

The Mandate of Heaven  
and *The Great Ming Code*

JIANG YONGLIN

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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.<sup>39</sup> 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, 111–25). 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"<sup>40</sup> 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)<sup>41</sup> 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.<sup>42</sup>

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).<sup>43</sup> 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" (*rouuo*), 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.

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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.<sup>44</sup> 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.<sup>45</sup> 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."<sup>46</sup>

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;<sup>47</sup> 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

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"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.<sup>48</sup>

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).

*(this is why they do not follow law?)*

*yes laws include as punishment*

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.

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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-



