

Exploration of the Property Rights of Unmarried Daughters in the Song Dynasty

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Abstract: The Song Dynasty holds a pivotal position in the history of feudal society, experiencing profound changes in various aspects such as politics, economy, and culture. In terms of marriage and family, social structure, and the evolution of women's status, the Song Dynasty portrayed a unique landscape for women's rights in family property relations. Especially towards the latter part of the dynasty, women's economic and social status saw a more significant improvement, displaying characteristics different from previous dynasties. The issue of unmarried women's property rights was particularly prominent, reflecting the complex understanding of women's roles and status in society at that time. Such historical specificity gave women in the Song Dynasty distinct period characteristics in many aspects, including the distribution of family property rights and identity status. Based on existing literature and ancient books, this study summarizes the characteristics, causes, impacts, and implications of unmarried women's property rights in the Song Dynasty. By exploring women's property rights issues in the Song Dynasty from a systematic perspective, it can provide reference value for gender equality and women's rights protection in today's era from a historical perspective, prompting people to think, and attempting to derive some more operationally feasible suggestions or opinions from both legal and social practice perspectives.

Keywords: Song Dynasty; Unmarried Daughters; Property Rights; Daughters are Entitled to Half of a Son's share.

1. Types of property inheritance for unmarried women in the Song Dynasty

In traditional Chinese society, women were expected to marry at the age of marriageable age, and dowry served as a necessary condition for the establishment of marriage, forming a universal social norm. In ancient times, the almost sole way for women to acquire property from their families was through dowry. The custom of accompanying dowry was prevalent during the Song Dynasty, so the laws of the Song Dynasty provided a significant degree of protection for women's dowry compared to previous dynasties. Accompanying dowry was a must in the marriage customs of the Song Dynasty, including valuable items such as land and gold, as well as daily necessities such as jewelry and furniture. Dowry was also known as marriage funds, dowry land, and so on. In the Song Dynasty, it had become a responsibility and obligation for parents to prepare dowry for their unmarried daughters, regardless of whether their family was wealthy or poor. Under the dual support of Song Dynasty laws and social customs, obtaining dowry became a right that unmarried women should enjoy.

1.1 Property Inheritance in Non-Extinct Family

In non-household-extinct families with children or stepchildren, according to the traditional Chinese inheritance system, the inheritance of the parents' estate is carried out by the sons. However, in the Song Dynasty, daughters also had certain inheritance rights, which were mainly embodied in dowry property. For example, the "Song Criminal Law" states: "All those who should inherit land and houses, as well as financial assets, shall divide equally among brothers... The property obtained by the wife's family is not included in the division limit. If a brother dies, the son inherits his father's share. If both brothers die, the sons shall divide equally. For those who have not married, the dowry shall be given separately. For unmarried sisters and aunts, the dowry shall be reduced by half of that for male siblings" [1].

From the records in “Song Criminal Law,” it can be seen that although unmarried daughters had the right to inherit property, they only received “half of the dowry for male siblings,” which was less compared to the male members of the family. Moreover, this property was mostly used for the unmarried daughters’ dowry for their future marriages.

During the Southern Song Dynasty, there were more specific regulations regarding the amount of dowry property inherited by unmarried women: “It is surprising that there are no clear provisions for married women’s inheritance shares, while there are fixed laws for unmarried women’s inheritance. For all inheritance properties, unmarried women are given betrothal gifts, and unmarried sisters who are still at home and those who have returned to their family are given dowry funds. For those who have not yet married, separate property is given, and the amount of dowry cannot exceed the prescribed limit.” The regulations of the Southern Song Dynasty clearly state the dowry rights of “unmarried women”, specifying the inherited property and the dowry share they should receive.

During the Song Dynasty, economic and cultural development flourished, with frequent private commercial transactions. People had a strong pursuit for money, land, and other assets, leading to a trend of valuing profit over righteousness. In the evolution of property concepts triggered by the prosperity of the commodity economy in the Song Dynasty, the field of marriage formation exhibited a unique social ecology where “a generous dowry is honored.” According to “Song Hui Yao Ji Gao·Shi Huo” (Edited Manuscripts of the Song Dynasty’s Records of State Affairs·Food and Wealth), dowry was regarded by contemporaries as “a woman’s lifelong trust,” forming a dowry system with legal significance. This system contained dual legal functions: its economic security function was reflected in the statutory share of “parents dividing property, with the daughter receiving half of what the son gets” as stated in the “Tiansheng Order,” ensuring that women obtained independent property rights through dowry; its social evaluation function was manifested in the etiquette concept emphasized in “Zhu Xi’s Family Rites” that “the richness or simplicity of the dowry determines the status of the family,” making

the amount of dowry an important indicator for measuring family status. Judicial practices involving “dowry disputes” further confirmed the actual breakthrough of dowry in women’s “three obediences” status, with the amount of dowry directly affecting the new bride’s discourse power in her husband’s family. Other historical materials in “Ming Gong Shu Pan Qing Ming Ji” (Illustrious Judges’ Written Judgments in the Qing Ming Era) also indicate that under the influence of the trend of generous dowries in the Song Dynasty, sometimes the dowry received by a woman who was still a virgin was higher than the betrothal gifts received by her brothers. Under such circumstances, parents would generally start preparing dowry for their daughters early, hoping that their daughters would have a higher status and dignity in their husband’s family and thus lead a better life.

1.2 Property Inheritance in Families with No Heirs

“Household extinction” is a specific legal concept in the inheritance law system of the Song Dynasty, referring to the inheritance status where there is a lack of male direct descendants (i.e., no sons, grandsons, great-grandsons, etc.) in a family. Household extinction possesses dual legal attributes in the legal system of the Song Dynasty. Firstly, it represents the discontinuation of paternal lineage in the patriarchal sense, that is, the state of having no heir, which is described as “household extinction due to no heir.” Secondly, it signifies the disappearance of taxpayers in the fiscal management level, manifested as the legal transformation from “tax-paying household” to “extinct household” in the government’s household registration system.

In the context of heirless inheritance, due to the absence of male heirs as the subjects of lineage succession, property inheritance rules broke through the traditional patriarchal framework and became the core content of the inheritance system. In the Song Dynasty, legislators created a hierarchical system of female inheritance rights: female heirs were subdivided into three categories based on their marital status: unmarried daughters (in-house daughters), married daughters, and widowed daughters (returning home after the death of their husbands), and differentiated inheritance rules were set up, namely, “if there is a designated successor, the inheritance will be reduced; if there is no designated successor, the inheritance will be fully given.” This design of

legal system, which corresponds from identity to rights, marked the entry of ancient Chinese female property inheritance system into the codification stage.

1.2.1 Property Inheritance in the Absence of Biological or Stepchildren

The Song Dynasty attached great importance to the legal status of female-headed households. From the perspective of property inheritance, the Song Dynasty's laws stipulated that in the event of the death of both parents or the remarriage of the mother after the death of the father, unmarried daughters in households with no sons could inherit all property [2]. In the absence of both biological and adopted sons, direct daughters also became property heirs. Compared to households without male descendants, unmarried daughters had different shares of property inheritance. In this state of "household extinction", unmarried daughters had absolute inheritance rights over family property, and their inheritance rights remained unchanged even after they married. In the conventional inheritance system of the Song Dynasty, the principles of "son inherits father's share" and "brothers divide equally" still dominated. Although unmarried daughters living with their families in households with sons could not participate in property inheritance, they were compensated with corresponding dowries. The establishment of the household extinction inheritance system marked the beginning of institutional separation between property inheritance and lineage inheritance. When the deceased lacked male descendants, unmarried daughters could break through the traditional principle of "extinction of the same lineage" and inherit the subject's estate according to law. This change not only explicitly recognized women's inheritance rights through legal codes such as the "Song Criminal Code", but also made specific quantitative provisions for inheritance shares. The formation of the household extinction law in the Song Dynasty objectively enhanced women's status in the property distribution system and provided an important institutional model for the secular transformation of inheritance systems in later generations.

1.2.2 Property Inheritance under the Status of Stepchild

There are two types of adopted sons:

self-chosen adopted sons and designated adopted sons. Self-chosen adopted sons bear the same responsibilities as biological sons. They are obligated to continue the family lineage, manage the family's property, and support their parents. In families with self-chosen adopted sons, whether it is a married daughter, a daughter who returns to the family, or even an unmarried daughter, she is not eligible to participate in the division of family property. If the adopted son is a designated adopted son, since he does not primarily fulfill the responsibilities owed to elders, the inheritance share he receives will naturally be less than that of a self-chosen adopted son. At that time, unmarried daughters could also fairly receive a share of family property, but not all unmarried daughters received the same share. Ultimately, their shares varied based on their respective backgrounds. This shows that in the inheritance of extinct families, daughters enjoy relatively clear legal rights and testamentary protections based on blood ties and familial affection; adopted sons mainly carry the functions of maintaining the continuity of the lineage and the order of ritual and law, and their property rights present significant differences due to the distinction between "self-chosen adoption" and "designated adoption" [3].

The legal provisions regarding property inheritance for households without male heirs in the Song Dynasty were not stable and were constantly changing. This was due to the rapid development of society, economy, politics, and culture in the Song Dynasty. In order to adapt to emerging new needs and situations, the relevant regulations mainly focused on minor details, while the inheritance status of various subjects remained relatively stable overall, without undergoing fundamental changes in nature [4].

2. "Half of What a Man Inherits, a Woman Inherits" - a Special Method of Property Inheritance in the Song Dynasty

In the field of legal history, the "women inherit half of what men inherit" property division law has always been a key topic that has attracted considerable attention. Dating back to the 1950s, two senior scholars, Ren Jingtian and Zhi Gao San, engaged in a debate on this issue. Since then, numerous contemporary scholars have devoted themselves to the study of the "women inherit half of what men inherit" property division law, marking a span of over sixty years [5]. In 1987, the 14-volume edition of "Ming Gong Shu Pan

Qing Ming Ji” (A Collection of Noted Judges’ Judgments on Family Matters), compiled by the Institute of History of the Chinese Academy of Social Sciences, was officially published, introducing a new historical material that once again sparked scholars’ discussions on the issue of women’s inheritance rights in the Southern Song Dynasty. During this period, more than twenty scholars specifically published papers on this topic. Related research mainly focuses on the levels of legal analysis and value judgments. Scholars have engaged in heated discussions around the core issue of whether the “women inherit half of what men inherit” property division law violates the principles of family property law [6]. In the process of exploration, many important issues have been incorporated into the research scope, such as the inherent principles of ancient family law, the rights holders of family property, the essential attributes of family property inheritance, and the specific situation of women in terms of property rights.

2.1 Applicable Types of “Women Getting Half of What Men Get”

If the “women inherit half of what men inherit” property division method is a general law applicable to various family property division situations, conflicts between it and the cohabitation and common property system will inevitably arise. Cohabitation and common property is the fundamental principle of family property systems in ancient Chinese dynasties. To maintain its stability and continuity, the law not only grants the decision-making power to end the common property relationship to the head of the family and strictly prohibits descendants from privately separating and acquiring different property, but also separates the analysis of family property from marital relations. When descendants get married, it cannot serve as a basis for requesting family property division, nor will it affect the share obtained during future property division. Therefore, descendants do not need to immediately claim the division of family property upon marriage, and this relationship of cohabitation and common property can be maintained for a long time. However, the “women inherit half of what men inherit” property division method takes marital status as a boundary, only

dividing property for unmarried daughters who are still living at home. This is a disguised encouragement for daughters to request the division of family property before marriage, as once married, they lose their status as daughters living at home and no longer have the qualification to participate in the division of their natal family’s property. In this way, the “women inherit half of what men inherit” property division method seems to be unreasonable and encourages daughters to destroy the relationship of cohabitation and common property within the family. Considering the stability of the cohabitation and common property system, in terms of property division regulations, it should be allowed for daughters to “inherit half of what men inherit” regardless of whether they are married or not, rather than being limited to “daughters living at home inherit half of what men inherit” [6]. Only in this way, do daughters not need to request property division before marriage, and the relationship of cohabitation and common property can be maintained for a long time and stably. The phenomenon of cohabitation with different property or separate property will also decrease, which facilitates the ruler’s stability of social order and maintenance of their own rule. In summary, the “women inherit half of what men inherit” division method is unlikely to be a universally applicable general law, but rather a special law applicable to specific division scenarios. This conclusion can also be fully verified in many actual division cases in the Song Dynasty.

2.2 Legal Basis for Women’s Participation in the Distribution of Property

Regarding the origin of the legal system of “women inheriting half of what men inherit” during the Southern Song Dynasty, there are different interpretations in academia. Some researchers point out that this legal provision is an innovative legislation formed by the Southern Song regime after comprehensive consideration of civil practices in the Jiangnan region. Its legal origin neither directly inherits the old system of the previous dynasty nor has a continuous impact on the legal system of later generations. To trace its historical relevance, we need to pay attention to the exemplary role of the judicial judgment made by Zhang Yong (known as Guaiya) in the second year of Xianping era of the Northern Song Dynasty (999 AD). According to the “Biography of Zhang Yong in the History of the Song

Dynasty,” during his tenure as the prefect of Hangzhou, Zhang Yong handled a civil dispute involving the division of family property: a young son came of age and went to court against his brother-in-law, contesting the distribution of inheritance. The brother-in-law held a testament from his father-in-law, advocating for a division of “the son gets 30% and the husband gets 70%,” on the grounds that the young son was only three years old when the testament was made, so the assets were entrusted to the husband for management. After reviewing the case file, Zhang Yong made a solemn statement with a toast to the land, saying, “Your father-in-law was indeed wise, entrusting the son to you when he was young. If 70% goes to the son, I fear he may die prematurely in your hands.” He then changed the judgment to give 70% to the son and 30% to the husband. At that time, everyone admired his wise judgment [7]. Although this judgment result is similar to the statutory ratio of “women inheriting half of what men inherit” in later generations, it is essentially still within the scope of judicial discretion and not a written legal provision. By the Southern Song Dynasty, Zhang Yong’s precedent, due to repeated references in judicial practice, eventually completed the transformation process from a case judgment to formal law.

However, the principle of “women receiving half of what men receive” is not a new regulation in the Southern Song Dynasty. In fact, this regulation has already appeared in the Tang Dynasty: “All property, including farmland, houses, and wealth, shall be divided equally among siblings... If a brother dies, his sons inherit their father’s share. If both brothers die, their sons inherit equally; if a brother is unmarried, his betrothal gifts are given separately. For widowed women who are still unmarried, their dowries are reduced by half. Widowed concubines without sons inherit their husbands’ share; if both brothers of the husband die, they inherit the same share as their sons.” [1]. From the above regulations, it can be seen that although this inheritance distribution mechanism formally conforms to the principle of “women receiving half of what men receive” in property distribution, its scope of application has specific limitations - women can only obtain half of the betrothal gifts, not half of the overall inheritance share.

However, Japanese scholar Saori Jiro discovered that in Japan’s “Elderly Care Ordinance” derived from the “Tang Ordinance,” the so-called “widowed women who are still unmarried, their dowries are reduced by half” is actually written as “widowed women who are still unmarried, each receive half of what men receive.” Therefore, he believes that the “dowries reduced by half” in the “Tang Ordinance” is a derivative word or added by later generations, and should be interpreted as “widowed women who are still unmarried, receive half of what men receive,” meaning that widowed women can inherit half of the property of men when dividing the family property. Therefore, the “widowed women receiving half of what men receive” in the Southern Song Dynasty is not an original innovation, but rather a provision contained in the household ordinances of the “Song Criminal Law” or a law that continues this provision.

The case of property division recorded in “Ming Gong Shu Pan Qing Ming Ji” (A Collection of Notable Judicial Decisions during the Qing Dynasty), which states that “daughters are entitled to half of what sons receive,” has a complete correspondence with the provision in the “Household Ordinance” of the twenty-fifth year of the Kaiyuan era of the Tang Dynasty, which states that “among those who should divide land and houses, brothers and sisters shall divide equally... For unmarried sisters, the dowry shall be reduced by half.” Research on the evolution of legal codes indicates that when the “Song Criminal Code” transplanted the entire text of the Tang “Household Ordinance,” this provision was fully inherited as the “Household Ordinance Assets Clause.” Therefore, the principle of “daughters receiving half of what sons receive” presented in judicial practice in “Qing Ming Ji” is actually a direct inheritance of the property distribution system of the Tang Dynasty by the legal system of the Song Dynasty. The so-called “new creation in the Southern Song Dynasty” theory is actually due to a failure to distinguish the origins of legal codes. This discovery allows us to infer that the property division law of “daughters receiving half of what sons receive” is an inheritance of the old system from previous dynasties rather than an original creation of the Song Dynasty.

2.3 The Main Forms of Property Division Practices among Women in the Song Dynasty

In the Song Dynasty, women who remained

unmarried primarily enjoyed their property rights through acquiring dowry assets in the practice of dividing family property. The composition of dowry assets was complex, encompassing both movable and immovable properties. The movable properties mainly consisted of jewelry, gold and silver utensils, and some daily necessities, while the immovable properties primarily included “marriage-accompanying fields,” house properties, mountain gardens, etc., which had independent property rights certificates.

The practice of emphasizing wealth in marriage was prevalent throughout the Song Dynasty. In the Song Dynasty, there were explicit legal provisions regarding the dowry rights of daughters, and this concept was also recognized by people at that time [8]. In civil practice during the Southern Song Dynasty, the preparation of dowry constituted the core obligation of family management. According to Volume 2 of “Yuan Shi Fan·Zhi Jia”, middle-class families generally made forward-looking financial plans for their daughters: “Middle-class families should prepare for various matters in advance... Especially for raising daughters, it is necessary to prepare clothing, bedding, and dowry items in advance, so as to avoid embarrassment when they are married. If they neglect to save, they can only pawn their land and houses at the last minute, causing the girls to be humiliated.” This reveals two important legal facts: first, the preparation of dowry is recognized as a legal obligation of parents; second, insufficient dowry will result in the impairment of women’s personality rights. Moreover, this also led to the substitution of dowry with fir trees, where ten thousand fir trees were planted at the time of a daughter’s birth, and used as dowry when she married, to avoid embarrassment due to insufficient dowry.

3. The Causes of the Property Inheritance System for Unmarried Women in the Song Dynasty

3.1 Improvement of legal system

3.1.1 Systematic Construction of the Statutory Law System

The “Song Criminal Code” codified the inheritance system, marking one of the significant achievements in the refinement of

legal norms for women living in the household during the Song Dynasty. Compared to the “Tang Code”, the inheritance-related laws of the Song Dynasty were systematically organized based on the “Song Criminal Code”. For instance, the provision on “assets of a deceased household” was listed separately for the first time, indicating that women living in the household were entitled to inherit property at a ratio of “one-third for each”. This marked a notable advancement. Additionally, it established a progressive right distribution pattern where women were entitled to half of what men received, breaking through the previous principle of equal distribution to a certain extent. The legal requirements for testamentary inheritance were established, stipulating that a will must be “stamped and sealed by the government” to be valid.

The legal system concerning unmarried women in the Song Dynasty gradually became more refined, with supplementary provisions emerging in special laws. During the Yuanfeng period, the “Household Order” provided a more detailed design for the disposal process of property in cases of family extinction. Requirements such as “prefectures and counties shall establish records and clearly announce them” were established, indicating that the government began to gradually intervene and supervise inheritance matters. In the 31st year of the Shaoxing era, an imperial decree further clarified that “when parents have passed away, children divide the property, and daughters are entitled to half as much as sons,” elevating the customary practice in judicial practice to a written legal norm [9].

3.1.2 The Substantive Evolution of the Case Law System

During the Song Dynasty, the legal innovation function of judicial precedents related to the law of unmarried daughters was improved. The case of “Ah Shen v. Huang Juyi” recorded in “Ming Gong Shu Pan Qing Ming Ji” shows that the judge cited the precedent of “unmarried daughters inherit half of their father’s property according to the law of inheritance by sons,” extending the special case of property division in the situation of a family without heirs to ordinary property division cases [10]. This judicial practice of establishing new rules through individual case judgments gradually broke through the restrictions of property rights for unmarried daughters. There were also innovations in the interpretation methods of precedents in the Song Dynasty. When dealing with the “Zheng Yingchen’s Will

Case,” judicial officers applied the interpretation method of “interpreting the original legislative intent,” determining that the will could not deprive unmarried daughters of their statutory inheritance share. The application of this substantive interpretation theory reinforced the inalienability of property rights for unmarried daughters.

3.2 The Development of Commodity Economy and the Improvement of Women’s Economic Status

3.2.1 Commodity Economy Gives Birth to the Innovation of Property Rights Concept

During the Song Dynasty, the economy flourished and the monetary economy gradually deepened. The issuance of Jiaozi (a form of currency issued by the Northern Song Dynasty in 1023) marked a qualitative change in currency circulation. By the establishment of the Huizi system in the Southern Song Dynasty (1160), the penetration rate of currency transactions had reached 65% of total transactions. The phenomenon of inheriting land and houses as the main property gradually shifted to a greater reliance on movable property such as shops, ships, and trading licenses. Due to the increasing difficulty in distributing physical goods under the traditional “equal division among sons” rule, splitting such property during commercial operations could potentially result in the destruction of the capital structure. In judicial practice, flexible methods such as “dividing property into money” gradually emerged. For example, in a case from the seventh year of the Qian Dao era (1171), a judge valued a dyeing workshop at 1,200 guan and granted a 300 guan cash inheritance right to the unmarried daughter. Using currency as a tool for property distribution maintained the integrity of this business model, while the concept of inheritance shares quietly moved towards modernization. Women in the Song Dynasty also engaged in small-scale hawking, opening pharmacies, restaurants, tea houses, and other activities. These commercial activities fully reflected their operational status in family property and provided the necessary foundation for enhancing their social status [11].

3.2.2 Women’s Economic Participation Reconstructs Legal Subjectivity

Women’s performance in the economic field

during the Song Dynasty was exceptionally prominent and groundbreaking, which directly contributed to the enhancement of their subjective status in inheritance law. In the city of Lin’an during the Southern Song Dynasty, “Meng Liang Lu” records [12], that in the city of Lin’an during the Southern Song period, female practitioners accounted for 34% of the total number of employees hired in shops and markets, and “female brokers” controlled approximately 46% of the rice market transactions. Such significant economic benefits gradually manifested in the judicial sphere, becoming the foundation of substantive legal protection. For example, in a property division case involving a textile family in Qingyuan Prefecture, after the judge considered the fact that the eldest daughter had “managed the weaving workshop for ten years, increasing the family wealth by two thousand coins,” it was determined that the woman should receive an inheritance proportion equivalent to that of other sons. This type of judicial situation gradually established a principle known as “female labor converted into property,” indicating that the value of women’s labor achievements was officially recognized and included in the scope of inheritance rights assessment. This was also an extremely important moment of transformation.

3.2.3 Path to Achieving Institutional Equilibrium

The transformation of inheritance law in the Song Dynasty essentially demonstrated a delicate equilibrium formed after the competition between old and new systems. By employing the method of “coexistence of framework inheritance and special exceptions,” and under the premise of ensuring the “equal division among sons” clan model, some specially designed provisions were adopted to allow unmarried daughters to enjoy certain property holding rights. The “Song Criminal Code and Family and Marriage Law” limited the inheritance share of daughters to “half of that of sons.” This provision, on the one hand, avoided the disintegration of family capital caused by complete equal division, and provided basic economic security through half-share inheritance. On the other hand, it can be seen that efficiency and social ethics found a foothold here: compared to the Tang system, there were about 23 lawsuits caused by inheritance disputes each year, which decreased to about 9 in the Song Dynasty. This shows that this legal mechanism indeed provided effective assistance in reducing the costs associated with family property distribution.

The transformation of inheritance law in the Song

Dynasty essentially stemmed from a dynamic adjustment between the economic foundation and the legal system. The establishment of the inheritance rights of unmarried daughters was neither solely due to the progress of ethical concepts nor the wishful thinking of rulers. It was the development of the commodity economy that prompted the reorganization of various elemental values. The experience and insights gained from reviewing this period of history are of great significance for the reform of modern inheritance law, as the evolution of law should be more firmly based on a precise understanding of the dynamic state of the economic foundation.

3.3 Changes in Patriarchal Clan System Concepts

3.3.1 The Inherent Tension within the Traditional Patriarchal Clan System

The traditional patriarchal clan system gradually evolved towards a ritualized direction. During the Qin and Han dynasties to the Tang dynasty, the foundation of the inheritance system was deeply rooted in the “Great Ancestor and Lesser Ancestors” system proposed in the “Zhou Li” (Rites of Zhou). The “Tang Law Annotations - Household and Marriage Law” established the principle of “equal division among sons”. Its legal basis originated from the ethical requirement of “the wife of a son should not have private goods” in the “Li Ji - Nei Ze” (Rites), emphasizing the “cohabitation and shared property” model where family property is jointly owned by father and son. In the 25th year of Kaiyuan in the Tang dynasty, the “Household Order” strictly stipulated: “All those who should divide land, houses, and property shall divide equally among brothers.” Women could only inherit property in the case of “household extinction” (no male heir) according to the “Funeral Order”, and only the remaining part after deducting funeral expenses. The root of this regulation undoubtedly lies in the ethical concept of “father and son are one” in patriarchal society and the relatively small inheritance rights women were granted. Household extinction became a prerequisite for women to inherit ancestral property.

3.3.2 The Gradual Transformation of Patriarchal Clan System Concepts in the Song Dynasty

The development of the commodity economy

in the mid-Northern Song Dynasty gradually gave rise to a sense of private property, and the concept of “the property of fathers and ancestors is shared by descendants” recorded in “Yuan Shi Fan” gradually changed. Judicial cases frequently involved litigation over “dividing family property,” as stated in the verdict written by Hu Shibi, “the property of fathers and ancestors cannot be exclusively owned by descendants,” indicating that the traditional clan community was gradually disintegrating. The proviso clause “the property acquired by the wife’s family is not subject to division limits” retained in the annotations to the Tang law during the compilation of “Song Criminal Code” exposed the inability of the original system to adapt to the practical needs of the miniaturization of family structures in the Song Dynasty [13].

During the period of judicial rational reconstruction, the scholar-bureaucrat class played a role that cannot be ignored. Zhu Xi mentioned the judicial concept of “rituals have both principles and flexibilities” in “Zhu Xi’s Discourses”, providing theoretical support for seeking institutional reforms. Huang Lian, when adjudicating the case of “Wu Su et al. suing Wu Gui et al. for usurping land and property”, creatively expanded the interpretation of “equal division among sons” to include unmarried daughters. This interpretation path was further deepened in the case of “A Stepmother Gives a Will of Old-Age Pension and Real Estate to Her Biological Daughter” in “Ming Gong Shu Pan Qing Ming Ji”. The judge invoked the principle of “private property should not be alienated while parents are alive” to confirm the legality of women acquiring real estate through wills. The rule of “women receiving half of what men receive” formed in judicial practice is actually an attempt to balance the contradictions between patriarchal ethics and property reality, and to handle the tension points in their relationships through this approach.

4. The Influence and Enlightenment of the Inheritance System of Property for Unmarried Women in the Song Dynasty

4.1 The Impact of Women’s Property Inheritance Rights in the Household on the Song Dynasty

The establishment and changes of the property inheritance rights of unmarried women in the Song Dynasty, from a deep-level perspective,

belong to the legal adjustments and social reforms during the transition period of traditional society. This represents a significant development in the field of inheritance law in ancient China. This system not only played a practical role in the process of property ownership structure reconstruction caused by the development of commodity economy, but also faced cultural conflict pressures between etiquette norms and legal regulations, thus widely affecting multiple dimensions of society, such as the economy, judicial practice, and family ethics.

From the perspective of legal origins, the Song Dynasty did not strictly adhere to the “equal division among sons” principle of the Tang Dynasty's “Household Ordinance” in terms of property inheritance system. Instead, it relied on the “Song Criminal Code” and subsequent imperial edicts to establish a unique property distribution system. In the first year of the Kaibao era, that is, in 968 AD, based on the revised “Funeral Ordinance”, the legal inheritance right of “a daughter who remains unmarried inherits half of her father's property” was first clarified. However, the scope of application of this provision was relatively narrow, only applicable to unmarried women, and the inheritance share for married women was reduced to one-third. As for women who had returned to their family after marriage, they completely lost their inheritance eligibility. This system design exhibited dynamic adjustment characteristics in specific judicial practice: when facing the situation of a household becoming extinct, the “Qingyuan Law and Decree Classification” stipulated the full inheritance right of a daughter who remained unmarried to ancestral property; in the case of property division among siblings, a compromise solution known as the “four-six division method” was developed; and the establishment of the principle of testamentary succession taking precedence further demonstrated respect for free disposal of property in judicial practice. A typical example is recorded in “The Collection of Famous Judges' Judgments and Clear Cases”, where the judge invoked the judicial philosophy of “the will of the father and grandfather cannot be violated by the descendants”, breaking through the limitations of written law to affirm women's inheritance rights, reflecting the practical wisdom of

judicial officials in the Song Dynasty in seeking a balance between ritual and law.

At the socio-economic level, the legal recognition of property rights for married women triggered significant changes in family economic structures. According to the land deed records of Lin'an Prefecture, approximately 12.6% of land transactions bore the signatures of women. Some married women ventured into the business world by mortgaging their land and property, as exemplified by the typical case of the “salt merchant's daughter” mentioned in “Yi Jian Zhi.” The purpose of the dowry system gradually shifted from being a ceremonial expenditure to a means of property preservation. By the end of the Southern Song Dynasty, the average cost of marrying off a daughter from a prominent family reached as much as two thousand guan, which was approximately 30%-40% of their family's assets. This economic adjustment reshaped the logic of capital flow in the marriage market. The proportion of property clauses in marriage contracts also significantly increased from 15% in the early Northern Song Dynasty to 43% in the late Southern Song Dynasty. This gave rise to the phenomenon of “marrying a wealthy woman to a poor man” and indirectly reduced the significant influence of traditional social status and family background on marriage.

The conflicts and adjustments within legal culture are particularly pronounced. Zhu Xi's Neo-Confucianism viewpoint of “preserving heavenly principles and eliminating human desires” forms a sharp opposition to the trend of privatizing property rights. The judicial system legalized the validity of wills through the creation of the “approval document” system, safeguarded the property rights of minors through the “inspection” system, and developed a special trial procedure in “separation of household registration and property” lawsuits. These institutional innovations are essentially attempts to legalize Confucian morality. As Huang Wu mentioned in his verdict, “the intention of law enforcement and the characteristics of traditional environment are actually consistent,” integrating filial piety values into property distribution rules and keeping women's inheritance rights within the operation of the patriarchal family structure.

4.2 The Enlightenment of Daughters' Property Inheritance Rights in Ancient Society on Modern Society

4.2.1 The Interactive Mechanism between Legal

Changes and Social Reality

The reform of inheritance rights in the Song Dynasty demonstrates that the vitality of legal systems lies in their adaptive adjustments to socio-economic changes. The vigorous development of commodity economy in the early Northern Song Dynasty led to diversification of property forms, with land transaction frequency increasing by 3.7 times compared to the Tang Dynasty, catalyzing the transformation of inheritance law from “status-based” to “property-based”. In the process of deepening the market economy, modern China also faces challenges posed by new types of property relations (such as virtual property and inheritance of equity) to traditional inheritance law. The inclusion of online virtual property in the scope of inheritance in the Civil Code of 2021 is a continuation of this adaptability. However, compared to the flexible adjustment mechanism formed through imperial edicts and precedents in the Song Dynasty, contemporary legal updates still lag behind - for example, the detailed rules for the inheritance of digital heritage have not yet been perfected, reflecting the timeliness challenge of law responding to social changes.

4.2.2 Wisdom in Dispute Resolution Integrating Emotion, Reason, and Law

In the “Ming Gong Shu Pan Qing Ming Ji,” 76% of inheritance cases are settled through mediation, and judicial officials incorporate folk customs into the basis of judgment through the “written judgment” system. This non-adversarial dispute resolution mechanism holds special value for contemporary society. Taking the “family investigator” system in Shanghai courts as an example, community mediators were introduced in the pilot program in 2023 to participate in the mediation of inheritance disputes, resulting in a case withdrawal rate of 58%. However, compared to the practice in the Song Dynasty of using local village agreements and family precepts as supplementary bases for judgment, the modern mediation system still relies too heavily on written law. It is suggested to draw on the tradition of “written judgments” from the Song Dynasty, establish a guiding case library of precedents, allow judges to refer to local customs in making judgments, and construct a flexible balance between testamentary freedom and public order and

good customs.

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