

ABOLITION OF CONCUBINAGE IN INTERNET GAMES IN THE PEOPLE'S REPUBLIC OF CHINA

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The marriage system of traditional Chinese family law was unique and characterized by the institution of concubinage. A Chinese marriage was not a free marriage between a man and a woman, but an arranged marriage made by the parents of a couple, and it was unnecessary to register the marriage with government authorities. A Chinese marriage was officially contracted and recognized as valid after the ritual ceremony of 'Three Books and Six Rites'. In traditional Chinese family law, Chinese descent was patrilineal, and one of the main purposes of marriage was to have an heir, in other words, a son, who could succeed to the male line of the family. A question then arose: what if the wife could not give birth to a son in the family? Who could succeed and take care of the rituals such as ancestor worship in a family if there was no son? In those circumstances, the institution of concubinage functioned to

allow the husband to father sons with the concubines, and so deal with the issue of inheritance and succession in the traditional Chinese family.

Seen in this light, the institution of concubinage was very important in traditional Chinese family law. In imperial China (pre-1911), a husband could only marry one wife, but he could contract a union with an unlimited number of concubines (romanized as *qi* in Hanyu Pinyin and *t'sip* in some Cantonese-speaking jurisdictions such as Hong Kong and Singapore). With the migration of many Chinese to various southeast Asian jurisdictions, the institution of concubinage was recognized in common law systems such as Hong Kong, Singapore and Malaya. It also came to be regarded as one of the unique elements of 'Chinese customary marriage' in these common law jurisdictions, with the concubine sometimes

characterized by the colonial courts as a 'secondary wife'. However, the growing impact of the principle of gender equality of women finally brought an end to the institution of concubinage in these jurisdictions. The Women's Charter 1961 in Singapore, the Marriage Reform Ordinance in Hong Kong in 1971 and the Law Reform (Marriage and Divorce) Act 1982 in Malaysia all abolished concubinage, though the concubines taken before the effective date of such laws are still legally recognized. Overall, in almost all common law jurisdictions in Asia, Chinese customary marriage has been replaced by a western system of monogamous and registered marriage.

The evolution of family law took a different route in mainland China. Historically, as we have mentioned, the most notable reason for a husband to take a concubine was for her to bear him one or more sons for purposes of inheritance and ritual succession. Although in the Ming dynasty (1368–1644), under the provisions of the Great Ming Code, and with the intention of limiting the widespread use of concubinage, only a husband aged 40 years or more and without a son had the capacity to take a concubine. These restrictive measures were repealed in the Qing dynasty (1644–1911), during

which the Great Qing Code made an institution of concubinage more lightly regulated by repeal of these limitations. Subsequently, the Chinese Civil Code of 1930 only recognized monogamous marriage, though concubinage was arguably indirectly acknowledged through legitimation of the male issue of the concubine by a process of paternal recognition. A more modern and socialist system of monogamous marriage was proposed after the introduction of Chinese Communist Party rule in 1949, and the institution of concubinage was then legally abolished by the Government of the People's Republic of China (PRC).

No ceremony was required for a husband to take a concubine. The husband did not need the consent of his wife to take a concubine, although, in some customary practices, a husband might seek the wife's opinions before doing it. The husband, in most customary practices, purchased a woman for purposes of concubinage through a go-between. The status of concubines was inferior to that of the wife in the family: for example, the institution of concubinage could be dissolved by the husband unilaterally without offering any reason. And, if a husband died intestate, his concubine was entitled only to receive

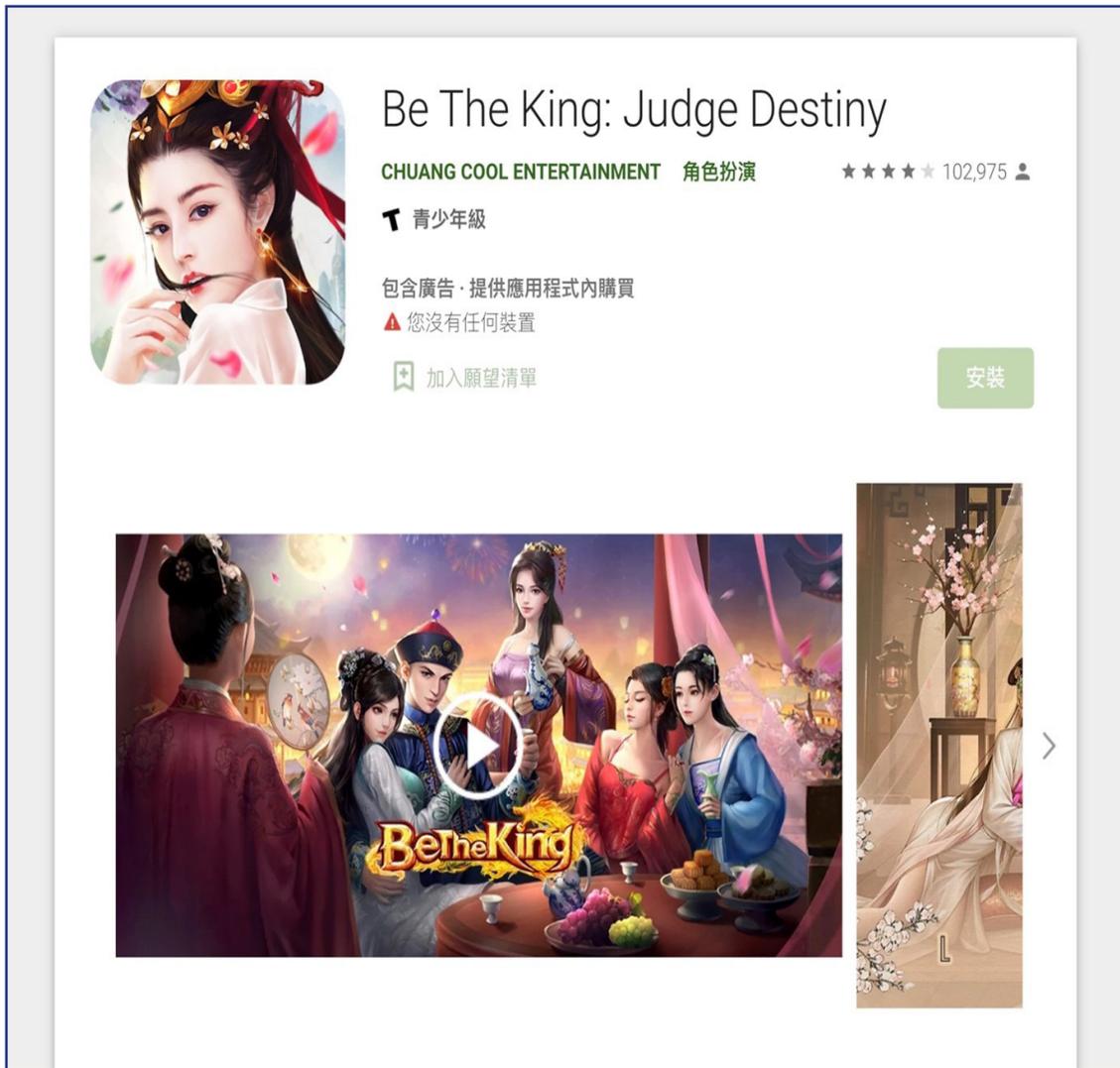
maintenance under customary practices. Starting from the late Qing (the late-nineteenth century), with the spread of new ideas of gender equality, concubinage came to represent and symbolize a backward, barbaric and discriminatory dimension of Chinese culture. Importantly, however, many rich businessmen, members of the rural elite and senior government officials considered the institution of concubinage as a legitimate public manifestation of their wealth and social power, and so themselves took concubines as members of their extended families. In the Republic of China (1911–1949), the 1931 Civil Code only indirectly recognized concubinage, which was hailed as the first significant step towards the equality of men and women in the Chinese marriage system. In the 1950 Marriage Law of the PRC, concubinage was characterized as an unwelcome relic of ‘feudal society’ and explicitly banned.

Control over internet gaming is a significant aspect of life in contemporary China. This is a present-day manifestation of a long-standing socio-political concern to educate young people as successors to the socialist cause in China. All internet games must be approved by the National Press and Publication Administration of the Chinese Government. Rules have been

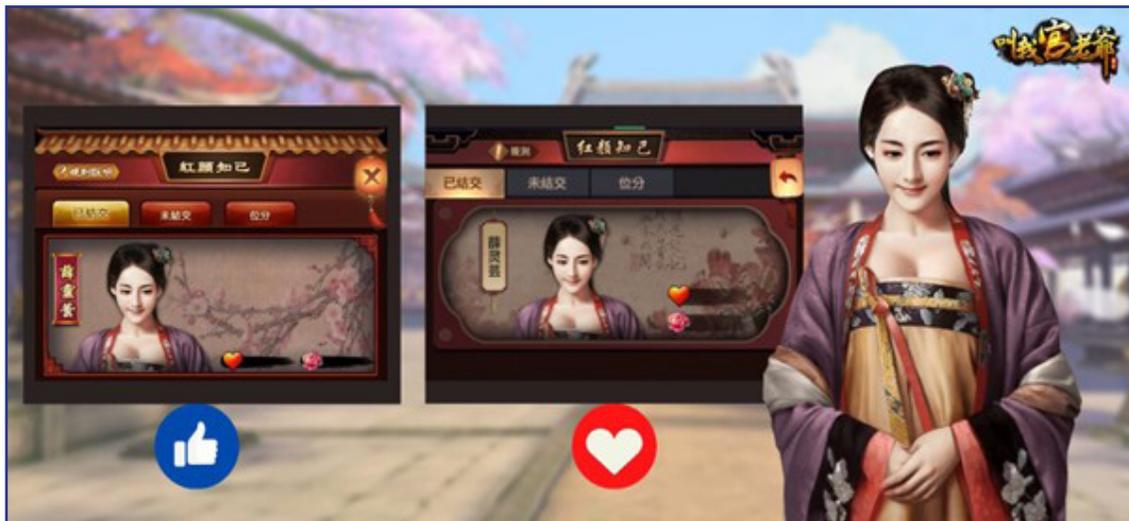
tightened in recent years: for example, a regulation was passed in 2021 so that children under 18 years old were restricted in their access to gaming—they could play online games for just three hours a week—specifically, 8 to 9pm on Fridays, Saturdays and Sundays. But the most important restriction has been a robust censorship of the substantive contents of games, so that, for example, skeletons, ghosts and blood may not be shown in internet games, and games relating to historical events must show the positive sides of the heroic figures portrayed. In keeping with this spirit of moral control, internet games relating to the emperor’s concubines in imperial times have been banned by the authorities.

Concubinage, which, as a social practice, has become more common in the post-Mao era of economic reforms—as newly wealthy businessmen have entered into such relationships in increasing numbers despite the legal ban—continues to be considered by the Chinese authorities as a practice that represents decadent aspects of traditional Chinese culture and does not help to establish the so-called ‘correct world view’ for the young generation in China.

Sensitive games in question include:



Sensitive games: Be the King (above) and Be the Emperor (below)



- ◇ *Be the King*, a role-playing game (RPG) about the life of an emperor who takes concubines in his imperial palace, has not been approved by the PRC Government. Users outside China, however, can still download this game in their Google Play store.
- ◇ Another RPG game, *Be the Emperor*, also has elements of selecting concubines in the imperial palace. It has two versions. The version that may be downloaded in mainland China has more ‘moral cleanliness’ than the international version.

About the author

Max W L Wong is an Assistant Professor at the University of Hong Kong, specializing in Chinese customary laws, legal history, comparative law and human rights. He obtained his PhD at SOAS, University of London. His significant publications include, *Chinese Marriage and Social Change: The Legal Abolition of Concubinage in Hong Kong* (Singapore: Springer), “Continuity or Empowerment?”: *Judicial Interpretation of Divorce in the Da*

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