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### Review Of "Women And Property In China, 960-1949" By K. Bernhardt

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that the first part of that war does not reveal an unambiguous plan of “ethnic cleansing.” In the crucial month following Israel’s declaration of independence on May 15, 1948, however, Israeli leaders established a clear policy that was designed to prevent Palestinians from returning to their land and “to make their abandoned land available for Zionist settlement” (143).

Benvenisti observes that Palestinian claims to their former homes and villages serve to unite the Jewish community against an enemy viewed as trying to destroy Israel. Much more divisive and upsetting for the Jewish community, he argues, are the efforts of Arab citizens of Israel to commemorate their past and celebrate Palestinian nationhood by restoring the revered sites and holy places that Jews had destroyed. Such efforts by these Israeli citizens, who constitute one-fifth of the total Israeli population, produce guilt and embarrassment for some Jews and rage in others. Benvenisti does not conceal his antipathy toward the latter, who willfully ignore their history vis-à-vis the Palestinians.

Benvenisti comes close to proposing a bi-national state. Some prominent Jews living in Palestine during the British mandate had promoted this idea, and it also attracted some Palestinians on the left, mainly in the Communist party. Three generations later, Israeli and Palestinian intellectuals are touting it once again. Although the difficulties of establishing a viable Palestinian state, coupled with a high Arab birth rate in Israel, may eventually result in a de facto bi-national solution, few on either side of the divide would find it an acceptable solution today.

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*Women and Property in China, 960–1949.* By Kathryn Bernhardt (Stanford, Stanford University Press, 1999) 236 pp. \$45.00

Property rights, particularly inheritance rights, are the key to understanding the legal position of women in history. Using recently available archival records, in addition to legal codes and published collections of cases, to examine the sometimes ambiguous or contradictory evidence, Bernhardt constructs a history of women’s inheritance rights in China from the Song dynasty through the Republican period that challenges, modifies, or confirms the previous scholarship on this subject, and provides a coherent and convincing new chronology.

The older view of Chinese legal history held that inheritance rights were fundamentally static throughout the late imperial period.

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*the Palestinian Refugee Problem, 1947–1949* (Cambridge, 1987); *idem, Righteous Victims: A History of the Zionist-Arab Conflict, 1881–1999* (New York, 1999); Tom Segev *The First Israelis* (London, 1986); *idem, One Palestine, Complete: Jews and Arabs Under the British Mandate* (New York, 2000); Avi Shlaim, *The Politics of Partition: King Abdullah, The Zionists, and Palestine, 1921–1951* (Oxford, 1990). Palestinian-Arab scholars and writers have not yet engaged in as thorough a revisionism, but some are beginning to examine their own history critically.

Bernhardt's basic message, however, is that the situation for women clearly changed when understood in two contexts—household division and what she calls “patrilineal succession.” Household division was the normal pattern during Chinese imperial times. Upon the death of a father, property was divided equally among the sons after some provision was made for the widow's support and for the dowries of any unmarried daughters (49).

Bernhardt acknowledges that this practice persisted from the Song through the Qing (ending in 1911). The focus of her analysis, however, is on the death of a man with no sons—a scenario that she terms “patrilineal succession.” In such cases, which she estimates to have occurred about 20 percent of the time and to have accounted for about 80 percent of the inheritance disputes that she studied, the law changed significantly from the Song to the Qing, affecting many women either as surviving unmarried daughters or as widows (2–3). In the Song period, a widow without sons could inherit her husband's property (59). Under certain circumstances, an unmarried daughter without brothers or a surviving mother could inherit one-half of her father's share of undivided family property (36). (Chapter One, “The Inheritance Rights of Daughters from Song through Qing,” maintains that during the Song, daughters with brothers were not generally entitled to half of what their brothers received, as has sometimes been stated, though Bernhardt notes that daughters had more claims in the Song than later.) By the Ming, however, the law required sonless widows to adopt an heir, usually a nephew, thus bypassing the widow and any daughter—a practice that Bernhardt terms “mandatory nephew succession.” The widow might have had custodial rights until the nephew reached maturity. In the mid-Qing period, widows were allowed to select an heir among the nephews in the lineage. This greater latitude was bestowed by judges as a reward for a widow's “chastity,” that is, her not remarrying.

In the Republican period, the civil code of 1929/30 completely overturned the premises of inheritance law, attacking both household division and patrilineal succession. Traditional concepts of kinship and property were redefined, and wives gained equal status in marriage. A concubine gained legal rights over her own offspring (they were no longer considered the children of the wife). But Bernhardt shows that the actual practices tended to circumvent the intentions of the legal reforms. De facto household division favoring sons took place before the father's death, since the law did not limit the gifts of property that he could make in his lifetime. Widowed daughters-in-law and concubines also became more vulnerable under the Westernized legal framework that did not allow for the de facto inheritance claims that they had previously “enjoyed.” Bernhardt concludes, “In the end, women lost even as they gained under the Republican Civil Code” (199).

This brief description of Bernhardt's conclusions cannot do justice to her rich research and careful analysis. Suffice it to say that she has provided not only a baseline for future work in legal history and women's history, but ample material for further discussion by scholars in the field.

The approach of this book is to determine what the historical realities were, not to explain causation or provide social interpretation. How, for example, should one interpret the shift in the mid-Qing toward giving chaste widows a reward for their chastity? Departing from her generally nonjudgmental language, Bernhardt characterizes this change as “empowering,” a positive step for women’s autonomy (4, 48), ostensibly contradicting recent scholarship, which tends to report a decline in the status of women from the Song to the Qing, and to view the stricter demands placed on widows by the Ming and Qing state as a defeat for women’s inheritance claims.<sup>1</sup> If greater “autonomy” was won at the price of an even higher demand for chastity, the mid-Qing change in the law, as identified by Bernhardt, seems to have been a mixed message at best, and its social impact needs to be investigated.

The disciplined and focused structure of this book makes it an important addition to the growing number of impressive works on Chinese women’s history, as well as a landmark work in legal history.<sup>2</sup> Yet, this book is probably more suited for readers with some previous knowledge of Chinese history than for beginning students. It provides little historical background or introduction to the subjects of family and kinship, primogeniture, dowry, concubinage, and other key topics. The lack of any concession to the general reader, however, strengthens the book’s value for specialists.

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*Nation, Governance, and Modernity in China: Canton, 1900–1927.* By Michael T. W. Tsin (Stanford, Stanford University Press, 2000) 276 pp. \$45.00

In this elegantly written and meticulously researched study, Tsin uses a social history of early twentieth-century Canton to explore the meaning and mechanisms of the political culture of modernity. One of the book’s greatest strengths is Tsin’s success in bringing social-historical and theoretical analysis together, using one to illuminate the other. He defines the political culture of modernity in terms of the “transition in technol-

1 On the subject of widow chastity, see Mark Elvin, “Female Virtue and the State in China,” *Past & Present*, 104 (1984), 111–152; Susan Mann, “Widows in the Kinship, Class, and Community Structures of Qing Dynasty China,” *Journal of Asian Studies*, XLVI (1987), 37–56; Matthew H. Sommer, *Sex, Law, and Society in Late Imperial China* (Stanford, 2000), esp. Chapter 5, 166–209.

2 In addition to the works cited above, the following studies have been particularly influential: Patricia Buckley Ebrey, *The Inner Quarters: Marriage and the Lives of Chinese Women in the Sung Period* (Berkeley, 1993); Dorothy Ko, *Teachers of the Inner Chambers: Women and Culture in Seventeenth-Century China* (Stanford, 1994); Mann, *Precious Records: Women in China’s Long Eighteenth Century* (Stanford, 1997).