

## **“Household Division” or “Inheritance Succession”: A Study of Civil Judgments of the Grand Council of Justice**

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### **Abstract**

Family division and property distribution is the main pattern of transmission of family property from generation to generation in traditional China which is different from the inheritance succession system in the west. When western laws were introduced into China during the Late Qing Dynasty and the Early Republic China, the foreign inheritance system started to blend with the locally practices of family division and property distribution, and have the conflicts and interfusion between the two. This paper focuses on the Grand Council of Justice of the Early Republic of China, and makes investigations into judicial judgment practices about family division and property distribution, in order to restore the family division and property distribution rules constructed by the cases of the Grand Council of Justice. In the matter of written laws, China was starting witnessing the transition from traditional family division and property distribution practices to the modern inheritance succession system. The civil code of the republic of China (1931) was absolutely enforcing an inheritance system based on individualism, leaving the family division and property distribution system, tooted in the family system of co-residence and common property, fading out silently from national laws. But the Grand Council of Justice of the Early Republic of China, however, simply systematized laws and practices of the institution of household division and then moderately adopted the legal spirit

originating from the western world. The traditional family division and property distribution system was not replaced by the modern inheritance succession system. Instead, the Grand Council of Justice was actually an attempt to continue the vitality of local practices and traditional laws of China.

Keywords: household division and property distribution, inheritance succession, the Grand Council of Justice (Da Li Yuan), co-residence and common property, the equal-male-division principle of family property