

Searching for Fairness in Revolutionary China: Inheritance Disputes in Maoist Courts and Their Legacy in the PRC Law of Succession*

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Abstract

This article examines how PRC judges ruled on inheritance disputes during the Mao period (1949–1976). In fact, China not only rejected a draft succession law in 1956, it also did not promulgate any law governing succession until 1985. In part, this has contributed to the conventional characterization of China in the Mao period as a “lawless society” dominated by radical Maoist and Marxist ideologies. By using newly available archival documents and internal publications of local courts and legal cadres, this article reveals that PRC judges rejected the codification of law because the legal principles stipulated in the 1956 draft succession law could not be applied to the complex social reality of rural China at the time. Therefore, court rulings became products of the long-standing efforts of judges to reconcile the

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principles of justice inherent in the 1956 draft succession law and complex social realities in order to deliver judgments that all litigants could accept as fair. This article highlights how such efforts finally led to a codified law of succession in 1985. Hence, the Succession Law of 1985 was not a departure from the previous “lawless” Mao era, but the completion of PRC judges’ long process of amending the “incomplete” 1956 draft.

Keywords

inheritance laws during the Mao period, people’s courts in China, legal practices in Communist China, women’s inheritance rights in the Mao period

Anyone who studies the history of law in the People’s Republic of China (PRC) may find it puzzling that China did not have codified inheritance laws until 1985. In fact, PRC lawmakers rejected the adoption of inheritance laws initially drafted in 1955–1956 and did not promulgate an inheritance law until 1985, an exception even among socialist countries.¹ Although Karl Marx declared the abolition of inheritance in *The Communist Manifesto*, the Soviet Union added a section on inheritance to its civil codes as early as 1923.² Following the USSR’s example, other socialist countries in Europe, such as Czechoslovakia, Romania, and Bulgaria, promulgated codified laws of inheritance or added addendums on inheritance to their civil codes.

Although China lacked codified laws of inheritance, people continually brought inheritance disputes to courts and judges made court rulings daily throughout the Mao era (1949–1976). Contrary to the popular belief that Chinese peasants could not own property since land collectivization (1956), in rural areas they still owned houses, saving accounts, fruit trees, reserved lands for households (*ziliudi* 自留地),³ and personal belongings such as furniture and washbasins. In urban areas such as Shanghai, people continued to own houses and shops for rent as well as their own private residences and savings bank accounts (Aronowitz, 1966–1967: 301–2). Not surprisingly, when someone died, family members and other relatives and in-laws of the deceased often disagreed about who were the rightful heirs to the deceased’s property and brought their disputes to court. For example, in Ding county in Hebei, inheritance lawsuits were the third most common disputes, constituting 11.9 percent and 13.7 percent of all civil disputes after divorce (38.3 percent and 49.5 percent) and land disputes (17.2 percent and 17.7 percent) in 1952 and 1953 respectively. Even after the collectivization of farmland, inheritance disputes still accounted for 5.6 percent of all civil disputes in the Ding County Court for the first six months of 1962, while land disputes almost disappeared (see Table 1). Disputants

Table 1. Civil Dispute Cases in the People's Court of Ding County, Hebei.

Subject of dispute	1952 (%)	1953 (%)	1954 (%) ^a	1962 (Jan–June) (%)
Marriage 婚姻	2,345 (38.3)	940 (49.5)	140 (42.8)	190 (75)
Succession 继承	726 (11.9)	259 (13.7)	7 (2.1)	14 (5.6)
Old-age support 扶养				7 (2.8)
Land 土地	1,057 (17.2)	335 (17.7)	25 (7.6)	2 (0.8)
Dwellings 房屋	524 (8.5)	65 (3.4)		11 (4.3)
Family affairs 家务			25 (7.6)	6 (2.4)
Debts 债务	386 (6.3)	165 (8.7)	11 (3.4)	1 (0.4)
Others	1,088 (17.8)	133 (7)	119 (36.4)	22 (8.7)
Total	6,126 (100)	1,897 (100)	327 (99.9)	253 (100)

Source. Ding County Archives, 37-1-2 (1952); 37-1-4 (1953–1954); 37-1-36 (1961).

^aThe sharp decrease in the number of civil disputes in the county court beginning in 1954 could be explained by the activities of mediators 调解员 in villages, cooperatives, and work units. The People's Court of Ding County trained 217 mediators in December 1953 (Ding County Archives, 37-1-4). These mediators in people's communes and work units mediated 62 and 271 cases on inheritance and old-age support, respectively, in the first half of 1962, before the cases reached the court for formal trial (Ding County Archives, 37-1-36).

dissatisfied with lower court rulings often appealed to higher courts to claim a larger share of inheritances even during the Cultural Revolution (1966–1976), commonly assumed to be a period when any claim to private property ownership was strongly discouraged.⁴

This article examines the process by which PRC judges ruled on inheritance disputes, specifically the rationales and legal principles they used to support their decisions in the absence of any codified law until 1985. Some scholars have considered China's lack of an inheritance law as a symptom of radical Marxism that dominated the PRC courts during the Mao era. According to them, by blindly following the Marxist idea that laws are merely part of the superstructure of a feudal socioeconomic relationships, the PRC rejected the codification of an inheritance law in 1956 on the eve of the Anti-Rightist campaign (1957–1959). Therefore, court rulings during the Mao era were little more than “amalgams of ideological, customary, and civil law principles” (Foster-Simons, 1985: 61).

My study reveals that PRC judges rejected the codification of law not because they indiscriminately followed Marxist notions, but because the legal principles stipulated in the 1956 draft succession law could not be applied successfully to the social reality of rural China at the time. As such, court rulings were the result of the long-standing efforts of judges to reconcile the principles of justice inherent in the 1956 draft succession law and

complex social realities that had to be navigated in order to arrive at decisions that all litigants could accept as fair. These efforts were eventually reflected in the codified Law of Succession of 1985, the culmination of years of experience in addressing a growing number of inheritance disputes.

Past Studies

When the Sixth National People's Congress finally promulgated its first codified inheritance law in 1985, some scholars considered it as a true departure from the PRC's radical Marxist/Maoist legal rhetoric, which rejected private property and codified laws of succession. In fact, they blamed the Anti-Rightist campaign of 1957–1958 and the establishment of people's communes in 1958 for the government's failure to adopt the 1956 draft succession law (hereafter, the 1956 Draft) (Stahnke, 1966: 506–8; Meijer, 1971: 251–52; Schwartz, 1987: 436–37). For them, the rejection of a uniform national inheritance law was a reflection of the radicalization of the Chinese Communist Party (CCP), which climaxed during the Cultural Revolution (1966–1976).

Not surprisingly, these scholars also criticized court rulings during the Mao era as little more than “amalgams of ideology, customary, and civil law principles” and products of a “highly complex system, riddled with inconsistencies and lacunae” that could be fixed only by “the promulgation of a long-awaited uniform national inheritance law” (Foster-Simons, 1985: 49). In this view, the 1982 PRC constitution, which allowed the means of production to be inherited, and the Law of Succession of 1985 represented “the progressive development of the legal order in China” and constituted a “significant departure from Marxist orthodoxy” (Schwartz, 1987: 438–39).

At the same time, three studies of signal importance—by M. H. Van der Valk, Marinus Meijer, and Philip C. C. Huang—have provided an alternative, and corrective, interpretation of the PRC's position on inheritance. Van der Valk and Meijer cast legal practices during the Mao era in a relatively positive light by analyzing *Reference Materials on the Civil Law of the People's Republic of China* 中华人民共和国民法参考资料 published by Renmin University in 1956 (hereafter *Reference Materials*) and *Brief Discussions of Some Basic Problems of China's Inheritance System* 略论我国继承制度的几个基本问题 (hereafter *Brief Discussions*), a booklet by Shi Huaibi (1913–2001) published in 1957 (Van der Valk, 1961; Meijer, 1971: 251–65; Renmin University, 1957; Shi, 1957). Van der Valk argued that the PRC never intended to reject the system of inheritance: although it did not promulgate any codified law, it nonetheless laid out some fundamental principles of inheritance. These principles, Van der Valk believed, reflected the government's belief that inheritance problems “must be resolved without divorcing [them] from

actuality” and must take into account “the actual and concrete conditions or actual life of the masses” (Van der Valk, 1961: 310).

Meijer took this line of argument further and contended that the courts’ rulings on inheritance were intended to “relieve [. . .] a great burden of social aid that otherwise would have to be borne by the State” by awarding larger shares of inheritance to those who contributed most to the well-being of the deceased and demonstrated the PRC’s new vision of “family” (Meijer, 1971: 263). In other words, the CCP rejected the traditional feudal family system with its hierarchical relationships, and reconceptualized the “family” as “bound closely together by a feeling of sacrifice and assistance towards each other, a little model of the Great society” (Meijer, 1971: 265). The PRC government, Meijer contended, did not simply reject inheritance; rather, it used inheritance and legal principles applied in inheritance disputes as tools to reconceptualize the notion of “family” in the Communist republic.

Much more recently, Philip Huang has argued that the 1985 Law of Succession reflected the CCP’s long-standing effort to reconcile rural reality with its revolutionary agenda of rebuilding Chinese society (Huang, 2010). In particular, he highlights the unique feature of the 1985 Law of Succession: the association of inheritance with old-age support. In fact, Article 13 of the law states that “at the time of distributing the estate, successors who have made the predominant contributions in maintaining the decedent or have lived with the decedent may be given a larger share.” Huang posits that this provision was driven by the Maoist courts’ earlier attempts to reconcile the social practice of sons supporting their aged parents with the ideal of gender equality (Huang, 2010: 233–36). In other words, the courts allowed sons to inherit family property not because they were male, but because they had fulfilled their obligation to take care of their elderly parents. Thus, the 1985 Law of Succession was not a departure from the radical Maoist practices of the PRC courts, but a final compilation and codification of legal principles that resulted from the PRC’s long journey to reconcile social reality with its agenda of gender equality.

This article expands the arguments of Van der Valk, Meijer, and Huang by using newly available archival documents and internal publications. It highlights that, in their court rulings, China’s judges actively took into consideration both actual living conditions and the PRC’s revolutionary agenda. It also demonstrates that, insofar as inheritance law was concerned, the Mao era was an incubation period. Based on the experience, growth, and development during this period, what emerged in 1985 was a full-fledged Law of Succession.

This article, however, consists of more than an analysis of additional legal cases to further support the arguments of Van der Valk, Meijer, and Huang. It seeks to reveal the thinking of judges early in the PRC on the judicial system

and their role in building revolutionary China. Their rulings clearly demonstrated that they neither simply applied the CCP's political and ideological agenda nor adopted wholesale local customs when deciding on legal cases. Judges often had different priorities and had to decide the extent to which they should consider local customs in court rulings, consequently creating the inconsistencies that Frances Foster-Simons criticized. However, what they perused was not a universally applicable "justice" or "truth," but what Philip Huang conceptualizes as practical moralism: the "just" and "fair" share of inheritance to be awarded to each heir depended on the specific social context surrounding each dispute. It was this practical and flexible sense of justice that led judges to reject the 1956 Draft.

Sources

Empirical evidence for this study consists of three kinds of documents: First, *Reference Materials* and *Brief Discussions*, the two most basic and important sources for exploring how lawmakers in the 1950s perceived inheritance disputes. *Reference Materials* comprises rulings of local courts, directives and opinions of the Supreme Court, and two surveys on inheritance disputes published by the Research Bureau of the Standing Committee of the National People's Congress. *Brief Discussions* was an attempt to address judges' questions and critiques of the 1956 Draft. Its author, Shi Huaibi, was the deputy director of the Research Bureau of the Standing Committee of the National People's Congress and was one of the architects of the 1956 Draft. His booklet reveals why judges and legal cadres eventually rejected the 1956 Draft despite its thoughtful attempt to reconcile the spirit of Maoist justice and social reality.

Second, this study utilizes inheritance disputes and court rulings found in *A Compilation of Materials on Inheritance Law* 继承法资料选辑 and *Legal Advisor* 法律顾问, published by the East China Academy of Political Science and Law in 1980 and 1983 respectively, and *A Collection of Inheritance Dispute Cases* 继承案例汇编, published by the Beijing Academy of Political Science and Law in 1980 (Inheritance Law Compilation Group, 1980; Editorial Department, 1983; Civil Law Office, 1980).⁵ These three books contain thirty-one, thirty-three, and sixty-eight inheritance cases respectively, dating from the 1950s to the early 1980s. The books were written to train and guide officials, judicial personnel, and law school students and were published under the category of "internal reference" 内部参考 or "educational material only for internal use" 内部教育资料. They typically provide general case descriptions and court decisions, followed by judicial opinions to educate law school students or serve as reference materials to guide judges in handling court cases. Although they were not "official" court case records

and did not represent a cross-section of daily legal practices in the Mao era, they still offer invaluable insights into the process and rationales judges used in making their court rulings. Since foreign scholars have almost no access to Chinese court documents, the cases in these books are unusually valuable.

Lastly, this article also uses archival documents housed in provincial and municipal archives in Hebei province, which I was able to access and permitted to read only with the censors' approval. I was denied access to some documents; no explanation for the denial was offered. Nonetheless, the archival documents to which I was given access contain important material: correspondence between provincial courts and the Supreme Court and work reports of county courts covering a limited period, all valuable for providing a glimpse of the role judges played in the formation of Maoist justice during the early years of the PRC.

The Failure to Adopt the 1956 Draft Succession Law

Those who praised the codification of the inheritance law in 1985 as a correction of China's radical and aberrant Marxist/Maoist mistakes consider the PRC's failure to adopt the 1956 Draft as a triumph of the CCP's radical faction. It seemed that Mao's comment, "Don't make so many laws" 不要搞那么多法, caused the PRC to lose its momentum in codifying its civil codes (Shi, 2018). Additionally, discussions of the codification of civil laws in 1955 and 1956 were silenced as many legal specialists who had served in the Republican period, such as the noted jurist Yang Zhaolong 杨兆龙, became victims of the Anti-Rightist campaign (Sun, 1957; Kang, 1957; You, 1955; Guo and Tong, 1956).

However, the framework of "pragmatic legal experts" versus "radical revolutionary activists" that has been used to describe the conflicts and debates among lawmakers and legal cadres on whether the PRC should adopt a civil code oversimplifies the evolution of the inheritance law. In doing so, it fails to account for how the courts ruled on inheritance disputes during the Mao era and it overlooks this legacy in the post-Mao reform period. The section that follows examines the governing ideas of the 1956 Draft and the main opposing forces that caused it to be rejected.

1956 Draft Succession Law

In 1954 Peng Zhen (1902–1997), the secretary-general of the Standing Committee of China's first National People's Congress, launched a plan to promulgate a civil code to replace the Republican Civil Code of 1930. Peng picked approximately a hundred experienced CCP cadres, led by Shi Huaibi

as the deputy director of the Research Bureau of the Standing Committee, to draft the civil code. Shi had been a guerrilla fighter and a county magistrate, as well as a general secretary in several county branches of the CCP. By 1954, he rose to become the director of the Civil Affairs Bureau 民政局 of Beijing, where Peng had served as the mayor since 1951. Peng evidently assumed that Shi's experience in handling daily issues in Beijing, such as smuggling, the food supply, and prostitution, would make him the best candidate for drafting a civil code for the new republic.

Of the four sections of the draft civil code—General Principles, Ownership, Obligations, and Succession—it was Part 4, Succession, that lawmakers drafted first.⁶ Although it is unclear why the Research Bureau began the draft of the civil code with the section on succession, it is possible that it was most confident in drafting this section since it had completed its research on contemporary inheritance cases. In fact, the Research Bureau reviewed inheritance cases from Beijing and Hebei filed since 1951 and released two reports, which analyzed 135 and 376 cases respectively, and published them in 1956 in *Reference Materials* (I shall refer to these reports as the report on 135 cases and the report on 376 cases, respectively). Lawmakers might have considered the section on Succession as a platform for testing whether they could draft civil codes that would fit China's reality and the lives of China's people.⁷

In the two reports mentioned above, the Research Bureau identified three major issues found in most inheritance disputes: (1) who should be included in the circle of heirs and what should be the order of heirs, (2) how should an inheritance be divided up and distributed, and (3) how should conflicts between local practices and codified law be resolved. First, both reports stated that common problems associated with succession disputes included whether claimed successors actually had a right to inherit and, if so, the portion of inheritance due to them. According to the reports, disputes often occurred when adopted children, nephews, maternal grandchildren, maternal grandparents, widowed daughters-in-law, brothers and sisters, postmortem heirs, uxoriously married sons-in-law and, most often, married daughters were involved. In addition, misunderstandings and confusion due to household division 分家 further contributed to such disputes. Reviewing these disputes in light of the Republican Code of 1930 and the civil codes of other socialist countries, the Research Bureau attempted to search for general legal principles that could be applied in ruling on inheritance disputes—the principles it arrived at were embodied in their 1956 Draft.⁸

While other articles in the 1956 Draft covering issues such as the legal status of a fetus, compulsory portions, subrogation, the formalities and legal conditions for wills to be executable were generally similar to articles in the Republican Code of 1930 and the USSR Code of 1945, the 1956 Draft was unique in the three areas, as Table 2 summarizes.

Table 2. Main Differences Between Republican Civil Code of 1930, USSR Civil Code of 1945, and PRC 1956 Draft Code.

	Republic Civil Code of 1930 ^a	USSR Civil Code of 1945 ^b	PRC 1956 Draft ^c
The circle of heirs and the order of inheritance	<p>Heirs to property other than the spouse come in the following order:</p> <ol style="list-style-type: none"> Lineal descendants by blood Parents Brothers and sisters Grandparents. (Art. 1138) <ul style="list-style-type: none"> A person who received maintenance from the deceased continuously during the latter's life-time shall be assigned a certain portion of the deceased's property by the family council, taking into consideration the extent of maintenance he used to receive and other relations. (Art. 1149) 	<ol style="list-style-type: none"> Surviving spouse, children, adopted children, grandchildren, great-grandchildren, incapacitated parents, a person who had been financially provided for by the deceased before the latter's death for over 1 year Capacitated parent Brothers and sisters. (Art. 418) 	<ol style="list-style-type: none"> Surviving spouse, children, adopted children, incapacitated parents Capacitated parent Brothers and sisters Grandparents and maternal grandparents. <ul style="list-style-type: none"> A person who had been financially provided for by the deceased before the latter's death shall be allocated a certain portion of the deceased's property. (Art. 20) In case of adopted children and parents, in order to have a right to inherit, they have to live and work together so that they support one another after adoption. (Art. 16) Successors same in order shall, in general, inherit in equal shares. (Art. 19) But at the time of distribution of the estate, based on the spirit of unity and mutual aid, due consideration shall be given to an heir's financial condition and the extent of support given to the deceased by the heir. (Art. 19)
Partition of inheritance	<ul style="list-style-type: none"> Where there are several heirs of the same order, they inherit in equal shares as per capita, unless it is otherwise provided by law. (Art. 1141) Each spouse has the right to inherit the property of the other, and his or her successional portion is determined according to the following provisions: <ol style="list-style-type: none"> Where the spouse inherits concurrently with heirs of the first order, as provided in Article 1138, his or her successional portion is equal to the other heirs Where the spouse inherits concurrently with heirs of the second or third order as provided in Article 1138, his or her successional portion is one-half of the inheritance Where the spouse inherits concurrently with heirs of the fourth order as provided in Article 1138, his or her successional portion is two-thirds of the inheritance Where there is no heir of any of the four orders provided in Article 1138, his or her successional portion is the whole of the inheritance. (Art. 1144) 	<ul style="list-style-type: none"> Where inheritance is by operation of law, the estate shall be divided in equal shares per capita among the persons upon whom the inheritance devolves under Paragraphs 1 and 3 of Section 418. (Art. 420) 	<ul style="list-style-type: none"> Successors same in order shall, in general, inherit in equal shares. (Art. 19) But at the time of distribution of the estate, based on the spirit of unity and mutual aid, due consideration shall be given to an heir's financial condition and the extent of support given to the deceased by the heir. (Art. 19)

(continued)

Table 2. (continued)

	Republic Civil Code of 1930 ^a	USSR Civil Code of 1945 ^b	PRC 1956 Draft ^c
Limited succession / Debt	<ul style="list-style-type: none"> • An heir may limit the payment of the deceased's debts to the extent of the property acquired by the succession. (Art. 1154) • After the partition of the inheritance each heir is, in regard to claims acquired by other heirs through the partition, bound to warrant, in proportion to the share he has acquired, the solvency of the debtor at the time of the partition. (Art. 1169) 	<ul style="list-style-type: none"> • Heirs who accept the inheritance and state organizations and organs acquiring an estate by escheat are liable for debts burdening the estate only within the limits of the actual value of the estate. (Art. 434) 	<ul style="list-style-type: none"> • Successors of the deceased are responsible for repaying the individual debt of the deceased only up to the real value of the inheritance • The amount of debt each successor should pay depends on the ratio of inheritance they receive. (Art. 29)

^aThe Civil Code of the Republic of China (1930).

^bGsovski, 1949: 217–35.

^cDraft-Succession Law of the People's Republic of China (1956).

In terms of the circle of heirs and their order, the 1956 Draft seemed to adopt the Soviet model of adding an incapacitated parent to the first order of heirs, while the Republican code placed parents in the second order. Instead of placing the person who had been financially provided for by the deceased as first in the order of heirs, as the USSR Civil Code did, the draft followed the Republican model by providing that such a person could only claim a “certain portion.” In addition, the draft specified that adopted children had to live and work together with their adoptive parents to be considered eligible heirs.

On “limited succession” debt, the three sets of civil codes were quite similar. Limited succession meant that repayment of the deceased’s debts would be limited to the amount of property inherited by the deceased’s successors. The rationale was that if this limit was exceeded, it would damage the economic interests of the heirs. While all three supported the notion of limited succession, the Republican Civil Code of 1930 and 1956 Draft specified that the debts of the deceased were to be divided among the successors in proportion to each successor’s inheritance, thus achieving fairness to all by matching the amount of inheritance and the obligation to pay the debts of the deceased.

The section on the distribution of inheritance made the 1956 Draft unique. Unlike both the Republican and USSR models, which divided inheritances based on the status and order of the heirs, the 1956 Draft added an heir’s difficult financial circumstances and support for the deceased prior to death as considerations to be taken into account in deciding the portion due to each heir. Below I explain the reasons the Research Bureau, under the leadership of Shi Huaibi, took these unique positions.

Inheritance Rights of Incapacitated Parents and Adopted Children

The inclusion of an incapacitated parent in the first order of heirs might be considered as evidence that the 1956 Draft adopted the USSR model in creating its succession law (Li, 2002: 137–39). In fact, the report on 376 cases often cites the USSR and Czech civil codes to show how other Communist countries resolved inheritance issues.

Nevertheless, the USSR and Czech civil codes and the 1956 Draft are similar only on the surface. The USSR and Czech civil codes focused on the individual’s capability to work because under the Soviet model, the only source of an individual’s income was labor. Thus, the USSR and Czech civil codes provided that an incapacitated parent and those who had been financially provided for by the deceased before the latter’s death for more than a

year should be in the first order of heirs. Otherwise, it would be a burden for the state to support people who could not support themselves on what they earned through their labor.

However, the main reason for adding parents to the first order of heirs in the 1956 Draft was based on the social reality that sons were the main caregivers of their parents in rural China at the time. According to the report on 135 cases, seven (5 percent) of the 135 disputes were initiated by parents, and local courts acknowledged their inheritance rights regardless of their ability to work in all seven cases (Renmin University, 1957: 599–602). In fact, although the Republican law considered a nuclear family as an independent family unit and placed a parent of the deceased in the second order following the spouse and children, this did not correspond with rural social realities in most places. In rural areas, most parents divided their properties and estates only among their sons, expecting that the sons would provide them with support in their old age. The PRC court rulings simply reflected this reality by returning some property belonging to a deceased son, who was now unable to fulfill his filial obligations, as compensation for the elderly parents. The judges considered it fair for parents to receive an inheritance from their deceased sons as compensation for their loss of old-age support.

Although the Research Bureau respected rural social realities, it was not satisfied with the fact that courts consistently decided to place all parents in the first order of succession regardless of their ability to support themselves, because this would be unfair to their married daughters (Renmin University, 1957: 610–11). By this time, the courts had established a precedent that only daughters who continued to support their parents after they married out were to be considered heirs. In doing so, the courts considered families of married daughters as economic units independent of their natal families, and thus did not allow natal parents to be heirs of their married daughters. The Research Bureau argued that since many sons established independent economic units after household division, it would be unfair to the surviving wife and children if the court awarded a portion of deceased husband's property to his parents, unless there was evidence they were needy. This compromise between rural realities and the ideal of gender equality eventually led the Research Bureau to include only incapacitated parents in the first order of heirs.

The Research Bureau's efforts to reconcile the CCP's ideal of gender equality with rural realities was even clearer in its attempt to resolve inheritance disputes between daughters and adopted sons. The 1956 Draft extended inheritance rights to adopted children, but only to those who lived and worked together with their adoptive parents and supported one another, thus rejecting patrilineal succession while protecting the sonless couple's interests. As Kathryn Bernhardt explains in her *Women and Property in China, 960–1949*,

patrilineal succession, which limited heirs to males only, was a legal requirement and social convention in China. In Ming (1368–1644), Qing (1644–1912), and early Republican laws, sonless couples were legally required to adopt a nephew from the husband’s family to continue the husband’s patrilineal line. Even if a husband passed away before establishing a male heir, the widow had the legal obligation to do so postmortem. In this patrilineal succession regime, the inheritance rights of daughters were severely compromised (Bernhardt, 1999).

The Republican Civil Code ended patrilineal succession in China (Bernhardt, 1999: 102–6, 138–45). As shown in Table 2, the Republican Civil Code guaranteed equal division of inheritance among children regardless of their sex. It also outlawed postmortem adoption by stipulating that only living persons could adopt children. It even limited the amount of inheritance for adopted children to half of the property that biological children could receive.

However, the Republican Civil Code’s bold attempt to end patrilineal succession had limited success, not only because the reach of the law was limited to urban areas where the Guomindang (GMD) exercised strong control, but also because the law ignored the rural reality that daughters usually married out to other villages and sonless couples often relied on their nephews for old-age support (Huang, 2010: 233–36). If the law attempted to deny such nephews the right to inherit just because they were not biological lineal descendants, it would not have worked nor would it have been considered fair. Few nephews would support their sonless uncles and aunts if they knew that the lion’s share of any inheritance would fall into the hands of their female cousins who lived far away. In fact, according to the report on 135 cases, twenty cases (14.8 percent) involved nephews and nieces, in addition to eleven cases that involved adopted children (Renmin University, 1957: 599–602).

Article 17 of the 1956 Draft attempted to resolve this dilemma. It stipulated that adopted sons were to receive shares equal to those of natural sons and daughters. However, by stipulating that only adopted children who worked for and supported their parents could be considered heirs, the article simultaneously rejected heirship claimed solely based on patrilineal succession, such as postmortem heirs and heirs adopted only to continue the patrilineal line. In this way, the 1956 Draft was the product of the efforts by the lawmakers in the Research Bureau to bridge the ideal of gender equality with social reality.

Inheritance Distribution between Sons and (Married) Daughters

Another striking feature of 1956 Draft was the way it divided inheritances. As Table 2 shows, although the Republican Civil Code singled out the surviving

spouse, the general principle of property distribution was that everyone within the same order of heirs would receive equal shares. Article 19 of the draft also began with a general statement that “successors same in order shall, in general, inherit in equal shares.” However, this was followed by “at the time of distribution of the estate, based on the spirit of unity and mutual aid, due consideration shall be given to an heir’s financial condition and the extent of support given to the deceased by the heir,” thus allowing for an unequal distribution of inheritance among sons and daughters.

In fact, the inheritance status of married daughters was the most controversial issue in inheritance disputes during the first half of the twentieth century. As Bernhardt detailed in her book, throughout the second half of the 1920s, Republican lawmakers often struggled with the Supreme Court and the Judicial Yuan over this issue, but eventually prevailed with the inclusion of equal inheritance rights for married daughters in the 1930 Republican Civil Code (Bernhardt, 1999: 134–38). Even after the codification of the Civil Code, inheritance disputes persisted. Of the 108 children involved in the report on 135 cases, 70 (65 percent) were daughters (Renmin University, 1957: 599–602).

The nature of the dilemma was simple, yet impossible to solve: most rural marriages were virilocal, with daughters leaving their natal village at marriage, while sons remained in their home villages and bore the responsibility of providing old-age support to their parents. Reflecting this dilemma, CCP legal cadres and judges in the late 1940s and early 1950s voiced different opinions on married daughters’ inheritance rights. For example, a decision of the Administrative Board of the Ji-Lu-Yu Base Area of May 31, 1945, stated, “Regarding inheritance rights, women and men enjoy equal rights. However, because of China’s general social condition that a son lives with his parents and that such a household forms an economic unit, when the division of inheritances depends on men’s and women’s contribution to the family obligation, sons will enjoy different treatment 待遇. [. . .] During division, women may voluntarily give up their inheritance for the benefit of their brothers, and the government should not interfere” (Inheritance Compilation Group, 1980: 257–58). While fighting against Japan during World War II, the CCP took a more moderate stance: it reluctantly promoted women’s succession rights and encouraged married daughters to give up their right to inherit.

However, the answer of the Department of Justice 司法部 of the Military Government of Eastern China to an inquiry from the People’s Court of Changle county on June 18, 1951, sheds a more positive light on a married daughter’s inheritance rights. It clearly supported a married daughter’s succession rights and gender equality by arguing that “It is wrong to deny a married daughter’s inheritance rights due to the fear of trouble 麻烦 and disputes

纠纷 [. . .] If a married daughter does not live with her parents, she can sell the land she inherits from them, as long as it is not against the law. Land sales will not affect productivity. Alternatively, she can rent the land out. This would not be the same as the landlords of the past who collected high rents from massive expanses of land” (Inheritance Compilation Group, 1980: 232–33).

In 1953 the Northwest China Department of Justice finally came up with a new principle to solve this dilemma by linking inheritance rights 权利 and the obligation 义务 to provide old-age support regardless of the sex of the heirs. It also removed any hint that sons were automatically entitled to receive a larger share of the inheritance, as stated in the 1945 decision of the Administrative Board of the Ji-Lu-Yu Base Area. According to the principle enunciated in 1953, the court “must investigate the rights and the obligatory relationship between the heir and the deceased, for example, whether they lived together and if they fulfilled the rights and obligations of educating the young and supporting the old [. . .]. Whether an heir has succession rights should depend on whether the heir meets such conditions. Furthermore, not all heirs should receive equal shares of inheritance by mechanically 机械地 dividing up property by the number of heirs” (Inheritance Compilation Group, 1980: 256–57).

This new principle became enshrined in Article 19 of the 1956 Draft. It allowed those who supported the deceased to claim a larger share of the inheritance, regardless of whether they were sons or daughters, thus reconciling revolutionary ideals and social realities.

Rejecting the 1956 Draft

Despite its ambitious and prudent efforts to merge the revolutionary ideals and social realities of China, the 1956 Draft was not adopted. Law specialists at the time contentiously debated the nature of property rights after the country launched collectivization in 1955. Some even thought that any inheritance law based on the current social system would not be applicable after collectivization (Shi, 1957: 15–18). To make matters worse, the Anti-Rightist campaign caused a further setback to the codification of civil laws.

However, focusing on political changes may cause us to overlook another major reason for the failure to adopt the 1956 Draft: the harsh criticisms and opposition by judicial cadres and judges, who had the strongest interest and largest stake in the inheritance laws. Although the Research Bureau, which played a key role in drafting the Chinese civil code, dissolved in 1957, the bureau’s members were not punished for their “rightist” tendencies. In fact, Peng Zhen, who initiated the project, continued to hold his position in the

Politburo until 1966, and Mao even appointed him as the head of the “five-man group” charged with preparing the “Cultural Revolution.” Shi Huaibi, the architect of the 1956 Draft and deputy director of the Research Bureau, was appointed to train high officials and cadres in Yunnan province, and became the first secretary of Simao District and secretary in Xishuangbanna Dai Autonomous Prefecture in 1958. By 1964, he rose to become the deputy governor of Yunnan. In other words, their involvement in writing the 1956 Draft did not damage their career and influence during the Anti-Rightist campaign. It was only with the launch of the Cultural Revolution that both Peng Zhen and Shi Huaibi were criticized by the party.

Archival documents in the Hebei Provincial Archives reveal the fierce opposition by local justice departments and courts to the 1956 Draft. For instance, after reviewing the Draft, the Hebei Provincial Department of Justice 司法厅 questioned two points: that parents could be considered in the first order of heirship only if they were incapable of work, and the principle of limited succession (Hebei Provincial Archives, 1051-1-171).

First, the Department of Justice protested that the masses would reject laws that placed parents in the first order of heirship only if they were incapable of working. Since social practices dictated that sons provide old-age support for their parents, even though parents might be capable of working at the time of their sons’ death, they should still be compensated for the loss of their future support. In fact, the report on 135 cases revealed that local courts acknowledged the parents’ inheritance rights in all seven cases, regardless of their ability to work.

Second, the Department of Justice argued that limited succession not only failed to reflect social realities, it could also eventually harm the people. Initially, the architects of the 1956 Draft believed that the old practice of a son repaying all his father’s debts 父债子还 should be abolished because it was a form of feudal exploitation of the poor masses (Explanation, 1956: 7–8).

The Department of Justice, however, contended that although the debts were acquired in the name of the head of household, they were essentially family debts because they were incurred to meet the family’s needs. Therefore, all family members should be jointly liable for repaying such debts. Hypothetically speaking, under limited succession, the head of household could distribute his property to his children before his death as gifts during household division, and his heirs could avoid the responsibility of repaying his debts. In fact, the Department of Justice argued that if an heir were to avoid the responsibility of paying off the household’s debts based on limited succession, it would have disastrous effects on the credit market.

A local judge’s outcry echoed the local courts’ fierce opposition to any attempt by the Research Bureau to promulgate a codified law of succession:

We are judges of the people's court and should address the people's concerns. But we are judges after all. If we have a codified law, we must enforce the word of the law regardless of actual justice [being delivered] in a particular situation. (Hebei Provincial Archives, 1051-1-171)

In other words, articles in the 1956 Draft were too generalized to be implemented in individual cases and would only hinder judges in their pursuit of justice, and compel them to deliver no more than mechanical/standardized judgments. In a way, the law would force them to overlook details in each case that had to be recognized in order to render a fair ruling.

With such strong opposition from local judicial cadres and judges in mind, the objective of Shi's *Brief Discussions* became obvious: the booklet contained answers and rebuttals to protests from local judicial departments and courts. In fact, Shi wrote the booklet in a defensive tone: in the first chapter he explained why, even though the process of collectivization was still in train, China still needed succession laws until complete collectivization.

Interestingly, Shi expressed his "personal opinion" 个人认为 that parents should be in the first order of heirs regardless of their ability to work (Shi, 1957: 31). He stated that for the law to be credible, it had to respect the masses' social practices. However, he also added that there was a fierce ongoing debate on the parents' status in the order of heirs and their ability to work, but it would be a topic for further research 进一步的研究 (Shi, 1957: 33).

Furthermore, Shi explained that although the 1956 Draft did not explicitly include widowed daughters-in-law and uxorilocally married sons-in-law, they should be considered as heirs of the first order if they had lived together and supported their in-laws in old age (Shi, 1957: 30–31). It was possible that he addressed these points because provincial justice departments also raised these questions. In a way, he admitted that the 1956 Draft failed to address many complex issues inherent in inheritance disputes that the courts in counties and provinces struggled to resolve.

One obvious limitation of the 1956 Draft was the way it handled the issue of limited succession and debts. Shi admitted that, in many villages, the distinction between individual debts and family debts was often unclear. He also recognized that it would be unfair to creditors if limited succession meant that debts that exceeded the amount of an inheritance would be forgiven. Shi had to concur that additional studies were needed to reconcile the theory of limited succession and social reality, and further discussions and debates were required before the 1956 Draft could be finalized (Shi, 1957 50–52).

There was no question that Mao's instruction "Don't make so many laws" dampened any effort to promulgate a civil code. However, considering that neither Peng nor Shi was demoted or criticized for drawing up the 1956 Draft,

the fact that it was ultimately rejected cannot be laid at the feet of the Anti-Rightist campaign. Perhaps the 1956 Draft was just not ready to be finalized as a set of codified law to address emergent problems and concerns of the time, such as the order and circles of heirs and the issue of debts.

The 1956 Draft: A Source of Guiding Principles

Although the 1956 Draft was not adopted, it nonetheless provided general principles to guide judges in making rulings and was even occasionally referred to as the “law” until the promulgation of the succession law in 1985. The 132 inheritance cases discussed in *Compilation of Materials on Inheritance Law, Legal Advisor*, and *Collection of Inheritance Dispute Cases* demonstrated how the 1956 Draft served as a guideline for many cases, but not as law codes that judges were obligated to follow word for word. This section describes how the judges navigated the complicated realities of people’s lives and made rulings by combining both the principles of the 1956 Draft and their own sense of justice.

Daughters and Old-Age Care

Of the 132 inheritance lawsuits, thirty-six (27 percent) were either initiated by daughters or people who were opposed to their inheritance rights. Although these 132 cases cannot represent a complete picture of inheritance disputes during the Mao era, it is safe to infer that daughters’ inheritance rights constituted a considerable portion of inheritance issues.

The thirty-six cases generally revealed that the courts—in line with the 1956 Draft—upheld the inheritance rights of daughters who took care of their parents over their uncles, brothers, and cousins. For example, in 1978 the Ninghe County Court ruled for Yu Wenzhen against Yu Xueyuan, her uncle, in a dispute over a house that was part of an inheritance. The court’s decision was based on the fact that Yu Wenzhen had cared for her parents in their old age, and even admonished her uncle and the rural collective that supported Yu Xueyuan’s claims (Civil Law Office, 1980: 13–14).

Judges further supported women’s inheritance rights by loosely interpreting “fulfilling the obligation of old-age support.” They included birthday gifts, contributions for medical expenses and funerals, and even doing the laundry as examples of caring 照顾 for the deceased, and consequently granted women who provided such support a share of the inheritance.

This was clear in the case of Chen Xiaoli and Chen Xiaopei versus Chen Laigui and Chen Yulai, in which cooking and doing the laundry for the deceased became grounds for their claims to the deceased’s estate (Editorial

Department, 1983: 180–82). Chen Lairen, the father of Chen Xiaoli and Chen Xiaopei, uxoriously married Zhang Xiaoxiang's daughter Zhou Ailian in 1952. Chen Lairen, as a member of Zhang Xiaoxiang's family, received land during Land Reform. When Chen Lairen's mother passed away, Zhou Ailian cooked and did the laundry for Chen Da'an, Chen Lairen's father.

The dispute began when Chen Da'an died in 1981. Chen Lairen, the father of Chen Xiaoli and Chen Xiaopei, died five days prior to the death of Chen Da'an, so the two brothers made subrogation claims on behalf of their late father. The Xiangshan County Court initially rejected the brothers' claims since their father had already uxoriously married out from the Chen family and received land as a member of Zhang Xiaoxiang's family. When the brothers appealed to the Ningbo Intermediate Court, the court ruled differently. The intermediate court agreed with the county court's ruling that the brothers' father had no inheritance rights as the uxorilocal son-in-law of another family. But since their mother "took care" of their grandfather in his old age by cooking and doing the laundry for him, Zhou Ailian, the brothers' mother, earned a right to inherit. Consequently, the court awarded Zhou Ailian 200 yuan. This case clearly illustrates how the PRC courts extensively employed the notion of "old-age care" to support women's inheritance rights.

Similarly, the court's ruling on the disposition of the estate of Xie Wenquan, who died in 1979, acknowledged the simple action of giving allowances as a more significant justification for inheritance rights than did the law itself (Editorial Department, 1983: 151–53). Xie Wenquan and his wife adopted Xie Fangjin as a daughter in 1940 and Xie Fotian, his nephew, in 1953. Although Xie Fotian took care of his adoptive parents, Xie Fangjin also made "contributions" to her adoptive parents' old-age care after she married out, even though the court did not specify her contributions. Even Xie Fangjin's daughter, Zhang Guilan, gave her maternal grandparents five yuan a month to help cover their living expenses after she began working, since her maternal grandparents cared for her when she was young.

After Xie Wenquan died, Xie Fotian declared himself the sole heir based on Xie Wenquan's written will. However, the Yingxiu County Court found this unfair, and ruled that Zhang Guilan, the maternal granddaughter, should be considered an heir since she provided financial support to Xie Wenquan. After the appeal, the Jiujiang Intermediate Court ruled that Xie Fotian, as a son, would inherit five-sixths of Xie Wenquan's house, and one-sixth would be given to Xie Fangjin since she already had a residence. The court made it clear that if Xie Fotian either sold or rented out the house, any income should be divided according to the formula above. In addition, Xie Fangjin would inherit five-sixths of Xie Wenquan's other belongings and Xie Fotian would

receive the rest. Lastly, the 136.61 yuan Xie Wenquan left was to be divided equally among Xie Fotian, Xie Fangjin, and Zhang Guilan.

In this case, the court openly admitted that Zhang Guilan, the maternal granddaughter, would not to be considered an heir by “law,” referring to the 1956 Draft, because a granddaughter was not in the first circle of heirs and could only be an heir via subrogation, especially since her mother was still alive. However, since Zhang gave her maternal grandparents a monthly allowance, the court made an exception and awarded Zhang a share of the inheritance. The judge handling this case had in fact ignored stipulations within the 1956 Draft and followed the spirit behind the Draft instead. This could not have happened if the 1956 Draft had been promulgated into law, and judges had to follow it to the letter.

Old-Age Care beyond the 1956 Draft

Judges also employed the notion of “old-age care for the deceased” to support those who did not have any inheritance rights based on the 1956 Draft, such as widowed daughters-in-law, uxorial sons-in-law, and nephews of sonless couples who were not adopted as sons but still supported the deceased in their old age. Even though in his *Brief Discussions* (published in 1957) Shi Huaibi mentioned that widowed daughters-in-law and uxorial sons-in-law should earn inheritance rights if they provided old-age support to the deceased, this point was never incorporated into the 1956 Draft. Lawmakers were particularly careful to ensure that nephews of sonless couples could not claim an inheritance based on the “feudal idea of the patrilineal family.” Local courts, however, acknowledged the widely practiced local custom of considering nephews and in-laws and biological children of the deceased as equal heirs, especially if they had resided together. To bridge the omission and social reality, judges expanded the definition of “old-age support,” and extended inheritance rights previously reserved for the deceased’s natural and adopted children.

The ambiguous legal status of widowed daughters-in-law as heirs was evident in the case of Yu Huayin (Editorial Department, 1983: 117–18). After her husband’s death in 1968, Yu lived with Hou Xirong, her mother-in-law. When her mother-in-law died in 1976, her brother-in-law, Kang Hongyuan, claimed his mother’s inheritance. Initially, the Jin County Court ruled in favor of Kang because according to the 1956 Draft, a daughter-in-law could not be considered an eligible heir. After Yu appealed, the Intermediate Court of Dalian ruled against the original decision of the Jin County Court, citing an opinion by the Huadong branch of the Supreme Court: “If a widowed daughter did not remarry, she should retain succession rights equal to those of

the other children of the parents-in-law” (issued on May 13, 1953) and sent the case back to the Jin County Court for retrial.

During the retrial, the Jin County Court found that Hou Xirong had three daughters and three sons, and except for the eldest son (Yu’s husband) and the youngest daughter, four children were alive. The court ordered that Hou’s inheritance be divided into seven shares (to be distributed to four surviving children, children of the two deceased in subrogation, and Yu). After court mediation and some children voluntarily relinquishing their share of the inheritance, the court eventually awarded 1,135.81 yuan to Yu and her children, 500 yuan each to Hou’s other two children, and 1,000 yuan and a house to Kang Hongyuan.

The confusion over the daughter-in-law’s succession rights stemmed mainly from the 1956 Draft’s omission of daughters-in-law as heirs. The Intermediate Court of Dalian had to cite a report issued in 1953 to justify its ruling in favor of Yu Huayin. Eventually, Yu and her children received about one-third of the inheritance (one-sixth for herself and one-sixth for her children in subrogation for her late husband).

Similarly, Liu Lizhen sued her mother-in-law Li Yaqin in the Shanghai Municipal Court in 1979 to claim the inheritance of Wang Ziming, Liu’s father-in-law, who died in 1972 (Inheritance Law Compilation Group, 1980: 286–87). Liu continued to live with her parents-in-law after her husband’s death in 1963. When the state compensated Li by paying her 208,000 yuan for Wang Ziming’s property confiscated during the Cultural Revolution, Li gave 5,000 yuan to each of her three daughters and kept the rest for herself. Li refused to give Liu any money, arguing that daughters-in-law had no right to inherit the property of their parents-in-law. The Shanghai Municipal Court acknowledged that as a wife, Li could inherit Wang Ziming’s property. However, since Liu lived with Wang and supported him in his old age, she should also have a right to inherit. In addition, since Liu was ill and retired, the court ruled that she should receive a third of Wang’s estate, with the rest going to Li.

Yuan Hefa, who uxoriously married into the Zhu family, encountered similar problems when his wife died (Inheritance Law Compilation Group, 1980: 294). Yuan and his wife inherited his mother-in-law’s four-bay (or four-*jian* 间) house in 1966. The couple sold two *jian* to cover his mother-in-law’s funeral and their living expenses. When Zhu Aier, his sister-in-law, filed suit to claim the remaining two *jian* after his wife’s death in 1972, Yuan found his ownership over the property weakened since he had already sold off his wife’s portion of two *jian*. Mediation by the people’s commune failed to resolve the issue, and the case was brought to a court. After the court’s

mediation, Zhu Aier agreed to split the house in half and receive only one *jian* because, after all, Yuan took care of her mother as a uxrilocal son-in-law.

More importantly, the courts did not consider critical the current marital status of widowed daughters-in-law and sons-in-law when deciding on inheritance claims based on providing “old-age support,” as exemplified in a dispute over the property of Tan Ershen (Civil Law Office, 1980: 30–32). Tan adopted and took care of Du Bowei, one of her late husband’s nephews. Du married Liu Yimei in 1946. After Du’s death in 1958, Liu married Zhong Xingxiong in 1962. After her remarriage, Liu and Zhong continued to take care of Tan Ershen. Meanwhile, Tan also lived with Du Boming, one of her late husband’s nieces, after she became an orphan in 1954. After she grew up, Du Boming found a job in a rural area and sent some of her earnings to Tan. The inheritance dispute began when Tan died in 1974 and Du Boming claimed to be her sole heir as an adopted daughter, leading Liu Yimei to file suit against Du Boming.

The Beihai Municipal Court decided that neither Liu Yimei nor Du Boming were legal heirs because both had been adopted after the death of Tan Ershen’s husband, the original owner of the disputed property. The court argued that postmortem adoption was a feudal custom and was not recognized by the PRC. Consequently, any inheritance claim based on postmortem adoption was baseless, and the property involved should be confiscated by the state.

Liu Yimei then appealed to the Superior Court of the Guangxi Zhuangzu Autonomous Region, which ruled differently. Since both Liu and Du took care of Tan when she was still alive (in Liu’s case even after her remarriage), they retained their rights to inherit. The Superior Court ordered the Beihai Municipal Court to retry the case and finalize the division of Tan’s inheritance.

Similarly, Yu Jinlian was able to claim a right to inherit her mother-in-law’s property from her previous marriage even though she remarried after her husband’s death (Civil Law Office, 1980: 119–22). Yu married Luo Chuanhan in 1958. During the Cultural Revolution, Luo was labeled a counterrevolutionary and died. Yu then married Liu, a next-door neighbor, and continued to take care of Luo’s mother. The dispute began when Luo’s mother died in 1971. Suddenly, Deng Yongjian, Luo’s mother’s son from a previous marriage, claimed Luo’s house. Deng, ashamed of his mother’s remarriage after her first husband’s death, never cared for her. When the case went to court, the court ruled in favor of Yu and awarded her all of Luo’s property.⁹ It explained that when Luo died, his property was jointly inherited by his mother and wife Yu, and since Yu took care of Luo’s mother, Yu would be her heir. Although Deng had inheritance rights as a son of Luo’s mother, he did not take care of her, thus forfeiting all claims over the mother’s inheritance.

During the trial, Deng claimed that Yu had remarried into the Liu family, and therefore had no claim on the property of the Luo family. The court not only rejected his assertion, but also ruled that Deng was not entitled to receive anything because, although he was her son, he failed to take care of his mother.

Again, the only basis for remarried daughters-in-law to claim an inheritance from an in-law was that they took care of the deceased after they remarried. Judges were able to grant them an inheritance although they had no legal status as heirs according to the 1956 Draft, because it was not a codified law; it was a guideline that judges could flexibly interpret depending on the specific circumstances surrounding each case.

Although nephews of sonless couples often had the most difficulty fighting for their right to inherit based on providing old-age care to their uncles and aunts, the PRC courts ruled that they too received a “fair” share of any inheritance. Xu Guiying and her husband, who died in 1952, had adopted a son (Inheritance Law Compilation Group, 1980: 299-300). Within two months of her husband’s death, the adopted son and Xu did not get along and he demanded that she split the inheritance. Subsequently, the court awarded the adopted son a two-*jian* house and he never saw Xu again. Meanwhile, Xu’s natal nephew, Xu Linsheng, visited her and even brought medicine when she was sick. After Xu Guiying’s death in 1977, Wang Xingmei, the widowed wife of the adopted son, sued to claim Xu’s three-*jian* house. Wang argued that since her husband was the couple’s only adopted son, she should have subrogation rights for her husband. The Shanghai Municipal Court ruled in favor of Xu Linsheng instead, acknowledging that he was not a statutory heir and even named him as Xu Guiying’s sole heir since Wang’s husband had not taken care of her.

The PRC courts’ ambiguous position on nephews who took care of sonless couples was evident in the case of a dispute in the Jin family of Daxing county near Beijing (Civil Law Office, 1980: 104–6). Jin Jiquan, Shang Changrong (Jin’s wife), and their three daughters received a seven-*jian* house during Land Reform. After the three daughters moved out and worked in Beijing, Jin and Shang were supported by Jin Yingzhou, their nephew, between 1969 and 1973. When they died, Jin Yingzhou played a major role in arranging their funeral and burial. The three daughters paid 100 yuan for their parents’ funerals.

When Jin Yingzhou claimed himself to be the sole heir to the seven-*jian* house, the three daughters filed a lawsuit against him. The court calculated that only 2.8 *jian* should be considered as an inheritance from the couple (2/5 of 7), since the house the family received during Land Reform was based on the number of people in the household 按土改时人口计算 and three-fifths

of the house belonged to the three daughters. The court contended that Jin Yingzhou did not have a right to inherit since he was not adopted and awarded him two *jian* of the 2.8-*jian* house as compensation for his support and contributions to the couple's old age and burial. The remaining 0.8 *jian* was inherited by the three daughters for their contribution to their parents' funeral.

Although the courts rejected patrilineal succession of nephews for uncles and aunts who were sonless but had daughters, it simultaneously recognized the social reality that daughters usually married out to other villages and were often unable to support their sonless parents. Therefore, judges "reimbursed" nephews for taking care of old couples and awarded "inherited" property to daughters. Such cases not only further demonstrate the limitations of the 1956 Draft, but also reveal that the judges' sense of justice and fairness was essential to bridging the theoretical ideal of gender equality and the practical social realities of China of the time.

Parents Capable of Working and the Order of Heirs

One of the most controversial issues of the 1956 Draft was the order of heirs for parents who were able to work. While the 1956 Draft placed them in the second order after spouses and children, local practice placed them in the first order. In fact, before 1956, the PRC courts also placed them in the first order of heirs regardless of their ability to work.

Disputes over inheritance of deceased sons between spouses (widowed daughters-in-law) and surviving parents continued to occur after 1956. Seven of the 132 legal cases the three books reviewed were in this category. Interestingly, judges' rulings in these cases were not uniform: three cases ended with court mediation and the inheritance split between surviving spouses and parents of the deceased, three rulings denied the parents any inheritance, and one ruling granted a part of the inheritance of the deceased son to the parents.

However, the criteria for determining if parents were entitled to their deceased son's inheritance were based not on their ability to work, but on the intentions behind their demand for a share of the inheritance in the first place. If judges deemed that the parents demanded their deceased sons' inheritance in order to prevent their widowed daughters-in-law from remarrying or to punish them for pursuing romantic relationships with other men after their sons' death, the courts would rule in favor of the widows, and award them all the property of the deceased, as in a ruling made by the People's Court of Jurong county in Jiangsu. The story began with a coal mine explosion in 1973 that resulted in the death of Zhu Zhifa. The mining company compensated Tang Yuzhen, Zhu's wife, 450 yuan for the funeral and burial expenses. In

addition, the company promised to pay 11.1 yuan monthly for Zhu's two children until they reached the age of sixteen and 7 yuan monthly to Tang, the surviving spouse, until her death. The mining company even paid 600 yuan toward the construction of a new house for Tang and her children.

A dispute arose when Tang began a romantic relationship with another man. The new couple registered their marriage with the people's commune in 1976. Wang Yueying, Tang's ex-mother-in-law and Zhu Zhifa's mother, occupied her late son's house and the new house built by the mining company. When Wang insisted on taking care of her two grandchildren herself, Tang filed a lawsuit against Wang. During the court's investigation, many people sympathized with Wang; they believed that Tang should at least give up her custody of Zhu's son, since she had married into another family.

Nevertheless, the court ruled in favor of Tang and awarded everything she requested: the two houses and custody of both children. The court did not even consider Wang's ability to support herself and did not grant her anything from her son's inheritance. In fact, the court criticized Wang for prohibiting Tang from pursuing "free love" 自由恋爱 (Civil Law Office, 1980: 1-2).

Similarly, the Shunyi County Court supported Fan Aiying, a remarried widow, against her ex-father-in-law, Zhang Yu (Civil Law Office, 1980: 6-8). Fan Aiying married Zhang Zhiguo in 1972 and the couple lived in a three-*jian* house. Zhang died in October 1973, leaving his pregnant wife and two parents. Zhang's work unit 单位 paid 1,980 yuan to the Zhang family and Fan.

In December 1973, Fan remarried soon after she gave birth, angering Zhang Yu and his wife. They occupied the house and rented out some of its rooms. Fan then filed suit against Zhang and demanded the house and all its possessions, a bicycle, and custody of the newborn. Zhang and his wife responded that since Fan had remarried, she had no right to inherit and all their deceased son's inheritance should be entrusted to them until the newborn grew up.

As stated earlier, the county court supported Fan and granted all her requests. Even though Zhang appealed to the Beijing Intermediate Court, citing that his wife had become sick and the couple needed Fan's care, the appeal was dismissed in 1977. According to the 1956 Draft, Zhang had now become incapacitated and could receive a portion of the inheritance, but the judges of the intermediate court, ignoring the stipulations in the Draft, rejected his appeal.

When disputes involved only inheritance, the courts placed parents in the first order of heirs and granted them part of their deceased son's inheritance, as in a case brought before the Shanghai Municipal Court in 1978 (Inheritance Law Compilation Group, 1980: 285-86). When Liu Quansheng died in a car accident after only one year of marriage, Li Amei, Liu's mother, expected

that Zhang Xiuying, her widowed daughter-in-law (who was 28 years old) would remarry. The only question was how to split the inheritance. The court ruled in favor of the young widow, awarding her the house and three-quarters of the possessions in the house and her mother-in-law the remaining quarter. The court reasoned that since Zhang had not remarried and lived by herself, she still needed both a house and those belongings.

The cases discussed above reveal that judges viewed themselves more as defenders of justice and fairness than experts on the law. Instead of following the 1956 Draft word for word, judges “punished” parents of deceased sons if, after investigation, they found that they were unfairly trying to grab their deceased sons’ inheritance. It is important to note that the courts would initially try to mediate the cases and grant part of the inheritance to the parents. They passed court rulings only if mediation failed, and none of the court rulings were based on whether the parents of the deceased were incapacitated or not.

Family Property/Household Division Regime Versus Individual Property/Postmortem Inheritance

The PRC judges’ pursuit of achieving “a fair share in real life” beyond the letter of the law was even more evident when it came to household division and inheritance. As Bernhardt explains, by following the individual property/postmortem inheritance regime, the GMD’s inheritance law considered premortem household division to be gift-giving 赠与 and not inheritance (Bernhardt, 1999: 152–53). In doing so, it compromised women’s equal inheritance rights, because fathers could circumvent the law by dividing their property only among sons before their death, thus leaving no property for daughters to inherit.¹⁰

The key question in this conflict was the timing of inheritance. The Republican Civil Code, the USSR Civil Code of 1945, and the 1956 Draft marked the death of the deceased as the time of the opening of inheritance. Therefore, only property owned by the deceased at the time of his or her death could be subject to inheritance. Even Shi Huaibi had to stress that household division and inheritance were two separate events, and judges should not confuse the two (Shi, 1957: 5–6).

Not surprisingly, the PRC judges found the customary practice of household division unfair considering that fathers often gave their property to their married sons before their death. The courts’ strategy in handling this dilemma is clearest in a 1978 ruling by the Guangzhou Intermediate Court (Civil Law Office, 1980: 83–85). Huang Zhaochang, a Chinese American, returned to China in 1968. After resettling in Guangzhou, he gave 3,000 yuan to his

eldest son, Huang Lüefeng, to build a house. Huang Zhaochang also opened a new bank account in the name of Huang Chaoyan, his second son, and deposited 8,500 yuan of his 16,000 yuan savings in it. He deposited the remaining 7,500 yuan in another bank account under his own name. Huang lived on the interest from the two accounts and kept the bank books and seals of both accounts. His daughter and youngest child, Huang Yueqing, received nothing.

When Huang Zhaochang died in 1978, conflict arose among his three children. The daughter argued that Huang Zhaochang's inheritance should include the 16,000 yuan from both accounts and the 3,000 yuan that Huang Zhaochang gave to the eldest son. Therefore, she contended, the total sum of 19,000 yuan should be divided equally among the three children. Huang Lüefeng, the eldest son, claimed that the 3,000 yuan was a gift from his father and should not be considered an inheritance, and thus the siblings should share only 16,000 yuan from both bank accounts. Lastly, according to Huang Chaoyan, the second son, the 8,500 yuan in the account under his name was also a gift from his father to balance his gift of 3,000 yuan to the eldest brother. As such, his father's property would total only 7,500 yuan. He even added that since the youngest daughter, Huang Yueqing, had married out, the 7,500 yuan should be inherited only by him and his elder brother.

If the case was heard in a GMD court, each child would receive 2,500 yuan after equally dividing 7,500 yuan under the individual property/post-mortem inheritance regime. However, the Guangzhou Intermediate Court ruled in favor of the daughter. The court reasoned that the house in which the eldest son resided and the 16,000 yuan in both bank accounts belonged to Huang Zhaochang. According to the court, the names on the bank accounts were only a technicality; in reality, all the money in the bank and property belonged to Huang Zhaochang. Therefore, the court ruled that the eldest would receive 4,000 yuan and the house, while the other two siblings would receive 6,000 yuan each.

However, when the second son appealed, the appellate court judges struggled to decide the extent to which they should respect Huang Zhaochang's freedom to gift his properties. Since the newly built house for the eldest son was registered under his daughter-in-law's name, it could be considered purely as a gift and not as part of the property subject to household division. The judges could not reach a conclusion and asked the Supreme Court for guidance. By 1980, when the *Collection of Inheritance Dispute Cases* was published, the court had not yet ruled.

This case reveals how the PRC courts navigated complex social realities and attempted to administer practical justice by reconciling the revolutionary

agenda of gender equality and the social reality of household division and gift-giving, in the process avoiding a verbatim reading of the law. On one hand, the judges rejected the notion that sons had a rightful advantage over daughters in the process of household division and gift-giving, thereby depriving daughters of their inheritance rights. On the other hand, the courts also rejected simple and clear-cut decisions such as blindly honoring individual property rights or mechanically dividing inheritance among all eligible heirs equally. Judges meticulously reviewed and investigated each case until they arrived at a decision that balanced social realities and legal principles, and applied variations of what they perceived as just and fair in their final rulings. In a way, court rulings were the product of a long dialogue among social practices, the party's revolutionary ideals, and the specific, complex situations of individual cases.

Debt and Limited Succession: The Dilemma between Fairness and Protection

Another issue the PRC judges encountered in the context of balancing social realities and legal principles and drawing the dividing line between family property and individual property was the dilemma of debts and limited succession. As mentioned earlier, the Republican Civil Code, the USSR Civil Codes, and the 1956 Draft supported limited succession. According to this principle, the debts of the deceased should not damage the interest of the heirs: the heirs' liability for the deceased's debt could not exceed the value of the property the heirs acquired via succession.

Despite their good intentions, the PRC local courts were concerned that the idea of limited succession might clash with the social realities of the time. Household debts were generally incurred to provide for the needs of the whole family, not for an individual family member. Therefore, family members should be jointly liable for paying off such debts, regardless of the death of any individual family member. Furthermore, as discussed above, local courts were concerned that if an heir could avoid the responsibility of repaying his family's debts, it would damage the local credit market and eventually harm the poor, who needed credit the most.

The nature of this dilemma was simple but difficult to resolve. The PRC distributed land to a "family" based on the number of people in the household 按人口计算 and considered land and houses as joint properties of individuals who lived in a common economy as a family unit. A couple living together did not necessarily own property in common. In this circumstance, calculating the amount another household member should bear for a house-

hold member's debt in a common economy while they owned property separately could be tricky.

Another issue was deciding how much of a debt each heir should pay. The Republican Civil Code and 1956 Draft both stated that this should be determined by the ratio of the inheritance each heir received. Matching inheritance rights to the obligation of repaying an existing debt seemed fair and rational. However, many PRC judges had a difficult time finding a reasonable balance between fairness and protection of those who could not support themselves without the inheritance. If minors and the elderly had no responsibility to repay debts, who should be responsible for the debts of the deceased? Should it be the surviving wife (a member of the common economy), or someone with greatest financial capability? Or, as suggested by the 1956 Draft, should the amount of debt each successor was responsible for paying be determined by the relative amount of the inheritance that each successor received?

This dilemma was evident in the case of Lu Bingxing (Editorial Department, 1983: 122–26). Lu was imprisoned for eight years during the Cultural Revolution and was released in 1976. Lu then married Zhao Funan—his second marriage—in 1977. Since the case against him was later reviewed and dropped, in 1979 the court granted him 4,500 yuan as compensation. When he died in 1981, Lu was survived by Zhao and Lu Lu, his five-year-old daughter.

Zhao Funan was shocked when the contents of Lu's will was revealed: he gave his three children from his previous marriage, 600, 900, 200 yuan, respectively, and 1,400 yuan to his mother. He gave his elder brother 100 yuan and his watch. He gave only 1,100 yuan to Lu Lu, the youngest, and the only thing Zhao received was custodial rights over the 1,100 yuan for Lu Lu. Lu Bingxing even split his furniture among the children from his previous marriage and Lu Lu. To make matters worse, he still owed money on his house and asked that whoever wanted to live in it (most likely his wife) to repay his debts. Zhao subsequently filed a lawsuit against Lu's children from his previous marriage, her mother-in-law, and Lu's elder brother.

The Central District People's Court of Nantong Municipality ruled that his will was legally valid. Since the 4,500 yuan was compensation for his imprisonment (which occurred before his marriage to Zhao), she had no inheritance rights over the compensation. She could only claim property the couple acquired as conjugal property 夫妻共同财产 after their marriage.

The court ordered that 366.59 yuan of Lu Bingxing's debts and the fees for his funeral be jointly repaid by his wife and his two adult sons. The court determined that the wife, as part of a common economic unit, should bear at least some of her husband's debt although she did not receive any inheritance from him other than the conjugal property. His two minor

daughters and elderly mother, who received a considerable amount of inheritance, were exempted from repaying the debt because they had no wages from labor: the inheritance was for their living expenses and was therefore not considered inherited property. In this case, the court prioritized protecting the interests of minors and the elderly over fairness by ignoring the suggestion in the 1956 Draft.

The case of Zhao Shujin demonstrates that even the courts and legal cadres could fail to reach an agreement on who should repay the debts of a deceased head of household. Zhao Shujin lost her husband in 1975 after only two years of marriage and received 720 yuan from his work unit (Civil Law Office, 1980: 91–92). When Zhao, now 24 years old, tried to remarry, Qi Ruihai (her father-in-law), demanded that Zhao handed over the 720 yuan and Zhao's son to him. After mediation and education 教育 by the Miyun County Court, Zhao was awarded all the food, clothing, and furniture in her house and gained custody of her son. The court also awarded 400 yuan to his son as living expenses. Qi was entitled to 320 yuan and his son's house, provided that Qi repay all his son's debts 一切外债. In this case, the court, through mediation, determined that Zhao should have all the portable assets and should have custody of her son, while the father of the deceased would repay all his son's debts with real estate.

However, the commentator of the *Collection of Inheritance Dispute Cases* criticized this mediation for failing to align with the law. The commentator argued that there were three heirs: Zhao, Zhao's son, and Qi. It would be fair and easy to divide his property and debt among these three individuals. The commentator also pointed out that the debts were not clearly defined and could be more than the share that Qi inherited from his son, which could damage Qi's interests. The comment ended with the general principle of limited succession: the amount of debt an heir should pay must not exceed the value of the heir's inheritance. While the court prioritized the protection of the surviving wife's right to remarry, the commentator also believed that it must not harm the deceased's father.

In the end, the judges and legal cadres could not reach an agreement on how to resolve this dilemma. Of the six cases related to debts that this study examines, the courts generally ruled that debts of the deceased had to be paid in full. However, the courts often had different criteria for determining who should repay the debts and applied different formulas to arrive at what they felt was a fair division of the amount to be repaid. Since the courts treated most property as individual property to protect the individual's rights against the power of a household head, it became less clear from whose property household/family debts should be paid.

From the 1956 Draft to the Succession Law of 1985

The 1985 codified Law of Succession reflected many issues that judges had struggled with because the 1956 Draft had been silent on them. Table 3 summarizes the main differences between the 1956 Draft and the Succession Law of 1985.

First, Article 10 of the 1985 Succession Law placed parents in the first order of heirship regardless of their capability to work. Articles 12 and 14 stated that widowed daughters-in-law and uxorilocal sons-in-law who supported their parents-in-law and nephews who provided old-age support to their sonless uncles and aunts had a claim on the inheritance of the deceased. Finally, Article 30 removed any ambiguity about a remarried widow's inheritance rights over the property of her late former husband.

However, the 1985 Succession Law did not offer a clear solution to all succession problems. As discussed in the preceding section, after the tricky dilemma over individual property versus family property, lawmakers ended up honoring the limited succession principle in Article 33 of the 1985 Succession Law. Nevertheless, it should be noted that the second half of Article 29 of the 1956 Draft was omitted from the 1985 Succession Law, allowing judges to waive the responsibility of successors who were minors or elderly for repaying debts, as discussed in the court rulings above.

In these aspects, the 1985 Succession Law was anything but a departure from the previous "lawless" Mao era. Instead, it was a completion of the PRC judges' long process of amending and revising the "incomplete" 1956 Draft to develop a more just inheritance law to guide them in granting a fairer share of inheritance to the people.

Conclusion

The cases detailed in the three handbooks do not represent the entire picture of inheritance disputes in the Mao era. They were preselected as "correct" and "exemplary" court rulings to teach future judges and legal cadres on how to handle inheritance disputes. In reality, very few daughters and remarried widows filed lawsuits to fight for their fair share of an inheritance. Consequently, most of their cases would not even be reviewed by the courts in the first place.

However, at the very least, these "exemplary court rulings" demonstrate how Maoist justice was intended to deliver fairness and justice. First, PRC judges and law cadres refused to give the 1956 Draft the status as the "law" which they had to enforce to the letter, not because they were radical Marxists who did not believe in legal principles, but because the Draft was still too premature and incomplete to address many issues they had to confront in court.

Table 3. Main Differences between the 1956 Draft and the 1985 Succession Law.

	1956 Draft ^a	Succession Law of 1985 ^b
The circle of heirs and the order of inheritance	<ol style="list-style-type: none"> 1. Surviving spouse, children, adopted children, incapacitated parents 2. Capacitated parent 3. Brothers and sisters 4. Grandparents and maternal grandparents. (Arts. 16 and 17) <ul style="list-style-type: none"> • A person who had been financially provided for by the deceased before the latter's death shall be allocated a certain portion of the deceased's property. (Art. 20) • In the case of adopted children and parents, in order to have a right to inherit, they have to live and work together so that they support one another after adoption. (Art. 16) 	<ol style="list-style-type: none"> 1. Spouse, children, parents 2. Brothers and sisters, paternal grandparents, maternal grandparents <ul style="list-style-type: none"> • The "children" referred to in this law include legitimate children, illegitimate children, and adopted children, as well as step-children who supported or were supported by the decedent • The "parents" referred to in this law include natural parents and adoptive parents, as well as step-parents who supported or were supported by the decedent. (Art. 10) • Widowed daughters-in-law or sons-in-law who have made the predominant contributions in maintaining their parents-in-law shall, in relationship to their parents-in-law, be regarded as successors first in order. (Art. 12) • Males and females are equal in their right to inheritance. (Art. 9) • Successors same in order shall, in general, inherit in equal shares • At the time of distributing the estate, due consideration shall be given to successors who are unable to work and have special financial difficulties • At the time of distributing the estate, successors who have made the predominant contributions in maintaining the decedent or have lived with the decedent may be given a larger share • At the time of distributing the estate, successors who had the ability and were in a position to maintain the decedent but failed to fulfill their duties shall be given no share or a smaller share of the estate. (Art. 13) • An appropriate share of the estate may be given to a person, other than a successor, who depended on the support of the decedent and who neither can work nor has a source of income, or to a person, other than a successor, who was largely responsible for supporting the decedent. (Art. 14) • A surviving spouse who remarries is entitled to dispose of the property he or she has inherited, subject to no interference by any other person. (Art. 30) • The successor to an estate shall pay all taxes and debts payable by the decedent according to law, up to the actual value of such estate, unless the successor pays voluntarily in excess of the limit • The successor who disclaims inheritance assumes no responsibility for the payment of taxes and debts payable by the decedent according to law. (Art. 33)
Partition of inheritance	<ul style="list-style-type: none"> • Successors same in order shall, in general, inherit in equal shares • But at the time of the distribution of the estate, based on the spirit of unity and mutual aid, due consideration shall be given to an heir's financial condition and the extent of support given to the deceased by the heir. (Art. 19) • For those who are unable to work and have special financial difficulties, special consideration could be given if all parties agree. (Art. 20) 	<ul style="list-style-type: none"> • At the time of distributing the estate, successors who had the ability and were in a position to maintain the decedent but failed to fulfill their duties shall be given no share or a smaller share of the estate. (Art. 13) • An appropriate share of the estate may be given to a person, other than a successor, who depended on the support of the decedent and who neither can work nor has a source of income, or to a person, other than a successor, who was largely responsible for supporting the decedent. (Art. 14) • A surviving spouse who remarries is entitled to dispose of the property he or she has inherited, subject to no interference by any other person. (Art. 30) • The successor to an estate shall pay all taxes and debts payable by the decedent according to law, up to the actual value of such estate, unless the successor pays voluntarily in excess of the limit • The successor who disclaims inheritance assumes no responsibility for the payment of taxes and debts payable by the decedent according to law. (Art. 33)
Limited succession	<ul style="list-style-type: none"> • Successors of the deceased are responsible for repaying the individual debt of the deceased only up to the real value of inheritance • The amount of debt each successor should pay depends on the ratio of inheritance they receive. (Art. 29) 	<ul style="list-style-type: none"> • At the time of distributing the estate, successors who had the ability and were in a position to maintain the decedent but failed to fulfill their duties shall be given no share or a smaller share of the estate. (Art. 13) • An appropriate share of the estate may be given to a person, other than a successor, who depended on the support of the decedent and who neither can work nor has a source of income, or to a person, other than a successor, who was largely responsible for supporting the decedent. (Art. 14) • A surviving spouse who remarries is entitled to dispose of the property he or she has inherited, subject to no interference by any other person. (Art. 30) • The successor to an estate shall pay all taxes and debts payable by the decedent according to law, up to the actual value of such estate, unless the successor pays voluntarily in excess of the limit • The successor who disclaims inheritance assumes no responsibility for the payment of taxes and debts payable by the decedent according to law. (Art. 33)

^aDraft Succession Law of the People's Republic of China (1956).^bLaw of Succession of the People's Republic of China, last modified Mar. 28, 2008, <http://www.asianlii.org/cn/legis/cen/laws/losotproc426/>.

The court rulings also illustrate how judges used the 1956 Draft as a set of guidelines or principles and modified them to fit social realities and specific circumstances discovered from their own on-site investigations. For example, they gave “reimbursements” to nephews who took care of their sonless uncles and aunts by altering the stipulations of the Draft. They extended the definition of “caring” to persuade brothers or uncles to give up some portion of their inheritance to their sisters or nieces. They even organized mass meetings to put pressure on rural communities that refused to hand over a fair share of inheritance and custody of children to remarried widows. In doing so, they actualized justice and found a balance between the party’s revolutionary ideals and the actual living conditions of the people.

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Notes

1. In PRC law, “inheritance” 继承 is officially translated as “succession.”
2. The Bolsheviks initially abolished inheritance in February 1918. However, with the establishment of the USSR in 1922, the Soviet Civil Code of 1923 reintroduced inheritance (Section 416). Furthermore, the Soviet constitution of 1936 recognized the right of inheritance. The civil code, which was amended on June 12, 1945 (just after World War II), also included a section (418) on succession as a codified law of inheritance (Gsovski, 1947: 79-81).
3. *Ziliudi* was a small plot of land reserved to grow vegetables and other garden produce for the family’s needs. It could be up to 5 percent of the average individual landholding of the village in question (see Van der Valk, 1961: 308).
4. The courts accepted and handled inheritance cases even in the years between the deletion of inheritance in the PRC constitution of 1975 and its reappearance in the constitution of 1982. In fact, most of the cases this article examines were

- either initially filed or appealed during the Cultural Revolution. For example, in one instance, a plaintiff appealed four times and the case was not finalized until the Superior Court of Shanxi intervened and stopped further appeal of the case. The case was first filed in 1973 (Editorial Department, 1983: 121–22).
5. The East China Academy of Political Science and Law 华东政法学院 was renamed the East China University of Political Science and Law 华东政法大学 in 2007; the Beijing Academy of Political Science and Law 北京政法学院 was renamed China University of Political Science and Law 中国政法大学 in 1983.
 6. The part on succession was drafted between May 1955 and September 1956, but the drafting of other parts did not start until late 1955 or early 1956. The “General Principles” section was not completed until January 1957 and the law-makers continued to work on “Ownership” until March 1957 (Li, 2002).
 7. In fact, Li Xiuqing, who studied the influence of the Soviet Civil Codes on the PRC’s Draft Civil Code of 1955–1957, found the least similarities between Soviet Civil Codes and the 1956 Draft in Part 4 (succession) (Li, 2002).
 8. The Standing Committee of the National People’s Congress revised the draft eight times between May 1955 and September 1956 (Li, 2002: 173.). I used the seventh revision, published in June 1956, which is kept in the Hebei Provincial Archives (1051-1-171).
 9. The *Collection of Inheritance Dispute Cases* takes this case from an article published in *Zhongguo funü* 10 (1979), and provides no detailed information on the location and date of the trial.
 10. The drafters of the Republican Code found this problematic as well. Hence, they inserted Article 1173: “If one of the heirs has, before the opening of succession, received gifts in property from the deceased for the purpose of getting married, setting up a separate home, or carrying on a trade, the value of such gifts shall be added to the property owned by the deceased at the time of the opening of the succession, thus constituting together the property of the succession. But this does not apply where the deceased has declared a contrary intention at the time of making the gifts” (The Civil Code of the Republic of China, 1930). However, as reflected in the last sentence of the article, they could not overcome the principle of individual property ownership, namely that the owner can do whatever he or she pleases while alive.

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