

False Adultery: the Phenomenon of False Accusations of Sexual Assault in Daily Life in the Qing Dynasty -- Centered on Ba County of Sichuan Province

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Abstract: In the Qing Dynasty, chastity was advocated in society, but it was common to frame others up for sexual assault in the folk society. The reason can be understood as the result of the interaction between the people, local forces and the government in the judicial field of the Qing Dynasty. For common people, although the law in the Qing Dynasty punished adultery and false accusations quite harshly, they had sufficient motives and skills to circumvent legal restrictions and framed others up in the face of daily disputes where their interests were at stake. For local forces, the dual roles of mediators and makers limited their impact, and made cases of false accusations of sexual assault need to be judged by magistrates in court. For the magistrates, false accusations of sexual assault that should have been severely punished had been leniently dealt with because of the tradition of quelling the litigation and the strategy of avoiding trial responsibility. This reduces the risk cost of this act and in turn stimulates it.

1. Introduction

“False accusations of sexual assault” refers to achieving one's own goals by claiming that others are unscrupulous in their sexual relations. It refers not only to adultery, but also sexual assault, sodomy, and even sexual assault in conjunction with murder. Dai Zhaojia, who served as the magistrate of Tiantai during the Kangxi period of the Qing Dynasty, noticed that false accusations of sexual assault were common in litigation at that time.

The question is, in an era where “chastity” was advocating, why did false accusations of sexual assault continue to occur? What kind of social reality and legal picture are reflected behind this? Many litigation archives related to “false accusations of sexual assault” are preserved in *Yamen Archives of Ba County in the Qing Dynasty* [1] (yamen means local government office in ancient China). This paper attempts to answer the above questions on the basis of interpreting the seventy cases of “false accusations of sexual assault” from the Qianlong period to Tongzhi period.

2. Stringent Law: Adultery and False Accusations

In the Qing Dynasty, the concept of chastity was prevailing. In order to maintain the stability of the sexual order, the legislators of the Qing Dynasty formulated 10 laws and 26 regulations related to sexual crimes in accordance with the kinship and status of the Qing Dynasty. Due to the severe punishment, the Qing government imposed strict restrictions on the prosecution of sexual crimes. Cases not caught on the spot were generally not accepted. In addition, there were strict penalties for false accusations of sexual crimes. First of all, the *Laws of the Qing Dynasty* stipulated that the daughter-in-law and younger sister-in-law who falsely accused the father-in-law or the elder brother of having an adultery with them would be punished by beheading or beheading sentence with reprieve [2]. Second, the punishment for false accusations among peers was not easy. According to the law, falsely accusing others for adultery would be punished by 60 flogging per year, while falsely accusing others for sexual assault or sodomy would be punished by 100 flogging and exiled 3,000 miles away. In addition, instigating others to “falsely accuse” was the same crime as criminals. In short, regardless of whether it is oneself or instigated by others to falsely accuse of sexual assault, according to the *Laws of the Qing Dynasty*, they will be severely punished.

The laws in the Qing Dynasty had restrictions on accusing others of sexual assault, the punishment for false accusations was also quite harsh. However, what the judicial archives reflected was that people were not frightened by the harsh laws, but for various reasons, went into the yamen and falsely accused others for sexual assault.

3. Trivial Daily: the Motives of False Accusations of Sexual Assault

The *Yamen Archives of Ba County* in the Qing Dynasty not only recorded the actions of the false accusers but also their motives. Through the archives, it can be seen that false accusations of sexual assault were mostly due to trivial disputes in daily life.

In the Qing Dynasty, disputes over money and debts among residents of Ba County often became the direct cause of false accusations of sexual assault. In the twelfth year of the Jiaqing period (1807), a lady of Huang Lu's family sued Zhang Qi for sexual assault due to failure to collect debts. In addition, land disputes were also an important cause of false accusations. Both landlords and peasants seek profit by accusing the other party of sexual misconduct. In addition to economic factors such as debt and tenancy, family conflicts such as the relationship between husband and wife and mother-in-law and daughter-in-law were also one of the important motives. In a case of a dispute between mother-in-law and daughter-in-law, the mother-in-law falsely accused her daughter-in-law who was a widow of adultery because of her "disobedience and contradictions", in order to get rid of the conflict between them. The litigants falsely accuse others of committing sexual assault due to disputes over debts, land, and family were due to reasons, while some people framed others purely out of a mentality of revenge. For example, Huang Dequan, a worker at Wu Shuangsheng's hat shop in Taiping Lane of Ba County, was repeatedly scolded and grudged by Xie Chengwang for his inability to work, and took the opportunity to falsely accuse Xie Chengwang of sexual assault.

It can be seen that issues like land, money, debts, quarrels often became reasons for people to frame others for sexual assault. Under certain circumstances, the urgency of resolving interest disputes often exceeded the moral need to maintain chastity. Therefore, people chose to fabricate sexual crimes and attract the attention of the government, hoping that daily disputes could be judged by the government.

4. Tricks: Techniques for Cases of False Accusations of Sexual Assault to Be Sent to the Law Court

In addition to motives, false accusations of sexual assault against others also required certain legal skills. As mentioned previously, if the subject of the lawsuit in the Qing Dynasty wanted to accuse others of sexual assault, he or she needed to obtain it from the crime. This means that in order to falsely accuse others of sexual misconduct, the accuser must at least declare in the indictment that they were caught on the spot before the case can be accepted by the government. Judging from the yamen archives, the residents of Ba County in Chongqing in the Qing Dynasty were obviously very familiar with such techniques. In an indictment in the 29th year of the Daoguang period (1849), Yang Zaichao and his younger brother forged the plot that he captured his wife Yu's and Jiang Dabang in bed. In the lawsuit, Yang Zaichao made full use of the objective facts of the adultery between Yu's and Jiang Dabang, and through "cutting" the details, he concealed the fact that he condoned his wife's prostitution and portrayed himself as a role in maintaining sexual order.

In addition, many people took advantage of the Qing Dynasty's rule that women were not allowed to make accusations without male relatives, and falsely used women's names to make false accusations against others. In the name of his sister-in-law, Zou Xing's, Zou Shuyun falsely accused Ma Huilong of robbing her husband's concubine He's as his wife. The actual situation is that because Zou Shuyun failed to borrow money from Ma Huilong, he held a grudge and deliberately framed him for having an adulterous relationship with his brother's concubine. The litigant Zou

Shuyun in this case took advantage of the law in the Qing Dynasty to open the way of the case to the law court.

In the Qing Dynasty, residents of Ba County, apart from cutting facts, fabricating out of thin air, and masquerading others, used other methods to falsely accuse others of sexual assault. For example, during the Tongzhi period, because of his wife's suicide, Tang Defeng falsely accused Huang Zhanao of raping his wife and caused his wife to commit suicide. Tang Defeng's case was serious because of the death in it. Therefore, the case was approved by the magistrate and was able to be sent to the court for trial.

The above cases clearly show how well the urban and rural residents of Ba County were familiar with the law in the Qing Dynasty, and also indicate the widespread existence of legal knowledge in local society.

5. Ambiguous Role: Local Forces in False Accusations

When a dispute occurs, the local rules and Baozhang (the security chief in the village) were involved because of their duties. In an ideal situation, when civil disputes occurred, the villagers usually sought mediation from Baozhang as soon as possible. However, the mediation often failed, and eventually the dispute went to the yamen. In the seventh year of the Tongzhi period (1868), Huang Yicheng's wife was molested by his nephew. Huang Yicheng went to the family leader Huang Maochun for a solution, but the solution seemed to be more favorable to Huang Shiyan. In this case, Huang Yicheng had no choice but to exaggerate, falsely accuse him of sexual assault, brought the state judicial power into the dispute, so as to get rid of the unfavorable power structure.

When the case of false accusation of sexual assault entered the “third field”, the effect of the role of local forces increased. Huang Zongzhi believes that the case entered the “third field” after the case was approved by the prefecture and county officials and dispatched to deliver the subpoena [3]. At this stage, the subpoenas from the Yamen would prompt the villagers to strengthen mediation and tried to resolve disputes outside the yamen. Of the 70 cases that the author has seen, 20 were resolved outside the yamen through the mediation of local forces in the “third field”. County officials were more than happy to see results in the mediation of local forces. After the successful mediation, the request for cancellation of the case was generally approved.

As an intermediary that connected the government and society, Baojia system was responsible for reporting and reviewing cases. In this situation, Baozhang might also become “accomplices” in framing others. The more serious situation is that some Baozhang could be the creators of false accusations [4]. For example, during the Xianfeng period, Zhang Fushun and Zhang Fuyuan made full use of the power of the Baozhang to report the case to the government, creating out of thin air the case of the monks committing sexual assault and dragging the monks into the lawsuit.

In short, the powers granted by the government to report and review cases provided space for manipulating cases, making the local forces such as Baozhang both the mediator and the maker of the false accusations of sexual assault. The role played by local forces in false accusation cases was ambiguous, which limited its role in the resolution of cases, and cases that couldn't be resolved by local forces could only be judged in court by state and county officials themselves.

6. Show Mercy: the Magistrate in the Cases of False Accusations of Sexual Assault

Faced with the cases that had been submitted, the magistrate of Ba County usually made a preliminary response based on his own judgment. For those cases that had been resolved through local mediation, officials would not hold the parties accountable. As for the cases decided by the government, the officials mostly dealt with them leniently. Among the 46 cases finally decided by the government, 36 cases were false accusations of adultery, 9 cases were false accusations of sexual assault, and 1 case was false accusation of sodomy. Among them, the parties in 19 cases were only punished by beating their hands, 10 cases were exempt from prosecution, and 6 parties were given verbal warnings. It can be seen that the penalties of the prefects of Ba County for cases of false accusations were quite loose.

The question now is, regardless of whether the case of false accusation was judged by the government, why did Ba county officials mostly choose to deal with it leniently, or even not inquire into the cause?

First of all, this phenomenon is related to people's cognition at that time. In the eyes of Ba county officials, false accusations of sexual assault were not serious, and it was natural at that time to treat them leniently.

Secondly, the judicial tradition and judicial system of the Qing Dynasty may also be one of the reasons why local officials in Ba County showed mercy to the cases of false accusations of sexual assault. In the Qing Dynasty, the society had a judicial tradition of advising the people to stop litigation, and local officials were more willing to stop litigation rather than take the litigation to the final. In this context, Ba County officials approved the case that requested cancellation, which conformed to the judicial tradition at the time and was a reasonable choice.

However, in cases of false accusations of sexual assault, a leniency trial strategy was not necessarily conducive to the resolution of disputes, but might lead to intensification of litigation [5]. During the Xianfeng period, Zhu Yongtong believed that his selling price was too low during the land transaction with Yang Changwan. Thus, he framed Yang Changwan for adultery with his wife Chen's, hoping to suspend the transaction. After the officials found out the truth, Zhu Yongtong was exempted from punishment because of his poverty. However, the government failed to punish Zhu Yongtong's false accusation in accordance with the law, which reduced the cost of Zhu Yongtong's violation of the law and made him dare to extort Yang Chang's wealth after the government's judgment. This shows that the official blurred the line between right and wrong in the litigation or judgment for false accusations encouraged the people to litigate. It can be even said that the endless false accusations of sexual assault in the Yamen of Ba County in the Qing Dynasty were partly derived from the lenient trial strategy of local officials.

7. Conclusion

The cases of false accusation recorded in *Yamen Archives of Ba County in the Qing Dynasty* showed that false accusations of sexual assault were not confined to the Jiangnan region in the late Ming and early Qing dynasties. They were also widespread in a wider time and space. This kind of widespread slandering behavior reflects that there were a lot of gray areas on sexual issues. These gray areas showed that there were not only two extremes of chastity and sexual crimes in the sexual order of the Qing Dynasty, but also a lot of false amour.

From the above analysis, it can be known that many factors contributed to the fact that the laws in the Qing Dynasty imposed harsh punishments on false accusations of sexual assault, but it was still common [6]. For common people, the trivial disputes in daily life were closely related to their immediate interests, giving them enough motivation to frame others. The widespread legal knowledge in society allowed them to have enough skills to bypass the restrictions of the laws to the accusations of sexual assault and brought the false accusations to court [7]. For local forces, although local rules and Baozhang were given the right to mediate in cases of false accusations of sexual assault. However, they might also be the perpetrators of cases of false accusations of sexual assault. This ambiguous role restricted the role of local forces in dispute resolution, making the cases ultimately need to be decided by the local officials. For the government, false accusations of sexual assault ought to be severely punished, but based on the judicial tradition of closing litigation and the purpose of avoiding trial responsibilities, more lenient trial strategies were adopted in these cases. Although this move embodied the subjective willingness of local officials to benevolent and love the people, it also unexpectedly achieved the objective effect of encouraging lawsuits by reducing the risk of false accusations of sexual assault. It is part of the source of the frequency of false accusations of sexual assault [8].

Finally, false accusations of sexual assault as a kind of abuse of litigation, it highlights the tension between the desire of the government and the practice of people's litigation, but also can clearly show the track of the interaction between the people, local and national in the judicial field. In this way, the study of false accusations of sexual assault provides an entry point to understand

the social and legal reality of the Qing Dynasty from interaction of various forces in the litigation process.

8. Acknowledgment

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