after the completion of the Ming "cosmic demarcation" text and three years after the founding of the Korean Yi dynasty, the Korean court drew its own version of a "cosmic demarcation" map. See Needham 1959, 279, 281.

- 25 In the Guangxi Provincial Administration Commission, for instance, while Nanjing Prefecture belonged to Chunwei/Virgo, Siming prefecture, where the border disputes with Annam took place as discussed in the beginning of this chapter, did not belong to any celestial region. See Li Xian 1990, 5027, 5233.
- 26 Li Chunfeng's remarks are quoted in Jiang Xiaoyuan 1992, 70.
- 27 For the imperial princes in the Hongwu reign and their fiefs, see Langlois 1988, 121, 171.
- 28 Puding was under the Yunnan Branch Secretariat in the Yuan Dynasty. After it was annexed to the Ming empire, its name was changed to Anshun subprefecture in 1383. Thereafter, it remained under the jurisdiction of the Sichuan Provincial Administration Commission until 1438, when it was put under the administration of the Guizhou Provincial Administration Commission. See MS, 8185.
- 29 TS, 2517. On other occasions, chieftains of other ethnic groups also sent young people to study at the Ming capital. See, for example, TS, 3018, 3025.
- 30 The emperor still wanted to keep the school in hopes of guiding the local people to "pursue good" (*xiangshan*) (TS, 2963). On the Ming practice of promoting "tribute students," see Hucker 1998, 32.
- 31 TS, 3475–76. By the mid-fifteenth century, Confucian schools were established under all of the aboriginal officials in the southwest area (MS, 1852). Li Lung-hua (1993, 9) maintains that the Ming assimilation policy toward non-Han peoples was a success.
- 32 See, for example, MS, 8280, 8384. Also see Wang 1998, 305.
- 33 In fact, Lo Jung-pang (1970, 158) argues, Zhu Yuanzhang's foreign policy of caution and restraint was so conservative that that it cost him "the loss of prestige in the eyes of the states bordering the East and South China Seas."
- 34 Some important Ming frontier passes include the Shanhai Pass and Juyong Pass along the northern frontiers (Li 1990, 11, 96–97).
- 35 TS, 1246–47; MS, 902–7, 952–57; Li Xian 1990, 103–4, 424–25; *Da Ming qinglei tianwen fenyue zhishu*, 24.1a–3b. Since the Yongle reign, more civilian and military units were established outside the northern frontier passes. For a map of northern

- border garrisons and the inner and outer Great Wall, see Mote 1988a, 390.
- 36 Ming Chengzu Zhu Di's Yongle reign (1403–1424) is a conspicuous exception (DMB, 355–65; Chan 1988, 205–76).
- 37 These foreign countries include Korea, Japan, the Great Ryukyus, the Lesser Ryukyus, Annam, Cambodia, Siam, Champa, Sumatra, the Western Ocean Country, Java, Pahang, Baihua, Srivijaya, and Brunei (Farmer 1995, 120).
- 38 The *Code* itself and the *Collected Commentaries* do not specify who are injured in this case. One finds an explicit reference to “those beyond the borders” in Yao 1993, 539.
- 39 This was even true along the northern frontiers. Thomas Barfield (1989, 232) notes that, although Zhu Yuanzhang sent expeditionary troops to attack the Mongols several times, “[t]he Hong-wu Emperor’s strategic policy in the north was primarily defensive.”
- 40 TS, 2107. Executing criminals in public markets was an age-old tradition, but was not explicitly specified in the final version of the *Code*. It is not a surprise that Zhu Yuanzhang often employed nonlegal methods like this to punish criminals.
- 41 See the model verdict and notice in ZJQS, 4.10b; ZPZZ, 4.12a; and XSJH, 4.38b–39a.
- 42 In explaining the article, the “Collected Explications” adds: “Carrying foreign goods back and depositing them in others’ houses shall be punished according to this provision.” By excluding the Chinese from the rule, this explanation implies that the article deals only with “foreigners.” See JHXZ, 4.14b.
- 43 LSFL, 8.10b; JS, 420. Also see Shen 2000, 361.
- 44 JS, 420; LSFL, 8.11a. For a brief history of the legal prohibition of maritime trade in the Ming, see Danjo 2004.
- 45 MS, 3664–65; TS, 3659. Langlois (1988, 179) interprets the imperial order of execution as an indication of Zhu Yuanzhang’s paranoia, since Ouyang’s crimes were “relatively minor infractions.” Langlois might have underestimated Zhu’s concern over dynastic security.
- 46 For instance, He Guang maintains that “*huawai ren*” refers to “races with barbarian customs” (*husu zhi zhong*). It is not limited to surrendered or captured “barbarians,” but also includes “foreign barbarians” and those residing to the east and west of Ming territory (LJBY, 56). The examples He Guang offers include Mongols and *semu ren*, whose marriage was regulated by the *Ming Code*. In the *Code*, however, Mongols and *semu ren* were clearly treated as Ming subjects rather than “foreigners.” In the *Da Ming lüshu fuli* (1.65b), *huawai ren* included not only Mongols, *semu ren*, and “aboriginal barbarians” who were scattered throughout Zhongguo, but also “the foreigners who come to pay court audience from all quarters and the barbarian bandits who attack the [Ming] frontiers.” Wu Yanhong (2003, 728f) points out that it seems problematic to generally take “bandits who attack the frontiers” as *huawai ren*, since such “bandits” could not be punished or governed by the law unless they were captured or surrendered. Wu also points out that the *Da Ming lüshu fuli* is the only extant source that includes “the foreigners who come to pay court audience” as *huawai ren*. Some present-day scholars also interpret *huawai ren* as “aliens” or “foreigners,” but they have not pro-

- vided substantial evidence to support this stance. See, for example, Edwards 1980, 224–25; Liu 1996, 480; Yang 1975a, 68.
- 47 JHXZ, 1.21b; JJFL, 347; JS, 322; LFQS, 1.50a; LLFJ, 1.95b; LMBJ, *shoujuan xia*.64b; TSPZ, 1.53b; XSJH, 1.68a; XTFL, *Mingli fujian*, 51b; XXBJ, 1.48a; ZJQS, 1.47b. This interpretation is also adopted by the *Great Qing Code* (Shen 2000, 102).
- 48 JS, 322. “*Wangzhe wuwai*” derives from the Confucian classic *Chunqiu Gongyang zhuan*, and denotes the idea that “the ruler takes all under Heaven as his home” (*Chunqiu Gongyang zhuan zhushu*, 2199). This idea is related to an earlier Confucian classic, the *Book of Poetry*, which claims that “Under the wide heaven, all is the king’s land. Within the sea-boundaries of the land, all are the king’s servants” (*Mao Shi zhengyi*, 463; Legge 1960 [vol. 4, *The She King*], 360).
- 49 For general treatments of the dual legal system under the Yuan, see Paul Ch’en, 1979; Han 1999.
- 50 LSFL, 6.17a-b. Yang 1975b, 80.
- 51 TS, 1912–13. These former Yuan officials were moved to Pingliang prefecture in Shaanxi.
- 52 JJFL, 347. Also see XXBJ, 1.48a; LLFJ, 1.95b; LFQS, 1.50a; and XSJH, 1.68a.
- 53 Note that this commandment was established in December of 1384, and He Guang’s *Lüjie bianyi* was written in 1385. We can infer that Article 36 on *huawai ren* must already have been included in the *Code*.
- 54 MS, 8234. The Huang family belonged to the Zhuang nationality (Gong 1992, 1123–26). So far, Men’s nationality has not been identified.
- 55 See, for example, TS, 2531–32, 2550, 3246; MS, 7982.
- 56 The Cen family belonged to the Zhuang nationality (Gong 1992, 1086).
- 57 YZDG, 205. I have slightly modified the translation from that of Dardess 1983, 228.
- 58 For a few examples of such remarks, see TS, 182, 925, 1449, 1471, 2687; HMZX, 387; YZDG, 749.
- 59 The practice of making lavish betrothal gifts was prohibited by an imperial proclamation made in 1372 (TS, 1351–54; MS, 27), although it is not clear what specific legal remedies were used as punishment. In 1385, an official at the Ministry of Rites pointed to the continued popularity of the custom, and submitted a request to the throne for the enactment of more detailed ritual regulations (TS, 2624).
- 60 The “seven grounds” for divorce are no sons, lewdness, not serving parents-in-law, talking too much, theft, jealousy, and incurable disease. The “three restrictions” on divorce are the wife having done three years’ mourning, the husband married poor but become rich, or the wife no longer having a family to return to (Farmer 1995, 160).
- 61 For a brief account of Yuan legislation, see Ratchnevsky 1995; for a general study of Yuan law, see Paul Ch’en 1979; for a study of marriage law in the Yuan, see Birge 2002, 200–282.
- 62 See Art. 108 vs. TZTG, 193–94, YDZ, 2052–55, and YS, 2641; Art. 109 vs. TZTG, 163 and YDZ, 713; Art. 110 vs. YS, 2643; Art. 114 and Chen Peng 1990, 409–10; Art. 118 vs. YS, 2640, and YS, 4076, 4078, 4204, 4367; Art. 119 vs. TZTG, 155–56, YDZ, 719–20, and YS, 2643; and Art. 120 vs. YDZ, 1224, 1230–31; and YS, 2463.

- 63 See Art. 122 vs. TZTG, 143.
- 64 See Art. 115 vs. TZTG, 149–52, YDZ, 701–11, and YS, 2643–44.
- 65 Even the term “take in” (*shou*) used in defining the crime of levirate marriage had also been borrowed from Yuan law.
- 66 Not only did the ruling elite in the early Ming keep silent on the issue, but also no jurist in the late Ming ever pointed to it in their expositions on and annotations to the *Ming Code*. It was not until the late Qing that the jurist Xue Yunsheng (1820–1901) finally compared and contrasted the legal stipulations of the *Ming Code* and Yuan law (Xue 1999).

5 | The Great Ming Code and Officialdom

- 1 Li Qi, Prime Minister Li Shanchang’s eldest son, was married to the eldest imperial princess Lin’an Gongzhu in 1376. Because of his special status as both the first imperial son-in-law and son of a meritorious official, Li Qi was often appointed by the emperor to aid victims of natural calamities. See MS, 39, 41, 3662–63.
- 2 For collections of Zhu Yuanzhang’s remarks on officials, see BX, esp. 470–79, 539–43.
- 3 A large number of articles in *The Great Ming Code* regulate both official and nonofficial offenders. For instance, “committing fornication with consent” (Art. 390) either by officials or commoners would be punished by eighty strokes of beating with the heavy stick. This study, however, is primarily occupied with regulations that specifically target officials.
- 4 Other reward clauses are stipulated in Arts. 52, 149, 165–66, 170, 184, 194, 220, 246, 277–78, 311–12, 319, 321–22, 356, and 381–83.
- 5 Other offers range from ten to two hundred and fifty *liang* of silver. The *Code* stipulates two exceptions: one rewards the accusers with all of the criminals’ property (Arts. 60, 277–78); the other sets the reward at 30 percent of the confiscated property (Arts. 165, 246).
- 6 Another, in Art. 277, concerns the most serious crime—“plotting rebellion and great sedition.”
- 7 As late as September 1392, the Marquise of Jingning Ye Sheng was accused of involvement with Hu Weiyong and executed. See TS, 3227–28.
- 8 This translation follows that by Wallace Johnson 1979, 62–64.
- 9 These images derive from the cosmological symbols in the *Book of Changes* (*Zhouyi*), such as the trigrams and hexagrams of “li” (symbolizing water), “kan” (fire), and “zhen” (thunder). The *Zhouyi* portrays the danger of these phenomena. See *Zhouyi zhengyi*, 42–43, 61–62. In expounding the “Five Phases” (*Wuxing*), the Han scholar Ban Gu (32–92) explains why fire and water can kill people: “Water contains *qi*; therefore if humans enter it, they will be killed. Fire has yin inside; therefore it kills humans more powerfully than water” (Ban 1962, 24; Som 1973).
- 10 According to the *History of the Han Dynasty* (*Hanshu*), after a filial daughter-in-law was falsely accused of murdering her mother-in-law and was wrongly executed by the prefect, the whole prefecture suffered from drought for three years. As

- soon as the verdict was reversed and the victim honored, it rained heavily (Ban 1962, 3041–42; Ch'ü 1961, 213–14).
- 11 The “eight handles” refers to the eight measures the ruler uses to control his officials, as described in the ancient Confucian classic the *Rites of Zhou* (Zhouli). They include noble rank, emoluments, bestowing, appointments, nourishment, confiscation, banishment, and execution. See *Zhouli zhushu*, 646.
 - 12 ZSTX, 1454. The text is translated by Edward Farmer and Jiang Yonglin.
 - 13 In addition to these special regulations, of course, officials were regulated in the *Code* by a large number of general articles regarding parent-child relationships, such as Arts. 111–12 and 307.
 - 14 The only source Kutcher cites is the *Collected Institutes of the Great Ming* (11.2a), but he fails to mention the term “*duosang*” (depriving of the mourning) in the text. Besides, the statement in the introductory entry of the section “Mourning for Parents” (*dingyou*) is rather vague. It starts with “at the start of the dynasty it was ordered that when the various officials hear of a parent’s death, they do not wait for written permission but immediately leave their official positions” (trans. Kutcher 1999, 42); it then states that “later . . . there were prohibitions on mourning deprivation, shortened mourning, and concealment of mourning, which became stricter than before” (MHD, 68). This passage begins with the legal reform that took place in 1375 (as shown above) and thus omits the original practice that was changed in that year. And it does not clarify the time period to which the word “later” (*hou*) refers. Does it refer to later years during the Hongwu reign (1368–1398), or other reign periods after the Hongwu era? While ample evidence indicates imperial injunctions on “curtailing sentiment” in post-Hongwu times (MHY, 302–4), there seems to be no record of the prohibition during the Hongwu reign.
 - 15 The “six types of illicit goods” first appeared in the *Tang Code* of 653; they included forcible robbery (Art. 281), theft (Art. 282), accepting property and subverting the law (Art. 138), accepting property without subverting the law (Art. 138), accepting property from those in the area under one’s jurisdiction (Art. 140), and illicit goods obtained through malfeasance (Art. 389). See TLSY, 88, 479; Johnson 1979, 184; 1997, 456. In *The Great Ming Code*, the “six types of illicit goods” were altered to supervisors or custodians stealing (Art. 287), ordinary persons stealing money or grain from granaries or treasuries (Art. 288), accepting property and subverting the law (Art. 367), accepting property without subverting the law (Art. 367), theft (Art. 292), and committing crimes involving illicit goods obtained through malfeasance (Art. 368). Each of the six articles features a sentencing scale guiding judgments on relevant crimes.
 - 16 See Arts. 97, 104–6, 128, 134, 141, 144–46, 148, 168–70, 172, 174, 250, 254, 257, 276, 301, 370–71, 374, 432, 448–50, 455, and 457.
 - 17 TS, 2155. This became part of Art. 367 of the *Code*, “Officials and Functionaries Accepting Property.”
 - 18 On this practice, Shen Defu’s *Wanli yehuo bian* records a slightly different version: When Taizu founded the dynasty, he issued an order to skin corrupt officials and then stuff the skin with straw; the straw-stuffed skin, which would form a human

figure, was kept at the office to warn successors. Shen heard that such items were still stored in some prefectural or district treasuries. He also pointed out that if eunuch officials married women, they would receive the same penalty (Shen 1959, 457). The practice of “stuffing skin with straw” is described in a little more detail in Wang Qi’s *A Collection of Unofficial Histories* (Baishi huibian) published during the Wanli reign [1573–1619]: if corrupt officials received bribes worth sixty *liang* of silver or more, they would be beheaded and skinned. The penalty would be imposed on grounds in front of the local temple of the god of soil, which was therefore called the “skinning-ground temple” (*pichang miao*). The straw-stuffed skin would be placed by the official’s seat in the office as a warning (quoted in Wang 1997, 158). This account is copied almost verbatim by the Qing historian Zhao Yi (1727–1814; ECCP 75–76) in his *Nian’er shi zhaoji* (Zhao 1987, 480–81). Shimizu Taiji suggests that “skinning venal officials” was never officially used, and was at most an extralegal expression of revenge against the officials by people who had suffered under them (cited in Watt 1972, 277n.9). Wang Shihua also argues that Zhu Yuanzhang never practiced “skinning officials and stuffing the skin with straw.” He speculates that Zhao Yi copied Wang Qi’s account without careful investigation; Wang Qi’s account must have originated from less serious private histories or collected notes (Wang 1997). But Wang Shihua fails to discuss records in the works of He Qiaoyuan and Shen Defu. Since Zhao Yi and Shen Defu also point to the penalty of “skinning” during the Yuan and mid-Ming, it seems a little rash to exclude the possibility that Zhu once used such a penalty.

- 19 See Articles 81, 86–87, 92, 95, 97, 100, 103, 116, 127, 231, 371, 372, and 395.
- 20 TS, 3387–88. The *Code*’s penalty for such a crime ranged from eighty to one hundred strokes of beating with the heavy stick. See Art. 97.
- 21 TS, 1859. In this case, capital punishment was probably meted out due to the death toll during the disaster.
- 22 ZSTX, 1455–56. The text is translated by Edward Farmer and Jiang Yonglin.
- 23 Romeyn Taylor (1997, 96–97) discusses official, quasi-official, and nonofficial altars and temples in general terms.
- 24 At the end of chapter two in this work, a review of Hsu Dau-lin’s essay on crime and cosmic order criticizing Derk Bodde and Clarence Morris’s exposition about the close connection of these two elements is questioned. However, there is value in Hsu’s argument that, in Chinese thought, the unjust punishment of crimes disturbed cosmic harmony (Hsu 1970, 115). This argument is valuable only in terms of the cosmological status of officialdom: “unjust punishment of crimes” is in fact a crime pertaining to officials. Hence, Hsu’s statement can be revised as “it is the officials’ crime of misjudgment that disturbed cosmic order.” But in that way, Hsu would have changed his contention and agreed with Bodde and Morris.
- 25 In the late Ming magistrate Zhang Kentang’s law enforcement, it seems that *The Great Ming Code* was used by the magistrate as almost his sole legal criterion in judging law cases. See Jiang 2000. For a detailed study of the relationship between *The Great Ming Code* and other legal establishments during the Hongwu reign, see Jiang 2005, lxxvii–lxxxviii.
- 26 TS, 3477–78. This passage also appears in HMZX (389), which specifies the pun-

ishment for the officials as “sentenced to death by slow slicing and executing his whole family.” This passage is translated in Farmer 1995, 118. It has been slightly modified in this quotation.

- 27 By this time, Zhu Yuanzhang had ordered his officials to “look up articles in the *Grand Pronouncements* and select the most important ones to append to the *Code*” (TS, 3647–48). In the final version of *The Imperially Approved Code and Pronouncements* (Qin ding Lü Gao), only thirty-six article titles are listed to indicate “true capital crimes” (*zhenfan sizui*) that cannot be redeemed and “miscellaneous capital crimes” (*zafan sizui*) that can be redeemed. See Huang 1977a, 163–66.

Conclusion

- 1 For a historical study of the religious foundation of Western law, see Berman 1983. For some general studies of the interaction of law and religion, see Berman 1974, 1993, and Ellul 1960.

Glossary

- anfu si* 安撫司 Pacification
Commission
- Annan zhuan* 安南傳
- anyang shengxi* 安養生息 rest and
recuperation
- Ba-Shu 巴蜀
- babing* 八柄 handles
- baidou* 拜斗 worship the Dipper
- Bailian She 白蓮社 White Lotus
Society
- Baishi huibian* 稗史彙編 A Collec-
tion of Unofficial Histories
- Ban Gu 班固
- bantu* 版圖 domain
- banyin kanhe* 半印勘合 matching
half-seal tallies
- bao* 報 to recompense
- Bao Zunpeng 包遵彭
- Baoxun* 寶訓
- Bayun Xingtong fu* 八韻刑統賦
Eight Rhyming Explications of
the United Code
- Beiping 北平
- beiwén* 碑文 tablet inscription
- benxing* 本性 original nature
- Bianmin tuzuan* 便民圖纂
- Biaolü panxue xiangshi*
標律判學詳釋
- biji* 筆記 jottings
- binli* 賓禮
- Biqu tiaoli* 避趨條例 Regulations
for Avoidance and Pursuit
- bujing* 不經 nonclassical
- Cen 岑

- Chan Hok-lam (Chen Xuelin)
陳學霖
- Chan Wing-tsit (Chen Rongjie)
陳榮捷
- Chang'an 長安
changfa 常法 permanent law
changjing 常經 constant law
chaogang 朝綱 court principles
- Chayan si 察言司 Office for the
Scrutiny of Memorials
- Chen Peng 陳鵬
- Chen Wenhui 陳煥輝
- Ch'en Wen-shih (Chen Wenshi)
陳文石
- Chen Youliang 陳友亮
- Ch'en Ku-yuan (Chen Guyuan)
陳顧遠
- cheng huang zhi shen* 城隍之神 gods
of the walls and moats
- Chengxuan buzheng shi si
承宣布政使司 Office of the
Commissioner for Undertaking
the Promulgation of Imperial
Orders and for Disseminating
Government Policies
- Chengyibo wenji 誠意伯文集
- Chengzu 成祖
- Chenjie lu 臣誠錄 Instructions for
Ministers
- chenxiang* 沉香 *Aquilaria agallocha*
- Chijian dayue taiheshan zhi
敕建大岳太和山志
- Ch'iu Chung-lin (Qiu Zhonglin)
邱仲麟
- chizi* 赤子 subject
- chou* 丑 I-3 A.M.
- choulei wei kong* 丑類為空 to wipe
out all types of ugliness
- chu* 出 departing from
- Chu 楚
- Ch'ü T'ung-tsu (Qu Tongzu)
瞿同祖
- Chugoku hoseishi koshu*
中國法制史考證
- "Chugoku kodai ni okeru
unme ron no keifu"
中國古代における運命論の系譜
- chujia* 出家 entering monastic
orders; lit., "leaving home"
- Chunqiu* 春秋
- Chunqiu Gongyang zhuan zhushu*
春秋公羊傳註疏
- Cui Liang 崔亮
- Cunxin lu* 存心錄 Records of a
Constant Heart-and-Mind
- da bujing* 大不敬 great irreverence
- Da Ming huidian* 大明會典
- [*Da*] *Ming jili* [大]明集禮
- Da Ming ling* 大明令 Great Ming
Commandment
- Da Ming longtou biandu*
pangxun lüfa quanshu
大明龍頭便讀傍訓律法全書
- Da Ming lü* 大明律 The Great Ming
Code
- Da Ming lü fuli zhujie*
大明律附例註解
- "Da Ming lü gao kao" 大明律誥考
- Da Ming lü jijie fuli* 大明律集解附例
- Da Ming lü shiyi* 大明律釋義
- Da Ming lüli juhui xizhu*
大明律例據會細注
- Da Ming lüli linmin baojing*
大明律例臨民寶鏡
- Da Ming lüli tianshi pangzhu*
大明律例添釋旁註
- Da Ming lüli zhijun qishu*
大明律例致君奇術

- Da Ming lüli zhushi xiangxing bingjian* 大明律例註釋祥刑冰鑑
Da Ming lüshu fuli 大明律疏附例
Da Ming qinglei tianwen fenye shu 大明清類天文分野書
Da Ming Taizu Gao Huangdi shilu 大明太祖高皇帝實錄
Da Ming yitong zhi 大明一統志
Da Ming zhi 大明志 Gazetteer of the Great Ming
Da Qing lü jizhu 大清律輯注
Da Yuan shengzheng guochao dianzhang 大元聖政國朝典章
Dagao 大誥
 “Dai Min ryo kaisetsu” 大明令解說
Dali si 大理寺 Court of Judicial Review
dalun 大倫 foundation of human ethical principles
dan 担 picul
Danjo Hiroshi 檀上寬
Danyang 淡洋
Dao 道 the Way
Dao de jing 道德經 Classic of the Way and Its Power
daoli 道理 principles
Daoyan 道衍
Datong li 大統曆 Calendar of the Great Unification
daxian 大限 great boundary
Daxue 大學 The Great Learning
Daxue yanyi 大學衍義 The Expanded Meaning of the Great Learning
Deng Shilong 鄧士龍
Deng Yu 鄧愈
dian 典
dianfu 甸服 royal zone
dingyou 丁憂 mourning for parents
Dong Yu 董裕
doucheng 斗城 city of the dipper
Du lü suoyan 讀律瑣言
Du shi zhaji 讀史札記
dulun 瀆倫 to damage human moral principles
duoqing 奪情 curtailing sentiment
duoqing qifu 奪情起復 to return officials to government service by curtailing sentiment
duosang 奪喪 deprived of mourning
ermu zhi guan 耳目之官 ear-eye officials
ertian 二天 two heavens
fa 法 law
Fan Zugan 范祖幹
Fang Linggui 房齡貴
Fang Xuanling 房玄齡
fanhai er lai 泛海而來 come by sea
fanhai keshang 泛海客商 maritime merchants
fanzuo 反坐 reciprocal retribution
fei wo zulei, qi xin bi yi 非我族類其心必異 if he is not of our race, he is sure to have a different mind
feixin 非心 evil hearts
fen 分 fixed position, status
fengfa xunli 奉法循理 to abide by law and to follow principle
fengshui 風水 geomancy
fengtian dian 奉天殿 Hall of Service to Heaven
fengxian guan 風憲官 guardians of the customs and laws
Fengyang 鳳陽
fenye 分野 cosmic demarcation

- fu wo Zhongguo* 復我中國 to
recover our China
- Fu Xi 伏羲
- Fu Yiling 傅衣凌
- Fujian 福建
- fuma duwei* 駙馬都尉
commandant-escort
- fumu guan* 父母官 father-mother
officials
- gaiguo qianshan* 改過遷善
to correct transgressions and
revert to good deeds
- gan-zhi* 干支
- gangqiang* 剛強 resolute and strong
- Gao Feng 高峰
- Gao Ju 高舉
- gaoshi* 告示 model official notice
- Ge Yinliang 葛寅亮
- Geng Zhong 耿忠
- Gengsi bian* 庚巳編
- gong* 公 impartiality
- Gong Ju 貢舉
- Gong Yin 龔蔭
- gonggu* 肱骨 legs and arms
- gongsheng* 貢生 tribute students
- Gongxing lu* 躬省錄 Records of
Self-Reflection
- gouhui zhi qu* 垢穢之軀
“Gu Chengyibo Liugong xing-
zhuang” 故誠意伯劉公行狀
- Guan Wenfa 閔文發
- guancheng* 貫城 string city
- guansuo xing* 貫索星 a string of
stars
- “Guanyu Mingchu Hu Lan
zhi yu de fenxi”
關於明初胡藍之獄的分析
- guo* 國 country
- Guo Huan 郭桓
- Guo Peng 郭鵬
- Guo que* 國權
- Guochao diangu* 國朝典故
- Guochao xianzheng lu* 國朝獻徵錄
- Guochu lixian lu* 國初禮賢錄
- Guochu shiji* 國初事跡
- Guoshi kaoyi* 國史考異
- Guoshi weiyi* 國史唯疑
- guoti* 國體 dynastic body
- Guozi xue* 國子學 Dynastic
University
- Hainan 海南
- Haining 海寧
- Haizhou 海州
- Han 漢
- Han Yulin 韓玉林
- hanba* 旱魃 drought god
- Hangzhou 杭州
- Hanshu* 漢書
- Hao Zhicai 郝志才
- He Guang 何廣
- He Qiaoyuan 何喬遠
- He Xiaorong 何孝榮
- Hetu* 河圖 Yellow River Diagram
- Hihara Toshikuni 日原利國
- Hongjin 紅巾 Red Turbans
- Hongwu 洪武
- Hongwu falü dianji kaozheng*
洪武法律典籍考證
- [*Hongwu*] *Jingcheng tuzhi*
[洪武]京城圖志
- Hongwu shengzheng ji* 洪武聖政紀
- Hongwu yuzhi quanshu*
洪武御製全書
- hou* 後
- Hou Wailu 侯外廬
- houbie* 厚別 to emphasize
distinction
- houfu* 侯服 guarding zone

- houshe* 喉舌 throats and tongues
 Hsu Dau-lin (Xu Daolin) 徐道鄰
 Hu Han 胡翰
 Hu Weiyong 胡惟庸
 Huai Xiaofeng 怀效鋒
 Huang Bosheng 黃伯生
 Huang Chang-chien (Huang Zhangjian) 黃彰健
 Huang Chao 黃巢
 Huang Guangcheng 黃廣成
 Huang Guangping 黃廣平
 Huang Jin 黃金
 Huang Jingfang 黃景昉
 Huang-Lao *xuepai* 黃老學派 the Huang-Lao school
Huang Ming kaiguo chen zhuan 皇明開國臣傳
Huang Ming kaiguo gongchen zhuan 皇明開國功臣傳
Huang Ming shigai 皇明史概
Huang Ming zhaoling 皇明詔令
Huang Ming zhishu 皇明制書
Huang Ming zuxun 皇明祖訓
 Huangdi 黃帝
huangfu 荒服 uncultivated zone
Huangting jing 黃庭經 Book of the Yellow Court
 Huanlun 幻輪
huanyu 環宇
Huanyu tongqu shu 環宇通衢書
 Book of Thoroughfares in the Realm
huawai ren 化外人 people beyond the pale of civilization
Huayi yiyu 華夷譯語
 Huguang 湖廣
 Huijie 會解 “Collected Explications”
hun 魂 spirit-soul
huo 惑
 Huo Yuanjie 火原洁
huozhong 惑眾 delude the public
husu zhi zhong 胡俗之種 race with barbarian customs
 “Ji meng” 紀夢
jiali 嘉禮
jiandang 奸黨 treacherous cliques
 Jiang Boer 江伯儿
 Jiang Hao 姜昊
 Jiang Xiaoyuan 江曉元
 Jiang Yonglin 姜永琳
 Jiang Zhe 姜喆
 Jiangpu 江浦
 Jiao Hong 焦竑
jiaohua 教化 education and transformation
Jiaomin bangwen 教民榜文
jieta mingxin 洁體明心 a clean body and pure heart
jigang 紀綱 lit., “net-ropes”; i.e., principles of government
jili 吉禮
Jilu huibian 記錄彙編
jimi 羈糜 loose-rein policy
jin xieshu chong zhengdao 禁邪術崇正道 prohibit heresies and promote the orthodox Way
jinbao zhijian 禁暴止奸 to prohibit violence and eliminate wickedness
Jing cheng lu 精誠錄 Records of Absolute Sincerity
jingang 金剛 law-guarding celestial gods
 “Jinglao shi suoyi jianlao—Mingdai xiangyinjin li de bianqian jiqi yu difang shehui de hudong” 敬老

- 適所以賤老—明代鄉飲酒禮的變遷及其與地方社會的互動
- Jinhua 金華
- Jinling fancha zhi 金陵梵剎志
- Jinshu 晉書
- jin yi wei 錦衣衛 imperial bodyguard
- Jiqing 集慶
- jiuwu xingshan 久污腥膻 to be polluted by the smell of mutton for such a long time
- junli 軍禮
- junzi 君子 gentleman
- kan 坎
- Kim Chi 金祇
- Ko Sa-Kyong 高士炯
- Kongyin an 空印案 “Pre-stamped Documents Case”
- Kuang Fan 廓璠
- Lan Yu 藍玉
- lei 類 kind
- Lei Menglin 雷夢麟
- Leng Qian 冷歉
- li 離
- li 里 community
- li 理 principle
- li 禮 ritual
- li 里 unit of length
- li 吏 functionary
- li 例 regulations
- Li Bin 李彬
- Li Chunfeng 李淳風
- Li Fengji 李逢吉
- Li Lung-hua (Li Longhua) 李龍華
- Li Qi 李祺
- Li Shanchang 李善長
- Li Shilu 李仕魯
- Li Shou-k'ung (Li Shoukong) 李守孔
- Li Xian 李賢
- Li Yumin 李裕民
- liang 兩 unit of measure
- Liang Zhiping 梁治平
- Liangzhou 涼州
- Liji zhengyi 禮記正義
- Lilü 禮律
- liming 立命 to establish the lives
- Lin Jinshu 林金樹
- ling 靈 spirit or magical power
- ling 令 commandment
- Lintao 臨洮
- Liu Chen 劉辰
- Liu Hainian 劉海年
- Liu I-t'ang (Liu Yitang) 劉義堂
- Liu Ji 劉基
- Liu Junwen 劉俊文
- liuguan 流官 ranked officials
- liunan 留難 obstruction
- liuzang 六贓 six types of illicit goods
- Lixue leibian 理學類編 Classified Encyclopedia on the Learning of Principle
- Long Wenbin 龍文彬
- longxue 龍穴 dragon's lair
- Lu Can 陸燦
- Luoshu 洛書 Book of the River Luo
- lü 律 legal code
- Lü Ling zhijie 律令直解 The Code and Commandment Directly Explicated
- Lüjie bianyi 律解辨異
- “Lüjie bianyi, Da Ming lü zhijie ji Ming lü jijie fuli sanshu suozai Ming lü zhi bijiao yanjiu” 律解辨異大明律直解及明律集解附例三書所載明律之比較研究
- Lunyu zhushu 論語註疏

- Lütiao shuyi* 律條疏議
 Ma 馬
 Ma Chor Kin (Ma Zhuojian) 馬卓堅
 Ma Yuan 馬援
 Mano Senryu 簡野淺龍
 Mao Peiqi 毛佩琦
Mao Shi zhengyi 毛詩正義
 Maozhou 茂州
 Mawangdui 馬王堆
 Men Sangui 門三貴
 Meng Sen 孟森
 Meng Yueting 孟月庭
 Mengzi 孟子 *Mencius*
min wei bang ben 民為邦本 the
 people are the foundation of the
 country
Mindai bunkashi kenkyu
 明代文化史研究
 “Mindai kaikin gainen no seiiritsu
 to sono haikai” 明代海禁概念
 の成立とその背景
 Ming 明 bright, light
Ming benji jiaozhu 明本紀校註
Ming dagao 明大誥
Ming dagao yanjiu 明大誥研究
*Ming Hongwu Jiajing jian de haijin
 zhengce*
 明洪武嘉靖間的海禁政策
 “Ming Hongwu Yongle chao de
 bangwen junling”
 明洪武永樂朝的榜文峻令
Ming huidian 明會典
Ming huiyao 明會要
Ming Qing fojiao 明清佛教
Ming Qing shi jiangyi 明清史講義
Ming Qing shi yanjiu cong'gao
 明清史研究叢稿
 Ming Qing shiliao huibian chuji
 明清史料彙編初集
- “Ming Qing shiqi de minjian mimi
 zongjiao”
 明清時期的民間秘密宗教
Ming shilu yanjiu 明實錄研究
 Ming Taizu 明太祖 Grand Pro-
 genitor of the Ming
 “Ming Taizu dui daojiao de taidu
 jiqi dui sanjiao heyi de zhuiqiu”
 明太祖對道教的態度及其對三
 教合一的追求
Ming tongjian 明通鑑
Mingchu zhongdian kao 明初重典考
 “Mingdai Bailian jiao kaolüe”
 明代白蓮教考略
 “Mingdai de falü yu yunzuo”
 明代的法律與運作
Mingdai de shenpan zhidu 明代的審
 判制度
 “Mingdai huawai ren fanzui shi
 shiyong zhi falü” 明代化外人犯
 罪時適用之法律
Mingdai Nanjing siyuan yanjiu
 明代南京寺院研究
Mingdai sifa chukao 明代司法初考
 “Mingdai tusi zhengce xilun”
 明代土司政策析論
Mingdai zhengzhi shi 明代政治史
Mingdai zhengzhi zhidu yanjiu
 明代政治制度研究
Mingdai zhuanji congkan
 明代傳記叢刊
Mingdai zongjiao 明代宗教
mingfen 名分 proper status
mingfu 命婦 court lady
 “Mingjiao yu da Ming diguo”
 明教與大明帝國
 “Minglü dui Menggu semu ren
 hunyin shang de xianzhi” 明律
 對蒙古色目人婚姻上的限制

- Minglü jijie fuli 明律集解附例
Mingqing jijie 名卿績紀
Mingshan cang 名山藏
Mingshi 明史
Mingshi kaozheng juewei 明史考證抉微
Mingshi renming suoyin 明史人名索引
mingyang jiaohua 明揚教化 to manifest and promote education and transformation
“Minsho ‘ku-in no an’ shōkō” 明初“空印の案”小考
Mizoguchi Yuzo 溝口雄三
mou dani 謀大逆 plotting great sedition
Mou Zhongjian 牟鍾堅
Mozi 墨子
mu 牧 herdsman
mumin zhi guan 牧民之官 shepherds of the people
Muzhai chuxue ji 牧齋初學集
Naito Kenjichi 內籐乾吉
Nanjing 南京
neidi interior 內地
neifu 內附 to move to the heartland of the empire
Nian'er shi zhaji 廿二史札記
Nichen lu 逆臣錄
Niegulun 涅古倫
Nüjie 女誡 Admonitions for Women
Ogyu Sorai 徠物茂卿
Ouyang Lun 歐陽倫
Pan Chengzhang 潘檉章
panyu 判語 model verdict
Peng Yingbi 彭應弼
pichang miao 皮場廟 skinning-ground temple
po 魄 body-soul
Puding 普定
Pujiang 浦江
qi 氣 material force
Qi Haibin 齊海濱
Qian Qianyi 錢謙益
Qian Tang 錢塘
Qiang 羌
Qiao Wei 喬偉
qichu 七出 seven grounds for repudiating wives
qideng 七燈 seven lamps
Qin 秦
Qincha huihui 欽察回回 Qipčy Hui Muslims
Qinding Lü Gao 欽定律誥 The Imperially Approved Code and Pronouncements
qing 頃 unit of measurement
Qingtian 青田
Qingzhou 青州
qiongli 窮理 probing into principle
Qiongya 瓊崖
Qiu Xuanqing 邱玄清
qu 娶 to marry
qufa shenqing 屈法申情 bending the law to promote sentiment
ran 然 agreement
Rao Xinxian 饒鑫賢
Ren Jiyu 任繼愈
Ren Ziyuan 任自垣
renjue 人爵 ranks of nobility
renqing 人情 human sentiment
Ritsurei taishō teihon Min ritsu kokujī kai 律例對照定本明律國字解
Rizhao 日照
rouuo 柔弱 gentle and weak
ru 入 enter
Ruan Yuan 阮元

- sanbuqu* 三不去 three restrictions
on repudiating wives
- Sancai tuhui* 三才圖繪
- sangang wuchang* 三綱五常 three
bonds and five constant virtues
- Sanhuang* 三皇 Three Illustrious
Emperors
- Sanjiao* 三教 Daoism, Buddhism,
and Confucianism
- Sanqing* 三清 Three Pure Ones
- Santai Minglü zhaopan zhengzong*
三臺明律招判正宗
- sanzhai* 散齋 partial, relaxed
abstinence
- semu ren* 色目人 peoples of various
ethnic backgrounds
- Shaanxi* 陝西
- Shang* 商
- Shangshu* 尚書 Book of Documents
- Shangshu zhengyi* 尚書正義
- shanli* 善理 principle
- Shen Defu* 沈德符
- Shen Jiefu* 沈節甫
- Shen Shixing* 申時行
- Shen Yunlong* 沈云龍
- Shen Zhiqi* 沈之奇
- sheng* 生 to engender
- shengfan* 生番 crude barbarians
- sheng-ke* 生剋
- shengse* 聲色 sounds and sights, i.e.,
music and women
- shengshen yangyu zhi en*
生身養育之恩 loving-kindness
in giving birth to the body and
maintaining the life of a child
- Shenming Fojiao bangce*
申明佛教榜冊 Placard
Elucidating Buddhism
- Shenming jieyu shu* 申明誡諭書
- Book of Announcing Ordinances
- shenming ting* 申明亭 exhibition
pavilion
- Shennong* 神農
- shenqi* 神器 divine utensil, i.e., the
dynasty
- shi* 石
- shibo tiju si* 市舶提舉司 maritime
trade supervisory bureau
- Shie* 十惡 “Ten Abominations”
- shier ci* 十二次 twelve equal celes-
tial sections
- Shisan jing zhu shu* 十三經註疏
- Shishi jigu lue xuji* 釋氏稽古略續集
- shou* 收 to take in
- Shu* 書 Book of Documents
- Shuyu Zhouzi lu* 殊域周咨錄
- Si Lunfa* 思倫發
- Sidian* 祀典 Sacrificial Statutes
- Sien* 思恩
- Siming* 思明
- Sishu* 四書 Four Books
- Song Lian* 宋濂
- Song Ming lixue shi* 宋明理學史
- Song xueshi wenji* 宋學士文集
- Su Maoxiang* 蘇茂相
- sui fu* 綏服 pacified zone
- Suishu* 隋書
- Suzhou* 蘇州
- Taemyong yul chehae* 大明律直解
- Taihe* 泰和
- Taiji* 太極 Supreme Ultimate
- Taiping* 天平
- Taishan* 泰山 Mount Tai
- Taishi yuan* 太史院 Astrological
Commission
- Taiwei* 太微
- “*Taizu shilu bianzheng*”
太祖實錄辯證

- Tan Qian 談遷
 Tanglü 唐律 Tang Code
 Tanglü shuyi 唐律疏議
 Tanglü shuyi jianjie 唐律疏議箋解
 Tanglü yanjiu 唐律研究
 Tanyang 談洋
 Tao An 陶安
 Tateno Masami 館野正美
 “Tenrikan no seiritsu ni tsuite”
 天理觀の成立について
 Tian Heaven 天
 Tian Tao 田濤
 Tian Wen 田文
 tiancheng 天城 celestial city
 tiandao 天道 heavenly way
 tiandeng 天燈 celestial lamp
 tianheng 天衡 heavenly authority
 tianju 天局 heavenly pattern
 tianjue 天爵 heavenly virtues
 tianlao 天牢 heavenly jail
 tianli 天理 heavenly principle
 tianlun 天倫 cosmic bonds
 Tianming 天命 Mandate of
 Heaven
 tianqian 天遣 heavenly sanctions
 tianqin 天親 blood relatives
 tianquan 天泉 heavenly spring
 tianque jiuchong 天闕九重 nine lay-
 ers of the celestial palace
 tiantao 天討 heavenly punishment
 tianwei 天威 celestial majesty
 tianwei 天位 heavenly throne
 Tianwen shu 天文書 Book of
 astrology
 tianxia 天下 all under Heaven
 tianxian 天憲 heavenly
 constitution
 tianxing 天性 heavenly nature
 tianyan 天顏 celestial countenance
 tianyu 天語 heavenly words
 tianzhi 天職 heaven-appointed
 offices
 Tieguan Daoren Zhang Zhong
 铁冠道人张中 Iron-Cap Master
 Zhang Zhong
 Tieling 鉄嶺
 tongtian guan 通天冠 Heaven-
 connecting crown
 tongxin yide 同心一德 one heart
 and a single mind
 Tongzheng shi si 通政使司 Office
 of Transmission
 Tongzhi tiaoge jiaozhu
 通制條格校註
 Toutian jing 透天經 Classic of
 Understanding Heaven
 tu zhifu 土知府 aboriginal prefect
 Tuibeitu 推背圖 Back-Pushing
 Diagrams
 tusi 土司 aboriginal office
 tusu 土俗 aboriginal customs
 Uchida Tomoo 内田智雄
 waiyi 外夷 foreign barbarians
 Wan Yi 萬鎰
 Wang Chongwu 王崇武
 Wang Junhua 王俊華
 Wang Kentang 王肯堂
 Wang Kentang jianshi 王肯堂箋釋
 Wang Mang 王莽
 Wang Qi 王圻
 Wang Shihua 王世華
 Wang Shizhen 王世貞
 Wang Siyi 王思義
 Wang Tianyou 王天有
 Wang Yanan 王亞南
 Wang Yi 王禕
 Wang Yonglan 王永蘭
 wangzhe wuwai 王者無外 the uni-

- versal ruler will treat no one as
an outsider
- Wanli yehuobian 萬曆野獲編
- Wei Guan 魏觀
- Wei Zheng 魏徵
- weili 違理 to violate principle
- Wu Chen 吳沉
- Wu Han 吳晗
- Wu Yanhong 吳艷紅
- wuchang 五常 the five constant
virtues
- Wuchen baoshen chi
武臣保身敕 Decree Calling
for Military Officers to Protect
Themselves
- wufu 五服 the five zones
- Wujing yaoyi 五經要義 Essential
Meanings of the Five Classics
- wuran 污染 pollution
- wuran zhi xi 污染之習 polluted
customs
- Wuxing 五行 the Five Phases
- Wuxing 五刑 “The Five
Punishments”
- Wu yuannian 吳元年 the first year
of the Wu era (1367)
- Xia Xie 夏燮
- xiaquo 下國 lesser country
- xiang yinjiu li 鄉飲酒禮 commu-
nity wine-drinking ceremony
- Xiangjian 相鑑 The Prime
Minister’s Mirror
- xiangshan 向善 to pursue the good
- Xiao Jingao 蕭近高
- Xiao Qi 蕭岐
- Xiaojing 孝經 Classic of Filial Piety
- Xiaojing zhushu 孝經註疏
- xiaoli zhi dao 孝理之道 way of
filial principle
- xiaoren 小人 mean, base people
- xie 邪 perverse, heretical
- Xie Guoan 謝國安
- xiesi 邪祀 heretical worship
- xin 心 mind-and-heart; name of a
lunar mansion
- Xin Bosiren xinzha 新波斯人信札
- xing 形 bodily form
- xing 刑 punishment
- xingshan zhi feng 腥膻之風 cus-
toms reeking of sheep and goats
- Xingshu juhui 刑書據會
- Xingtai falü 刑臺法律
- Xingzhanxue yu chuantong wenhua
星占學與傳統文化
- xiongli 凶禮
- Xu Changzuo 徐昌祚
- Xu Da 徐達
- Xu Yikui 徐一夔
- xuanwei si 宣慰司 pacification
office
- Xue Xiang 薛祥
- Xue Yunsheng 薛允昇
- Xunqiu ziran zhixu zhong de hexie 尋
求自然秩序中的和諧
- Xunzi 荀子
- Xunzi jijie 荀子集解
- Yan Congjian 嚴從簡
- Yan Guangwen 顏廣文
- yan jisi 嚴祭祀 scrupulously per-
forming sacrifices
- Yang Hsüeh-feng 楊雪峰
- Yang Yifan 楊一凡
- Yang Zheqi 楊者七
- Yangdi 炀帝
- yangji yuan nourishment houses
養濟院
- Yangzi River 揚子江
- “Yanjiu faxian Nanjing chengqiang

- cheng ‘nandou beidou’ juhexing
buju” 研究發現南京城牆呈南
斗北斗聚合形佈局
- yanlu 言路 information channels
- Yao Siren 姚思仁
- yaofu 要服 controlled zone
- yaoyan 妖言 heretical remarks
- Ye Boju 葉伯巨
- Ye Sheng 葉昇
- yezhou 腋肘 armpits and elbows
- yi 翼
- Yi 易 [Yijing 易經] Book of
Changes
- yi 義 correct duty, right principles,
righteousness
- yi weiyan du tianting
以微言瀆天聽 to profane Heav-
en’s hearing with insignificant
words
- yiduan 異端 heretical
- yijiao 異教 heterodox teachings
- yijue 義絕 breach of the bond of
righteousness
- yikou 夷寇 barbarian bandits
- yilei 異類 different races
- Yili 儀禮 Decorum and Rites
- Yili zhushu 儀禮註疏
- yin 寅 3–5 A.M.
- yin 淫 heterodox
- yin-yang 陰陽
- Ying Jia 應檟
- Yingtian 應天
- yinsi 淫祀 heterodox sacrifices
- yiti 一體 one unit
- yiyi bianxia 以夷變夏 to change
Chinese culture with “barbar-
ian” customs
- Yongle 永樂
- You Shaohua 尤韶華
- Yu Songqing 喻松青
- Yu Yuan 余員
- Yuanshi 元史
- yuanshou 元首 head
- [Yuzhi] Dagao 御製大誥
- [Yuzhi] dagao sanbian
御製大誥三編
- [Yuzhi] dagao xubian 御製大誥續編
- Yuzhi wenji 御製文集
- Yuzhi wenji bu 御製文集補
- “Yuzhi Zhoulian xianren zhuan”
御製周顛仙人傳
- Yuzhu Shu Hongfan 御注書洪範
Imperial Commentary on the
“Hongfan” Section of the Book
of Documents
- zafan sizui 雜犯死罪
miscellaneous capital crimes
- zang 贓 illicit goods
- zaoyan 造言 to fabricate magical
incantations
- Zeng Bingzheng 曾秉正
- Zha Jizuo 查繼佐
- Zhan Tong 詹同
- Zhang Dexin 張德信
- Zhang Guohua 張國華
- Zhang Heqing 張何清
- Zhang Jian 張踐
- Zhang Jinfan 張晉藩
- Zhang Jue 張角
- Zhang Kai 張楷
- Zhang Lu 張鹵
- Zhang Meihe 張美和
- Zhang Shicheng 張士誠
- Zhang Tingyu 張廷玉
- Zhang Xianqing 張顯清
- Zhang Yuchu 張宇初
- Zhang Zhong 張中
- zhangguan si 長官司 chief’s office

- Zhanguo shidai 戰國時代
 Zhao Qian 趙乾
 Zhao Yi 趙翼
 Zhaopan zhengzong 招判正宗
 Zhaoshi jiangang lu 昭示姦黨錄
 Revelations of the Treacherous
 Clique
 zhaoxu 招婿 uxori-local marriages
 zhaoya 爪牙 talons and teeth
 Zhe'e 者額
 Zhejiang 浙江
 zhen 軫
 zhen 震
 Zhen Dexiu 真德秀
 zhenfan sizui 真犯死罪 true capital
 crimes
 zheng 正 healthy, correct
 Zheng 鄭
 Zheng Lian 鄭濂
 Zheng Shi 鄭澁
 Zheng Shili 鄭士利
 zhenren 真人 realized man
 zhi 質 substance
 zhifa 執法 law-enforcing stars
 zhifu geshanjin 指腹割衫巾 to
 point to the belly and cut the
 front of the woman's garment
 Zhijie lu 志戒錄
 zhizhai 致齋 full, intensive
 abstinence
 Zhizheng 至正
 zhong 中 happy medium
 Zhong Shan 鍾山 Zhong
 Mountain
 Zhongguo 中國 the Central
 Kingdom
 Zhongguo bianjiang minzu shi
 中國邊疆民族史
 Zhongguo falü shilun 中國法律史論
 Zhongguo falü sixiang shigang
 中國法律思想史綱
 Zhongguo fazhi shi 中國法制史
 Zhongguo fazhi shi yanjiu zongshu
 中國法制史研究綜述
 Zhongguo fazhi tongshi
 中國法制通史
 Zhongguo guanliao zhengzhi yanjiu
 中國官僚政治研究
 “Zhongguo gudai falü de ziran
 zhuyi tezheng”
 中國古代法律的自然主義特徵
 Zhongguo hunyin shigao
 中國婚姻史稿
 Zhongguo ren 中國人 Chinese
 person
 Zhongguo sixiang tongshi
 中國思想通史
 Zhongguo tusi zhidu 中國土司制度
 Zhongguo wenhua yu zhongguo faxi
 中國文化與中國法係
 Zhongguo zhenxi falü dianji jiceng
 中國珍稀法律典籍集成
 Zhongguo zhenxi falü dianji xubian
 中國珍惜法律典籍續編
 Zhongguo zhi min 中國之民 the
 Chinese people
 Zhongguo zhi ren 中國之人
 Chinese person
 Zhongguo zongjiao tongshi
 中國宗教通史
 Zhonghua 中華 China
 zhongsheng zangli 重繩贓吏
 severely punishing corrupt
 officials
 zhongyong zhi dao 中庸之道 the
 doctrine of the mean
 Zhongyuan 中原 Central Plain

- zhongzui shitiao* 重罪十條 the ten
 heinous crimes
 Zhou 周
 Zhou Dian xianren 周癡仙人
 Crazy Zhou the Immortal
 Zhou Junfu 周駿富
Zhouli zhushu 周禮註疏
Zhouyi 周易 *Book of Changes*
Zhouyi zhengyi 周易正義
Zhouzhi ce 周知冊 Comprehensive
 Supervision Registers
 Zhu Biao 朱標
 Zhu Di 朱棣
 Zhu Guozhen 朱國楨
 Zhu Jingxun 朱敬循
 Zhu Liangzu 朱亮祖
 Zhu Shan 朱善
 Zhu Sheng 朱昇
 Zhu Shuang 朱棖
 Zhu Xi 朱熹
 Zhu Yong 朱勇
 Zhu Yuanzhang 朱元璋
 “Zhu Yuanzhang chengtan ‘baopi
 shicao’ zhiyi”
 朱元璋懲貪剝皮實草質疑
Zhu Yuanzhang zhuan 朱元璋傳
 Zhu Yunwen 朱允炆
 Zhu Zhen 朱楨
 Zhuang 壯
Zhusi zhizhang 諸司職掌 Respon-
 sibilities and Authorities of
 Various Offices
Zhuzi jiali 朱子家禮 Family ritu-
 als of Master Zhu [Xi]
 zi 子 11 p.m.–1 a.m.
ziran zhuyi 自然主義 naturalism
Zishi tongxun 資世通訓
 Zongle 宗泐
 Zou Jun 鄒俊
Zuanzhu 纂注 Collected
 Commentaries
Zuiwei lu 罪惟錄
zunzhang 尊長 superior or elder
 relatives
zuodao 左道 deviant ways
Zuxun lu 祖訓錄
zuzhu 族誅 clan extermination

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