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Women and Property in China, 960-1949

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Qingmingji shared that expectation, automatically vesting the authority to appoint an heir in the parents rather than the widowed daughter-in-law.

Take, for instance, the case of the widow Liu and her three sons, who lived together in an undivided household. When the eldest son died, leaving a wife, but no sons, a grandnephew of Mrs. Liu's husband came forward to claim the succession for himself, thereby provoking a lawsuit. The official presiding over the case dismissed the grandnephew's claim, ruling that it was up to Mrs. Liu to decide whom she wanted to adopt as a grandson, if she chose to adopt anyone at all. Although the official was well aware of the widowed daughter-in-law's existence, he did not feel it necessary to take her wishes into account (*QMJ*: 211-12). In other cases where a man was survived by both his wife and his parents, the judges likewise just assumed that the senior generation would be making all the decisions (*QMJ*: 214-15, 247, 269-70, 271-72).

The authority of parents-in-law over a daughter-in-law, however, should not distract us from the otherwise broad powers a wife did have in the appointment of an heir under Song law. In its noncompulsory succession regime, a widowed wife was not even legally obligated to adopt an heir for her husband, much less to adopt his closest nephew. It was the Song's stance on patrilineal succession that gave a widow such wide latitude in the appointment of an heir.

Widows in the Ming and Qing

The adoption in the early Ming of mandatory nephew succession transformed a widow's codified rights in patrilineal succession. The crucial law, issued in 1369, read:

A woman without sons who preserves her chastity after her husband dies [*furen fu wang wuzi shouzhizhe*] is to receive her husband's share of property [*he cheng fufen*] and must [*xu*], through the agency of the lineage head [*ping zuzhang*], select a nephew of the appropriate generation as heir. (*Da Ming huidian* 1587, 19: 20b)

This new law explicitly linked a widow's receipt of her husband's property to her adoption of an heir. In so doing, it extended the principle of custodianship, limited in the Song to a widow with minor

by the state's own definition, cannot be included among the "close senior relatives." In his analysis, Shiga considers only one meaning of the term "juehu"—the extinction of a patriline—and overlooks the other—the extinction of a taxable unit.

sons, to a widow without sons. She could no longer inherit her husband's property but was merely to receive it to hold in trust for her husband's heir, one that she herself was now legally obligated to adopt.

This law also established a new standard for a legitimate succession. Where under the Song a widow did not even have to consult her husband's patrilineal kin over her choice (her parents-in-law excepted) for a succession to be considered legitimate in the eyes of the law, she was now required not only to consult the lineage head but to obtain his consent to the appointment.⁸

It was a change reflected in the legal discourse of the Ming and Qing. A distinction was drawn between "an agreed-upon appointment of an heir" (*yiji*; *yili*) and "a private appointment of an heir" (*siji*; *sili*). The term "agreed-upon" (*yi*) conveys the sense of a consensus reached through discussion, and meant in this context that the widow had consulted with the lineage head and had obtained at least his agreement, and ideally the agreement of her husband's closest agnatic kin as well. The word "private" (*si*) carried the connotation of "selfish" or "self-interested," and meant in this context that the widow had willfully ignored her husband's kin and had adopted an heir without seeking the advice or consent of the lineage head (Baodixian dang'an: 182, 1866.2, 183, 1894.1; Xu Shilin 1906, 3: 65a, 67a; Sichuansheng dang'anguan 1991: 185-87).

From the state's perspective, the lineage head was the ideal person to oversee the "agreed-upon appointment." As one who most likely had no material stake in the succession himself, he presumably could be counted on to put ritual propriety ahead of profit-seeking, and the larger interests of the entire lineage ahead of the petty claims of individual branches. And as the designated leader of the group, he presumably commanded the respect needed to settle the squabbles and to build the consensus for an appointment that would minimize the chance of future conflict and litigation. So important were lineage heads in the selection of an heir that officials

8. The phrase "ping zuzhang" in the regulation, which I translate as "through the agency of the lineage head," has often been misinterpreted in Western scholarship to mean that the widow was to rely on the lineage head to select an heir for her, thus endowing him with the sole authority to designate an heir (e.g., Jamieson 1921: 14; Holmgren 1995: 11; Farmer 1995: 93). But as the Daliyuan, China's highest court in the 1910's and 1920's, noted, "ping" here is shorthand for *pingzheng* or "to serve as a witness for" (*DPQ*: 266, 272). The fact that a widow needed the consent of the lineage head for her candidate did not mean that she had to surrender all authority in the matter to him.

of the Ming and Qing routinely turned to them for assistance in resolving succession disputes that had come to court.

A widow's power of appointment in the mandatory succession regime was constrained even more importantly by the principle that the nephew(s) most closely related to the deceased had a legal claim to the succession and through it, to the property of the deceased. The move toward a "required heir" came in another 1369 Ming law:

He who is without sons is permitted to have a nephew of the same lineage [*tongzong*] and of the appropriate generation succeed as heir, giving priority first to the sons of his brothers and next to the sons of his first cousins, then the sons of his second cousins, and finally the sons of his third cousins. Only if none of those exist may an heir be chosen from a distant branch or from the same surname [*tongxing*]. (*Da Ming huidian* 1587, 19: 20a-b)

By the letter of this law, the widow had no choice but to adopt the required heir.

A major modification came in 1500, when a new principle of selection was set out in law, providing an alternative to succession based on lineage order:

If the appointed successor [*jizi*] cannot get along with his adoptive parents, then they can report the matter to the authorities and appoint another in his place. Should they then select as heir one of virtue and talent and of whom they are particularly fond, provided the proper generational sequence is not disrupted, lineage members cannot bring suit to dispute their choice on the basis of order [*cixu*, i.e., the required succession sequence]. (*Da Ming huidian* 1587, 19: 21a)

The selection of the worthy and the beloved came to be known in legal discussions as "succession out of affection" [*aiji*], or preferred succession, and the person so selected "the person one appoints out of affection" [*aiji zhi ren*], or the preferred heir.

This so-called revocation law clearly gave precedence to the required heir over a preferred heir, since it assumed that the existing heir had been chosen on the basis of lineage order. Thus, an heir was first to be selected on the basis of closeness of relationship, and only if that did not work out, could one be chosen on the basis of affection. Required succession was to be the general rule, and preferred succession the exception only in the event of disharmony between the required heir and the adoptive parents. Anyone who reversed that order by appointing a preferred heir without first trying out the required heir would be guilty of "transgressing the succes-

sion" [*yueji*; *Xinke fabi tianyou* n.d., xia: 50a; Taga 1960: 751, 822; Qufu shifan xueyuan lishixi 1980—, 3.1: 431-32].

The revocation law of 1500 was the last major succession law to go on the books in the Ming dynasty. The Qing incorporated all of the above-mentioned laws into its code without adding any of its own until the end of the Qianlong reign, a subject to which we will return below.

Succession and the Cult of Chastity

With the introduction of mandatory succession in the early Ming, then, a widow was legally obligated to adopt an heir for her husband during her lifetime. What is more, she was legally obligated to adopt as heir "the person who ought to succeed" [*yingji zhi ren*]. On the face of it, a widow seemed to be left with little, if any, say in the matter.

This severely constrained role for the widow, however, was countered by new, unintended tendencies resulting from the growing cult of widow chastity. Officials in fact went well beyond the law to reward widows for not remarrying. Indeed, I did not find a single instance in my 43 late Ming-early Qing widow cases in which the presiding official ruled against the widow's choice, even when she had jumped over the closest nephew in favor of a more distant one. In no instance, in other words, did a judge dismiss the widow's preferred heir (unless he was of the wrong generation) in favor of the required heir.

The most an official did to accommodate the claims of the "person who ought to succeed" was to appoint both him and the widow's choice as joint heirs [*bingji*, *bingli*]. This was the solution of Prefect Li Qing to a succession dispute in Ningbo sometime during the last decades of the Ming. The widow, Mrs. Zhang (née Hu), wanted a second-order nephew (*tangzhi*) as heir for her deceased husband, Zhang Shilu. Challenging her on the basis of lineage order was a first-order nephew (the son of Shilu's brother), by law the required heir. In his decision, Prefect Li ordered that both nephews be appointed as heirs, and the property divided equally between them (Li Qing n.d., 2: 107; see also Li Yu 1667, 13: 17a-18a).

On occasion, an official might award a small part of the deceased's property to the required heir as token compensation, as in the following late Ming case from Jiashan county (Zhejiang). What prompted the lawsuit was the elderly widow Qian's decision to adopt as heir a distant nephew, Qian Feng, over her husband's brother's

son, Qian Hao. In his decision, Magistrate Li Chenyu explained that since Qian Hao was the required heir and Qian Feng only the preferred heir, Qian Hao did indeed have the superior claim on the succession. Nevertheless, the magistrate thought special consideration should be given the widow, who not only had suffered tremendously in the nearly half-century since her husband's death, but also, at an age of over 70 sui, did not have many years left. He therefore let stand the widow Qian's appointment of Qian Feng, but ordered her to give the disappointed Qian Hao 30 taels of silver from her deceased husband's property (Li Chenyu 1636, *yanyu* 3: 103).

The officials in these cases were well aware that in privileging the preferred over the required heir, they were going against the strict letter of the law. And to justify that departure, they resorted to a creative interpretation of the revocation law. The following explanation from an early-eighteenth-century prefect was typical:

Succession [*ji ren hou*] is not just to offer sacrifices to the dead. It is also to provide a residence and sustenance for the living. If a mother is forced to establish someone as heir against her will, how can the two ever be at peace with one another? The code says that if the appointed successor cannot get along with his adoptive parents, they can select another. This refers to an heir that has already been established. Shouldn't this apply even more to someone who has not yet even been appointed? (Xu Shilin 1906: 3: 65b; see also Panqiao Yeren 1835, 6: 10a-11b; and Qufu shifan xueyuan lishixi 1980—, 3.1: 428-37)

In this way, judges elevated preferred succession to equal standing with succession based on lineage order. To their minds, the selection of a preferred heir should be just as valid as the selection of the required one from the very outset.

Part of the reason for the judges' actions no doubt was that they tended to be deeply suspicious of anyone who brought suit to contest a succession. The explicit linking of property inheritance to patrilineal succession blurred the boundaries between "profit" (*li*) and "duty" (*yi*), a blurring that made officials uneasy. However careful the challengers might be to cast their claims in terms of ritual propriety, the judge could not help suspecting that their real intention was to get their hands on the deceased's property. One magistrate wrote: "Today's so-called patrilineal succession [*chengzong*] is in most cases just a scheme to fight over property [*zhengchan*]" (Li Yu 1667, 20: 35). Another official complained that "disputes over succession [*chengji*] among ignorant rustics [*xiangyu*] are disputes over property. [To them,] property is important, but benevolence

and obligation [*enyi*] insignificant." (Hu Xuechun 1851, *xia*: 41a). Yet another castigated a litigant with this biting remark: "You keep saying 'family property is insignificant, morality is important' [*jiachan wei qing, lunli wei zhong*]. Who do you think is going to be fooled by such pretty words?" (Zhang Wuwei 1812, *pici*: 81a-b).

Those who sought to impose their will on widows were often depicted in unflattering terms. Most common were words that evoked images of unrestrained hunger. One official, for instance, described a widow's covetous brother-in-law as a tiger slaving (*chuixian*) over her property (Shen Yanqing 1862, 4: 10a-11a). Another accused a claimant of seeing the property of a sonless deceased man as "meat on the table" (*jishang rou*), making a play on the phrase "a pearl in the hand" (*zhangshang zhu*), often used to refer to a beloved adopted heir (Xu Shilin 1906, 3: 63b). This distrust of the motives of challengers, including the required heir and his immediate family, helped to shift official favor toward the widow and her candidate.

But the more important reason for the shift, as touched on earlier, was the ever-growing normative power of the chaste widow ideal in the late Ming and early Qing.⁹ Widow chastity added a whole new dimension to officials' perception of the purpose of succession. To them, ensuring a widow's sexual fidelity to her deceased husband became as important as ensuring the continuity of the man's descent line. And a widow's ability to safeguard her chastity depended on selecting an heir with whom she shared a particular bond of affection, one whom she could trust not to make her life so miserable that remarriage seemed an attractive alternative.

The concern for a chaste widow's welfare can be seen in a dispute that Wang Huizu helped to resolve as legal secretary for the Changzhou county (Jiangsu) magistrate. In the 1730's, a young scion of the wealthy and prominent Zhou lineage died, leaving behind his 19-sui wife, who was pregnant with the couple's first and only son, Jilang. After her husband's death, Mrs. Zhou remained chaste, devoting her

9. The canonizing of chaste widows, though not unknown in earlier dynasties, began in earnest after 1304, when the Yuan Board of Rites stipulated that a woman who had lost her husband before the age of 30 sui and who had reached at least the age of 50 was eligible for an imperial testimonial, or *jingbiao* (Shen Ke Yuan dianzhang 1908, 33: 17a). She was to be rewarded, in other words, for resisting the great temptation to remarry or carry on an affair in her reproductive and presumably most sexually active years. The 30-50 formula persisted through the imperial period. The main innovation, in the early Qing, was the bestowal of honors on any young widow who died before the age of 50, provided she had been chaste at least 10 years before her death. In 1871, the minimum was reduced to six years (Qinding libu zeli 1845, 48: 11a-b; Qing huidian shili 1899, 403: 11a; 404: 24a; Liu Jihua 1934: 537-39.)

energies to raising her son. But the boy himself died at age 18 sui, one month before he was to have been married. The widow, worried that her son would have no heir and hence no one to sacrifice to him, wanted to adopt a son for him. Her husband's kin, however, wanted to establish an heir for her deceased husband instead on the very sound ritual grounds that an heir could not be appointed for a man who had died young and unmarried. The dispute came to court in 1753 but remained unresolved until Wang Huizu reviewed the case in 1760.

Wang's sympathies clearly lay with the widow. He suggested to the Changzhou magistrate that Mrs. Zhou be allowed to adopt the heir of her choice so that she could "fulfill her vow to be a virtuous widow" (*yi quan zhenfu zhi zhi*). When the magistrate demurred, fearful of offending such a rich and powerful lineage, Wang pointed out that an official, "as the father and mother of the people [*min fumu*], should not force a faithful widow [*jielfu*] to harbor regrets until the end of her days." The magistrate then finally agreed to allow Mrs. Zhou to adopt an heir for her son (Wang Huizu 1796, shang: 17b-19a).¹⁰

The impact of the chastity ideal on succession extended beyond this concern for a faithful widow's needs in life to a concern for her needs in death. The eighteenth-century scholar Liang Zhangju, for instance, attributed the nearly universal disregard of the great line-lesser line distinction of the classical descent-line ideal not to the patrilineal principle of a son for every man, but to the sacrificial needs of chaste widows. Heirs had always been established for younger sons, he wrote, out of concern that "faithful widows would be left with no one to offer sacrifices to them after their deaths" (Liang Zhangju 1875, 9: 10a).

From attention to the chaste widow's sacrificial needs, it was not so big a step to the notion that she was adopting an heir not just to succeed her husband but also to succeed herself, and that she therefore should be allowed to adopt any lineage nephew she pleased. And indeed, in the legal discourse of the time, we can find increasing references to the establishment of heirs for women. For instance, in the mid-eighteenth century, the official Zhang Zhentao

10. Wang was famous for his sympathetic treatment of chaste widows. As Susan Mann has suggested, this no doubt stemmed in part from his own experience: both of his mothers—his legal mother (his father's wife) and his birth mother (his father's concubine)—remained chaste after his father's death and were imperially canonized as faithful widows (1991: 217-19, 226).

(*jinsi* 1769) proposed "Three Unnecessary Disputes" (*san buzheng*) as a way to deal with the conflict between required succession and preferred succession by specifying under what conditions each should be applied. The third of his three disputes was "No need for disputes over the appointment of heirs to women" (*ji furenzhe bubi zheng*).¹¹ Zhang distinguished between two types of "women without sons" (*furen wuzi*). For a woman widowed young, the lack of sons bespoke her abiding fidelity to her departed husband. But for a woman widowed later in life, it reflected a profound moral deficiency. Not only had she failed to produce a son herself; her fiercely jealous nature had made it impossible for her husband to take a concubine and acquire a son that way. The young widow deserved to pick as heir anyone she liked from among the eligible candidates (*aiji*), whereas the older woman should be required to hold fast to the prescribed lineage order (*yingji*). Zhang made reference to the patrilineal principle behind succession only in connection with unworthy widows—"establishing an heir [*lij*] is for succession to the patriline [*jizong*]; it is not for succession to herself"—and so excluded them from his category of "the appointment of heirs to women." By implication, a worthy widow was included: her designation of an heir was as much for herself as it was for her husband's patriline (Zhang Zhentao n.d., 59: 8a).

That sort of thinking is evident in succession cases from the late Ming and the Qing as well. In fact, in some cases the only concern expressed was that the faithful widow herself had no heir. A complicated succession case in 1789 in Qufu (Shandong), for instance, involved in part a dispute over who was to be the heir to an imperially commemorated virtuous widow who had starved herself to death after the death of her husband (Qufu shifan xueyuan lishixi 1980-, 3.1: 442-48). Similarly, a case in Cheng'an county (Zhili) in the early nineteenth century involved the appointment of an heir for Mrs. Li (née Gao), who had returned to her natal home after the death of her husband. The magistrate upbraided her father and elder

11. The other two unnecessary disputes had to do with premortem and postmortem appointments of an heir for a man. Zhang argued that only living people had desires (*yu*) and hence strong likes and dislikes. Desires died when the person died. All that was left was "breath" [*qi*]. Since an ancestral spirit would accept sacrifices from anyone as long as he just shared the same breath (i.e., was patrilineally related), the chosen heir need not be someone the deceased had been fond of in life. In that case, it would be appropriate to adhere to the prescribed lineage order. By the same token, a man who was still alive should be permitted to choose someone he was particularly fond of. On the concept of "breath" and its relationship to patrilineal succession, see Shiga 1978; and Waltner 1990.

brother for being concerned only with her daily needs and not considering that "her chastity was without an heir [*qi shoujie zhi wu-hou*]" (Zhang Wuwei 1812, pici: 64a-65b). In neither of these cases was mention made of the deceased husband's need for an heir.

Other cases suggest that the chaste widow ideal was also having an effect on the relative authority of a widow and her parents-in-law in the selection of an heir. For instance, in 1882, Dong Pei, then magistrate of Dongxiang county (Jiangxi), ruled in favor of a widow against her father-in-law on the grounds of chastity. After the death of her husband, her father-in-law had forced her to leave his home and live separately. He then brought in a young male relative to live with him as the heir for his deceased son. In his ruling, Dong Pei emphasized the obligation of an adopted heir to live with and support his adoptive mother. He also chided the father-in-law for his selfish concern for his own well-being (noting that the man was well over 80, deaf in both ears, and not long for this world in any event) and his disregard for that of his chaste daughter-in-law. He ordered that the father-in-law's choice be returned to his own family and that the widow, along with an upright member of the lineage, select another heir of the proper generation (Dong Pei 1883, 1: 10a-b). Several other Qing cases document the weight officials came to give to chaste widows in succession disputes with their in-laws (e.g., Zhang Wuwei 1812, pici: 15a-15b; Dong Pei 1881, 1: 4b-6a, 1883, 2: 1b-2b).

The growing emphasis in legal practice on the appointment of heirs for chaste widows did not sit well with all officials. One early-nineteenth-century official reprimanded a man who was thinking of appointing a grandson as his chaste widowed daughter's heir, reminding him of his daughter's obligation to her husband to appoint an heir for him from among his own agnatic kin (Deng Yao n.d.). Another, of the late nineteenth century, felt compelled to point out to the litigants in a case before him that "since the purpose of the appointment of an heir is to continue the patriline [*zongtiao*], heirs are established only for sonless men, and most certainly not for wives or concubines" (Sun Dinglie 1904, 1: 6b). Obviously, the very fact that these men thought it necessary to reiterate the original purpose of succession shows just how widespread the notion of heirs for chaste widows had become.

None of this is to suggest that heirs for chaste widows supplanted heirs for men. After all, a widow's adoption of a son served both purposes at once, securing an heir for herself, as well as for her

husband and his patriline. The point is simply that under a legal code that privileged the required heir, the normative power of widow chastity helped to tip the balance toward the preferred heir in legal practice.

Codified law finally caught up with legal practice in the 1770's, when the Qianlong emperor issued two edicts that placed succession out of affection on an equal footing with succession based on lineage order. The first was issued in response to a memorial submitted in 1773 by Hu Jitang, the Jiangxi judicial commissioner (*anchashi*). Commissioner Hu faulted current law on two points—that it created much of the litigation over succession and that it was extremely difficult for officials to enforce.

Lawsuits in Jiangxi are numerous, and particularly so are those brought to contest a succession. Whether prominent families and illustrious lineages or commoners who labor in the fields, whenever a sonless person has a little bit of wealth, relatives will immediately start to quarrel with one another, not satisfied until they manage to seize the property. Some claim required succession [*yingji*], and others preferred succession [*aiji*]. . . . If an heir has not yet been designated, and the sonless person normally does not get along with the person who ought to succeed [*yingji zhi ren*] or else if they had previously been involved in litigation, it is difficult [for an official] to compel the appointment of the one who ought to succeed, there being no affection between them. . . . If the official insists on upholding required succession, how could he guarantee that after the appointment is made the two would live together in peace?

The emperor promptly issued an edict embodying Hu's proposal that the sonless person be permitted to pass over the required heir if there had been a history of strong dislike between them (Hu Jitang 1773, 59: 5a-6a).¹²

Two years later, in 1775, the edict was incorporated as a sub-statute in the Qing code:

When those without sons adopt an heir, if they normally feel enmity [*xianxi*] toward the person who ought to succeed [*yingji zhi ren*], they are at liberty to select from agnates of the proper generation one who is worthy and of whom they are particularly fond [e.g., *aiji*]. If a lineage member, plotting to acquire the property, coerces them into accepting him as heir or otherwise attempts to influence their selection so that a lawsuit results, the local official is to punish him and to confirm as heir the one chosen for virtue or affection. (Qing: 078-05)

12. It was also Hu Jitang's memorial that led to the legalization of combined succession (*jiantiao*). The Qianlong emperor's edict is reproduced in *Taiwan* 1961, 4: 642-44.

The other edict, issued in 1775 and later codified in the *Qing huidian* (Collected statutes of the Qing), specifically addressed the question of a widow's selection of an heir. Since appointing an heir was for the dual purpose of continuing the patriline and providing support for the living, the Qianlong emperor decreed, two considerations were paramount: that the generational order be maintained and that "the widow's heart be followed" (*shun shuangfu zhi xin*). Accordingly, a widow should henceforth be permitted to select whichever lineage nephew she liked, provided only that she did not mix the generations (*Qing huidian shili* 1899, 753: 308-9). A selection based on affection was to be as valid as one based on lineage order from the very outset. In this fashion, codified law was brought into line with legal practice.

Since officials had already been adjudicating in favor of widows, the change in the law did not produce a change in the nature of their decisions, but it did result in a change in the way in which they framed them. No presiding official in the 141 widow-related succession cases that postdate the 1775 revision felt obliged to justify passing over the required heir for the widow's preferred heir. All just routinely affirmed her candidate, and most went on to admonish her foes for attempting to usurp her prerogative to adopt the lineage nephew of her choice (e.g., Dong Pei 1884, 1: 16b-17a; Sun Dinglie 1904, 1: 3a; Fan Zengxiang 1910, 3: 1597, 1688).

The 1775 revision in codified law thus compromised one of the basic principles of mandatory nephew succession as set up in the early Ming. The required heir's loss was the widow's gain, for she now had the legal latitude to select whichever lineage nephew she pleased. Moreover, so long as her choice did not confuse the generations, the required heir or anyone else for that matter was not permitted to contest her selection in court. Although widows of the Qing still ended up with fewer rights in patrilineal succession than their Song counterparts had enjoyed, their powers within the mandatory succession regime were greatly expanded.

Widows and Patrilineal Succession in the Early Republican Period

The late Qing and early Republican years marked an exceptionally important period of change in China's judicial system. The Qing code was revised; civil and criminal matters were for the first time clearly separated; a civil code and a criminal code based on Western models were drawn up; a foreign-derived language of "rights" entered legal discourse; and strict procedural guidelines were introduced. But so far as inheritance and succession were concerned, all the laws in the Qing code remained in effect until the promulgation of the Republican Civil Code in 1929-30. This chapter goes in good part, consequently, to seeking an explanation for the following conundrum. On the one hand, the Daliyuan, China's highest court and principal interpreter of law, repeatedly affirmed the crucial link between patrilineal succession and property inheritance, as well as the continued validity of each and every one of the Qing code's stipulations on the subject. Yet on the other hand, it repeatedly handed down rulings on appeals cases that violated those very same laws, even to the extent of allowing illegal heirs (those of a different surname or of a wrong generation and so on) to inherit all of the property. How was this possible?

It was not that the Daliyuan said one thing but did another. Rather, the apparent inconsistency between word and deed was the inevitable result of the court's adoption of the underlying principles of modern Western civil law. Thus, although the specific laws on succession and inheritance remained the same, they came to be based on a juridical logic quite different from that of the Qing.

The contrast between the two logics is brought out clearly in