



Widows' Heir Adoption Seen through Legal Disputes in Late Joseon Korea:

Focusing on the Position of the Eldest Daughter-in-law

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Abstract

Widow's heir adoption in Joseon was largely secured by the adoption law in the Great Code of Administration. Widows, especially eldest daughters-in-law, in late Joseon were involved in legal disputes with their husbands' younger brothers or the entire descent group over adoption. On the one hand, widows relied on adoption to protect their positions in their husband's lineage against the encroachment of their brothers-in-law claiming the status of lineage heir. On the other hand, widows actively pursued their choice of an adoptee with strong social background, albeit from a distant relative, against the collective opinion of the husband's descent group. In most cases, the state ruled for the widow's adoption not only by law but also by acknowledging the widow's position as the eldest son's wife. The state believed that the widowed eldest daughters-in-law could secure the lineal succession of a descent group against the collateral line. Widows themselves went on to appropriate such a descent-line principle to their favor, actively claiming their status as a representative of the direct line of descent. Such a close relationship between widows and the lineage principle in late Joseon was something rarely seen in contemporaneous China. Widow's heir adoption may be a useful lens for observing differences in kinship practices between pre-modern Korea and China.

Keywords: widow, eldest daughter-in-law, adoption, legal dispute, descent-line principle, kinship practice, Chinese widow

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Introduction

This article examines the involvement of widows in family succession in the late Joseon period in terms of heir adoption. The strengthening of patrilineal family structures and practices from the mid-17th century has been understood to have negatively affected women's status and lives in the late Joseon. To corroborate this, comparisons were made between the rights of women in late Joseon and those of women of earlier periods. During Goryeo (918–1392) and early Joseon, women were known to have enjoyed equal status with men in terms of property and ritual rights,¹ and not discriminated in family genealogies where children were listed in the order of birth, regardless of gender. The daughter's line was recorded with as much detail as the son's (Wagner 1983; N. Lee 2011). In contrast to women in the earlier period who were viewed more positively as active and independent, at least in family matters, women in late Joseon were deemed more passive and subordinate.

Recent studies, however, have attempted to move beyond emphasizing the negative social status of women in the late Joseon and to focus instead on how they responded to, or developed survival strategies for, the growing patrilineal family order,² or how women actively engaged with the gender norms of their society in order to have their voices heard and pursue their interests.³ Other studies have also argued that since women's lives varied according to their different familial roles—daughter, daughter-in-law, wife, or mother—a more careful examination of gender in relation to one's social

1. Women's property rights in early Joseon were considered relatively strong compared to the contemporaneous realities facing Chinese and Japanese women. See I. Kim (1969) and E. Kim (2007).

2. In her study, Ji-Young Jung (2009), by analyzing information recorded in the household registers of Danseong county, Gyeongsang-do province from 1678 to 1789, examined how women, especially widows in late Joseon, crisscrossed the boundary of gender norms and made use of various life strategies.

3. In exploring the performance of justice in the late Joseon period through the concept of *won* 冤, and by analyzing a number of petitions written by women, Jisoo Kim (2015) emphasized how women presented gendered narrative strategies and appropriated the Confucian rhetoric of female virtue in order to seek their own interests.

role and status is needed in order to flesh out traditional women's experiences in their full complexities (S. Lee 2005; 2015).

This study suggests that the lives of women in late Joseon society were much more complicated than assumed by conventional wisdom. Hence, their experiences and way of life must be carefully examined in a particular historical context rather than viewing women as if they were only on the receiving end of Confucian influence. Despite recent developments in the field of women's history in Joseon, however, women's relations with one of the most central issues in one's family, family succession, is still largely overlooked. Family succession in the Joseon dynasty was maintained through a succession of ancestral rituals by the lineal descendant, ideally the primary eldest son. And if the family did not have a son, they would adopt one within their lineage group. Over time, as the patrilineal principle grew stronger, adoption became solely the arena of male descent group members, and by the 18th century, according to earlier studies, women were largely excluded from the process (Peterson 1974, 32; Choe 1983, 610).

If women's roles were acknowledged in the process of familial succession, it was only in terms of their reproductive roles as the bearers of sons. For women's role in adoption, previous discussions have been confined to the early Joseon period. However, the practice of heir adoption for a deceased lineal heir was the fulcrum of multiple conflicts of interest among diverse actors, and women were no exception. In late Joseon society, we can witness a number of succession disputes involving women, especially between widows and their husbands' kin over adoption. Such cases reveal that the relationship between women and family succession was not as simple as described in previous studies.

By investigating how such legal disputes developed and how they were settled by the state authority, while paying attention to women's voices in the process, this study attempts to shed light on women's participation in family succession. By highlighting widows' intentions, roles, and strategies regarding heir adoption, this study will elucidate how women reacted to or engaged with the growing patrilineal order and illuminate the complex relationship between women and the Confucian state.

In particular, this study focuses on widowed eldest daughters-in-law.

Widows were often expected to play a role in the male realm on behalf of their late husbands, albeit only for a limited period.⁴ This also led them to play a certain role in family succession matters, including ancestral rites and adoption, in the absence of their husbands. Among widows, those most closely associated with family succession matters were the eldest daughters-in-law since in the Joseon period it was usually the eldest son who became the lineage heir in one's family.

This paper will first examine the basic rules and social conditions that enabled widows' heir adoption in the Joseon period. It will then move on to explore major succession disputes that involved widows, paying special attention to the widow's strategies and the state's ruling. Finally, to better reveal the characteristics of widows' heir adoption in Joseon, the study will draw a comparison with the cases of Chinese widows in heir adoptions.

Basic Rules and Conditions of Widows' Heir Adoption in the Joseon Dynasty

From early Joseon, the government made various efforts to establish the Confucian family structure, which included implementing a new set of laws of adopting an agnatic heir to perform ancestral rituals and continue one's line. The *Great Code of Administration* (*Gyeongguk daejeon* 經國大典, hereafter sometimes the *Code*) stated:

If one does not have a son by either one's legitimate wife or one's concubine, one may adopt a nephew who is not the eldest (*jija* 支子) from within the lineage to be the heir. [If both fathers agree, then the adoption is ordered. If the father is deceased, then the mother petitions.]⁵

4. In late Joseon, there were a number of cases of widows being recorded as householders (house head) in the household registers of Danseong county, Gyeongsang-do province, on behalf of their deceased husbands. For more on this, see J. Jung (2001; 2009).

5. *Gyeongguk daejeon, yejeon, iphu*. The English translation is based on Peterson (1996, 164), with some modification by the author.

According to this stipulation, the possible candidate for adoption was to be an agnatic male in the proper generation who was not the eldest, the *jija*. The term *jija* refers to sons other than the eldest one. The eldest son was excluded from being adopted because he had the duty of continuing his own family's line. Concerning the adoption process, when both the adoptive and the natal families agreed upon the decision, the father, usually the adoptive one, would petition the authority in charge with appropriate documentation. The adoption was only in effect after the family received an official adoption certificate from the Ministry of Rites with the approval of the king. The father-son relationship was considered a heavenly one (*cheollyun* 天倫) and thus changing one's father was a serious matter that required the king's approval.⁶

But in the absence of a father, the *Code* states, the mother would petition the authority for adoption. Only in inevitable circumstances where the mother was unable to petition due to illness did the husband's kin members handle the process. But even then, the mother had to agree upon the decision before they proceeded with the adoption procedures (Ko 2014, 79–80). Basically, the agent driving the adoption process had to be the parents. The widow's adoption rights were largely secured within this legal framework. Those rights included the right to petition and the right to establish an heir of her choice.

The dramatic increase in adoption rates from the middle of the dynasty also broadened the widow's opportunity to take part in heir adoption in late Joseon Korea. Toward the end of the dynasty, adoption became so common that it was said that every five or six houses had one adopted child (G. Jung 2021, 168).⁷ And since adoption in Joseon generally took place

6. As adoption cases increased considerably with time, however, not all cases seemed to have been approved by the king, especially in the late Joseon period. In identifying the information gap between the private records of family genealogies and the public records of the Register of Adoptions, which was a collection of abstracts of authorized adoptions kept by the Ministry of Rites, Sang-Woo Han (2017) argues that not all adoption cases were authorized by the state, implying that the state was not able to have complete control over the adoptions that took place in each and every family.

7. In his study on the history of the Korean family and lineage system, Jaeseok Choe (1983)

posthumously upon the death of a male without a son, there was much room left for widows to deal with the issue. As for widows, adopting an heir was their right as well as a responsibility to inherit the husbands' duty for the family. Indeed, a great number of petitions submitted by upper-class women in Joseon were related to the issue of adoption (K. Kim 2005, 93, 105–106).

Customarily, from early in the Joseon dynasty the adoption rights of widows belonged largely to the eldest daughter-in-law. In the early period of Joseon, the widowed eldest daughter-in-law not only had the role of designating an heir to her late husband, but also possessed the right to hold the ancestor ceremonies for her husband's family to her death.⁸ This tradition was influenced by the ritual and inheritance custom of the preceding Goryeo dynasty, in which daughters shared equal responsibility with sons in ancestral services and therefore inherited an equal amount of patrimony to that of sons. With the firm implementation of the Confucian form of rituals based on agnatic principle by the late Joseon, however, women began to be largely excluded from holding ancestral rites, let alone retaining the customary ritual rights of the widowed eldest daughters-in-

identified a significant increase in the practice of adoption from 17th and 18th-century Joseon Korea based on *mungwa* exam rosters. Roughly the same conclusion was drawn by Mark Peterson (1996) based on records of candidates in state exams who were adopted; specifically, the exams were *sama* exams, both *saengwon* and *chinsa*. A study by Kuentae Kim and Hyunjoon Park (2010) also notes the continued increase in the share of adopted sons among total family successors up to the end of the 19th century. They investigated how the extent of family succession through adoption in Korea changed over five centuries from 1450 to 1949 based on the data source of genealogies of upper-status families, called *bulcheonwi* families. Unlike previous studies that mainly attributed this increase in adoption practice to the influence of the agnatic principle and the development of the patrilineal lineage system, Kim and Park argue that the increasing role of adoption was closely related to the declining number of sons per family, suggesting that not only the rising influence of Confucian culture but also demographic changes increased the demand for adoption.

8. Such prerogatives of the eldest daughters-in-law, referred to as *chongbu* 冢婦, of the early Joseon period were considered peculiar to Korea. Unlike Joseon Korea, the rights of *chongbu* in ancient China were confined to preparing for the ritual, with *chongbu* unable to hold the ceremony alone nor to be involved in the inheritance of the ritual in any way. For more on *chongbu* rights in the early Joseon period, see S. Lee (1996).

law.⁹

In contrast to their diminished roles in ancestral rites, widows maintained an active position in adoption rights throughout the dynasty for several reasons. First, the aforementioned adoption law of the dynasty that stated the mother's role in the absence of a father guaranteed the widow's role in adoption throughout the dynasty. Second, unlike widow's ritual rites, the practice of widow's adoption, especially by the eldest daughter-in-law, remained undisputed because the widow's choice for an heir was almost always from her husband's agnatic kin. This practice accorded with the government's ideal of patrilineal succession order.¹⁰

As the patrilineal succession order grew stronger, adoption by the widowed eldest daughter-in-law became more strongly protected, especially against the lateral succession of the ritual heirship from the elder brother to the younger one. Even when the widow's adoption occurred long after her husband's younger brother had succeeded to the line, it was considered appropriate according to the descent-line principle that the line be restored to the widow's adopted son (B. Kim 2022b, 132–136). In this context, the widowed eldest daughters-in-law could secure their positions in their husband's lineage through agnatic adoption, and they strived to do so.

9. Although women were largely excluded from performing a ritual practice themselves as it hindered the successful implementation of patrilineal principles, there were still cases of widows serving as ritual hosts in the late Joseon period. Also, from the fact that there was a scholarly debate over who should preside over the ancestral rites in the absence of the lineage heir, the widowed wife or other male relatives from the lineage, this issue was not as simple as it seems. For more on this debate, see B. Kim (2022b, 125–132).

10. Previous studies generally agree upon the point that the adoption rights of the widowed eldest daughter-in-law were largely undisputed compared to her ritual rights because her choice centered on her husband's patrilineal nephew as the heir. This was considered to be in line with the family succession based on the descent-line principle that was pursued by the Confucian state of Joseon (S. Lee 1996; K. Han 1997; Park 2011).

Widow's Involvement in Succession Disputes and the Descent-line Principle

Conflict with the Husband's Brother or Collateral Kin

Most of the succession disputes that involved widowed eldest daughters-in-law without male offspring were related to conflicts with her husband's younger brothers or collateral kin. Many cases reveal how vulnerable widows were without a son or with a young adopted son in the face of threats from their husband's brothers or collateral kin claiming the position and property of a lineage heir, the act of *taljong* 奪宗. Some women were expelled from their homes, while others were falsely accused of shameful acts, such as sexual promiscuity,¹¹ unfilial behavior towards her parents-in-law,¹² or being imbued with unorthodox Catholic ideas.¹³ In such cases,

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11. In the early 18th century, the widow of yangban Kim Jungaeng and their widowed eldest daughter-in-law were both falsely accused of being sexually promiscuous by Jungaeng's younger brothers, who attempted to seize the position and property of the lineage heir. As they were proven guilty of falsely accusing the widows, they were punished with exile (*Seungjeongwon ilgi* [Diary of the Royal Secretariat] 823, Yeongjo 12 [1736], month 4, day 10, entry 27).
 12. In the late 18th century, the widow of Pak Gyeongsin, Madam Yi, was not only expelled from her home by her husband's younger brother, Gyeongil, but was falsely accused of being unfilial to her mother-in-law, which was a serious violation of the moral conduct required of married women in a Confucian society. Gyeongil falsely claimed that as Madam Yi did not get along well with her mother-in-law, she moved to another town, and even after she adopted a son, she did not inform her mother-in-law of this. Claiming the adopted son was not qualified to be lineage heir, Gyeongil tried to establish his own son as heir to succeed his elder brother. It was apparent that Gyeongil aimed to exert his influence over the ritual property from the fact that Pak's family at the time was known to be a family with great wealth in Gyeongsang-do province. As Gyeongil's claim was eventually deemed false after a petition was submitted by Madam Yi to the local magistrate, he was interrogated with beatings before being exiled (*Seungjeongwon ilgi* 1304, Yeongjo 46 [1770], month 5, day 14, entry 11).
 13. In the early 19th century, the widow of Kim Itak, Madam Yi, was falsely accused of harboring Catholic ideas by her brother-in-law Kim Iok, who aimed for the position and property of ritual heir. Embracing unorthodox Catholic ideas was deemed a crime at the time that could even cancel the already established adoption of a lineage heir. This was what happened to Kim Geonsun, who became the ritual heir of a prominent Confucian

wrongfully accused widows actively petitioned the authorities to clear themselves of false charges and to preserve the lineage heir status for their adopted sons against the husbands' collateral kin, who would be punished for their wrongful behavior. Such judgments enabled the widow to secure her positions in their husbands' lineage as the mother of the lineage heir.

An example of Madam Park's case presents a detailed picture of how a widow's life could be seriously affected by the succession matter and how she struggled to overcome it. Since the case was related to the prominent lineage of Yi I (1536–1584), a renowned Confucian scholar of the time, it is relatively rich in records. In the late 17th century, a widowed eldest daughter-in-law of the Yi I lineage, Madam Park, whose husband was Yi Gye, was thrown out of her home by her husband's 6th-degree cousin, Yi Yeon, who attempted to claim the position of ritual heir in a prominent lineage.¹⁴ What triggered his act was the government order to grant an official post to the next ritual heir for Yi I. Although the widow was still living and her adopted son was alive and well, Yi Yeon concealed the fact that the adoption had already been made and claimed that there was no other candidate but himself eligible for a ritual heir in Yi Gye's stead. He tried to take advantage of the widow's vulnerable position and her adopted son's young age. His words were considered reliable by great Confucian scholars, including Song Siyeol (1607–1689) and Park Seche (1631–1695), since Yi Yeon had established some scholarly relations with them at the time. With the support of these scholar-officials who feared that the Yi I's family line might become extinct, Yi Yeon eventually took the lineage heir position

scholar-official, Kim Sang-heon (1570–1652). Upon such cancellation, Madam Yi, who was once the adoptive mother of Geonsun, took charge of the adoption matter, which is why she faced threats from her brother-in-law. The case was thoroughly investigated, and Kim Iok was ordered into exile (*Sunjo sillok* [Veritable Records of King Sunjo] 2:52a, 1801, month 3, day 27, entry 6; *Ilseongnok* [Records of Daily Reflection], Sunjo 1 [1801], month 5, day 22, entry 8; *Ilseongnok*, Sunjo 1 [1801], month 7, day 4, entry 8).

14. This story is based on the petitions submitted by the descendants of Yi Gye in the early 19th century recorded in *Sunjo sillok* 26:19b–20a, 1823, month 4, day 9, entry 1; *Seungjeongwon ilgi* 2170, Sunjo 23 (1823), month 9, day 21, entry 15.

upon the order of King Sukjong (r. 1674–1720).¹⁵

Concerned that Madam Park and her adopted son might pose a possible threat to his position in the future, Yi Yeon expelled the widow and her adopted son from their home along with Yi Gye's spirit tablet. As a lonely and helpless widow, Madam Park held in her arms her husband's tablet and carried her young adopted son on her back, wandering from place to place and struggling to make a living. However, she did not give up on reclaiming her status in her husband's lineage. She tried making an oral petition directly to the king, but this failed as Yi Yeon and his people blocked her attempt. In the face of thwarted attempts to regain her position, Madam Park left a note in vernacular Korean describing the resentful circumstances she had to undergo while expressing such wrongfulness, perhaps as the only outlet for her deep-seated frustrations.

It was not until the early 19th century that Madame Park's note resurfaced and served as evidence in the complaints by the descendants of Yi Gye trying to restore the line of Yi I that had been stolen by the collateral kin. Although their appeal was not accepted by the king, who judged that returning Yi I's line to Yi Gye's descendants went too far, this case reveals how vulnerable a widow could be to the act of *taljong* by her husband's collateral kin and the struggles she might face to overcome such a desperate situation.¹⁶

As in Madam Park's case, widows involved in succession strife actively responded to it and tried to have their voices heard. Some effectively emphasized their status as the eldest son's wife to win cases against their brothers-in-law. This was possible in a social milieu where widowed eldest daughters-in-law were often regarded upon the death of their sonless husbands as the only remaining representative of the direct line of descent.¹⁷ In the early 18th century, the widow of Sim O, Madam Yi, tried to establish an heir to her deceased son, only to be obstructed by her grandfather-in-law,

15. *Sukjong sillok* (Veritable Records of King Sukjong), 16:7b, 1685, month 2, day 10, entry 2.

16. For more details on this case, see B. Kim (2022a, 138–146).

17. As the wife of the primary eldest son or wife of the lineage heir, the position and role of widowed eldest daughters-in-law in ancestral services and adoption were largely acknowledged in late Joseon society (B. Kim 2022a; 2022b).

who chose his grandson Sim Jam, the younger brother of Sim O, as the ritual heir. Such a case where the descent line moves from the eldest son to his younger brother was referred to as *hyeongmang jegeup* 兄亡弟及 or *ijong* 移宗, and when this occurred, it was likely the widow of the eldest son would lose authority over ritual properties and even be displaced by her brother-in-law, the new ritual heir. This explains why many widows petitioned the state to return the descent line to their husbands through adoption even after a long time had passed since the *ijong* had occurred, including the case of Madam Yi.

Later, when Sim Jam tried to adopt an heir for his late son, Madam Yi petitioned the state claiming that although she and Sim Jam were in the same position in that neither of them had sons or grandsons, there was a significant distinction between them as a direct and collateral line. She was presenting herself as the representative of the direct line of descent against her brother-in-law.¹⁸ Based on this logic, she appealed to the king to allow her to adopt an heir to her late husband and take back the descent line from Sim Jam. Her position as a representative of a lineal descent was acknowledged, and finally, her appeal was accepted.¹⁹ Since her logic complied with the state's pursuit of family succession by lineal descent, she was able to win the case. This is one case in which a widow involved in a succession conflict was able to secure the lineal succession against the collateral kin, which in turn guaranteed her a stable position in the husband's lineage.

Conflict with the Husband's Patrilineal Descent Group

Widows often had conflicts with the entire patrilineal descent group of their husbands. Although the descent group in late Joseon society was entrusted with many important matters in the lineage, the widow's consent was essential in the adoption matter, according to the rule that required parents to have the final say in adopting a son. Widows would normally follow the

18. *Byeol gyehu deungnok* 別繼後謄錄 (Register of Special Cases of Adoption), vol. 7, 39a–39b.

19. *Byeol gyehu deungnok*, vol. 7, 39b–42a.

collective opinion of the clan. However, conflicts were inevitable when the interests of the two parties clashed. Such conflicts escalated into disputes, which could continue for several years and require the state's intervention for resolution. Most of the disputes between a widow and the husband's descent group occurred when the widow tried to select an heir of her preference from the husband's distant relatives, even though there was an option for a closer one.

From the early period of the dynasty, the principle for adoption was to bring an heir from one's close agnatic relative. The *Annotations of the Great Code* (*Gyeongguk daejeon juhae* 經國大典註解), published in 1555, stated that only an heir from one's immediate brothers, that is, one's own nephew, could hold a memorial service for grandparents and above. The ruling class believed that the ancestors would feel uncomfortable if the service was held by one other than the deceased's own grandsons. This principle of adopting a close agnatic nephew was further stipulated in the *Supplement to the Great Code* (*Sok daejeon* 續大典), published in 1746, but not necessarily confining it to one's own nephew. Although the degree of kinship between the fathers extended to more and more distant cousins over time, in late Joseon society the primary candidate for adoption was still one's closest nephew (B. Kim 2022a, 116–117).

In this atmosphere, widows who preferred their husband's distant nephews, even with the existence of a closer one, were deemed problematic. In many cases, the widows intended to adopt an heir from a family with higher social status and more political power. In the 18th century, the widow of Sim Jeongbo, Madam Yi,²⁰ collided with her husband's clan when she tried to adopt as heir a 25th-degree nephew of her husband over the clan's preference for a closer relative.²¹ It turned out that the family of the widow's choice was the most prosperous one within the entire Sim lineage group,

20. Madam Yi was the eldest daughter-in-law of Princess Sukmyeong, the third daughter of King Hyojong (r. 1649–1659).

21. Madam Yi's choice was quite surprising because although the degree of kinship between the fathers extended to more and more distant cousins with time, the primary candidate for adoption was still one's nephew, the closest agnate. For more on the range of adoption in the late Joseon period, see Kwon (2008).

which was known for producing many high-ranking officials over generations. The political prosperity of the candidate's family would have been attractive to Madam Yi, whose intention was to benefit from their firmly established social status and economic wealth through her adopted son (B. Kim 2020, 242).

Another primary example comes from a prominent lineage of Jeong Mongju (1337–1392), a renowned scholar of the Goryeo dynasty. The widow of Jeong Doje, Madam Song, clashed with the Jeong descent group over adoption after her husband, who once served as the lineage heir, passed away without a son. Since the conflict was related to a prominent lineage of the time and lasted as long as three years, it is rich in official records. Madam Song disliked the descent group's decision to adopt a nine-year-old nephew from a close relative, so she secretly petitioned the Board of Rites to adopt an agnatic nephew from a family with as much as a 30-degree separation from her husband. The family's prosperity and the candidate's older age influenced her decision.²² Even when Madam Song took a step back and requested a 15th-degree nephew as heir, the Jeong descent group strongly accused her of selfishness and of only considering the wealth of the natal family.²³

In this dispute, the widow prevailed. The widow's adoption was endorsed first according to the rule that the mother's decision should be respected in establishing a parent-son relationship. More importantly, her adoption was supported in the context of securing the lineal succession against the husband's collateral kin. One government official feared that the Jeong descent group's decision to adopt a nephew as young as nine years old might lead to deprivation of the direct line of descent by a collateral relative who would take care of the rituals until the heir reached a certain age to hold the ceremony. If that happened, the minister worried, the widow could be placed in a precarious position.²⁴

22. *Seungjeongwon ilgi* 993, Yeongjo 21 (1745), month 10, day 18, entry 15.

23. *Seungjeongwon ilgi* 1028, Yeongjo 24 (1748), month 4, day 12, entry 23.

24. *Seungjeongwon ilgi* 1028, Yeongjo 24 (1748), month 4, day 20, entry 26. For more details regarding the dispute between Madam Song and the Jeong descent group, see B. Kim (2022a, 126–133).

In a similar case where the husband's descent group tried to cancel the widow's adoption and initiate their choice instead, the widow's adoption was secured, whereas the descent group was accused of attempting to take over the main descent line.²⁵ The same logic used to protect the widow's adoption against the husband's collateral kin was also used against the descent group at large. Here again, widows were granted a position to secure the lineal succession of the family against the collateral line.

The cases examined above show how actively widows participated in the adoption matter, which was considered to be mainly the arena of male descent group members in late Joseon. They also illuminate how the patrilineal structure bolstered the widow's position, and even how some widows went on to appropriate the descent-line principle to their benefit. This reveals the complicated relationship between the patrilineal order and women that could not be explained only in terms of the suppression of women.

The Characteristics of Korean Widows' Heir Adoption

As in Joseon Korea, widows who did not remarry could become the right subject to adopt an heir in China of the Qing dynasty (1616–1912). In addition, as seen in the above cases where the state largely supported the widows' adoption in late Joseon, Chinese magistrates were also usually apt to support a widow's request when judging cases about adoption (Bernhardt 1999, 65; Lü 2008; Sun and Gabbiani 2020). However, although family succession in both societies was based on the same patrilineal principle, a notable difference existed between China and Korea regarding judgment on

25. In the mid-18th century, the Gwangsan Kim lineage group serving King Geukseong (1474–1540), a meritorious subject of King Jungjong's era, petitioned to cancel the adoption by the widowed eldest daughter-in-law and to establish a new heir of their choice. However, the local magistrate of Chungcheong-do province, who was in charge of the case, and the Board of Rites all accused the Kim descent group of attempting to take over the main descent line and judged in favor of the widow's adoption (*Byeol gyehu deungnok*, vol. 8, 99a–100a).

a widow's adoption. Unlike Joseon, where the reasoning for supporting a widow's adoption rights rested mainly on the descent-line principle, in China, judges rarely made references to it in ruling in favor of the widow's choice.

In late imperial China, as long as the heir was selected from the paternal family, the widow's adoption was largely protected by law, as in Korea.²⁶ But another significant reason for Chinese officials to rule in favor of the widow's choice, and as distinct from Korea, was the concern for a chaste widow's welfare, which had to do with the ever-growing normative power of the chaste widow ideal in late Ming and early Qing. To the judges, ensuring a widow's sexual fidelity to her deceased husband became as important as ensuring the continuity of the man's descent line. In turn, a widow's ability to safeguard her chastity depended on selecting an heir with whom she shared a particular bond of affection. Therefore, in the legal discourse of the time, there were increasing references to the establishment of heirs by widowed women as both helping the chaste widow's welfare and continuing the husband's patriline (Bernhardt 1999, 65–72).

Even in cases where the Chinese widows adopted an heir beyond the paternal family, one with a different surname, such as her own kin's nephew or grandson, which was not unusual,²⁷ their adoption rights were often protected by local magistrates who made use of their full right of discretion. Such rulings were meant to protect the interests of vulnerable groups in society, especially where the commodification of women was legally accepted, and to realize justice, although the judges were aware that adoption across surnames was against the law (Lü 2008, 402–404).²⁸

26. According to the Ming law, *Da Ming Huidian*, a woman whose husband had died without sons and who preserves her chastity is to receive her husband's share of property and select a nephew of the appropriate generation as heir according to the opinion of the lineage head. The Qing incorporated the Ming laws into its own code (Bernhardt 1999, 62, 64).

27. As adoptions across surnames in the Ming and Qing periods were predominately adoptions of relatives through a female line, Ann Waltner suggests that matrilineal kinship ties proved useful in recruiting heirs for the patriline (Waltner 1996, 75).

28. Similarly, Jiahong Sun and Luca Gabbiani emphasize the "endangered position" of sonless widows of an extinct household, implying that this vulnerability served as one of the main reasons for the local official's support of the widow. They attempt to interpret this in light

The fact that widows in China tried to adopt an heir with different surnames, and even met with approval by authorities, is truly interesting because this was almost unthinkable in the social matrix of late Joseon. In imperial China, adoption across surnames took place quite frequently, albeit illegally. From the Tang dynasty (618–907) to the Qing, adopting a child of a different surname was illegal. Nevertheless, violations of the law were rarely prosecuted. By the Ming dynasty (1368–1644), the bloodlines of one's father became less significant than they had been during the Tang, which led to a growing acceptance of adoption across surnames.²⁹ Some have argued that in ancient China it was essential that an adopted child be of the same surname since the sole purpose of adoption was to maintain the ancestral sacrifices. However, as the motives for adoption grew more diverse over time, it became less important that an adopted child be of the same surname (Waltner 1990, 66).

In Joseon Korea, especially in the later period, cross-surname adoption was rarely practiced since the purpose of adoption was solely to hold the ancestral sacrifices and continue the family line. No matter how distant he might be, the heir had to come from the patrilineal descent group, a principal to which Korean widows strictly adhered. At least in the cases examined here, unlike in China, widows in late Joseon were rarely embroiled in disputes related to cross-surname adoption. This could be one reason the logic of patrilineal descent was so widely used in justifying the widow's heir adoption in late Joseon compared to contemporaneous China. In Joseon, when the authorities accepted the widow's request, it was mainly because the widows were viewed as preserving the patrilineal descent line by adopting an agnatic heir on behalf of her deceased husband.

On the contrary, in imperial China, women have long been regarded as a thorn in the side of the patriline. They were often described as dismissing

of the social fabric of late imperial China, in which the sale of human beings, especially the commodification of women, was legally accepted (Sun and Gabbiani 2020).

29. Waltner explains this phenomenon by arguing that by the Ming, the expansion of the examination system, the growth of urbanism, and increasing commercialization led to a more fluid society, and thereby the aristocracy of blood and birth had almost completely disappeared (Waltner 1990, 65–66).

the greater good of the patriline and thereby objecting to the adoption or proceeding with nonagnatic adoptions. The occurrence of succession disputes was attributed to the jealousy and ambition of women, who were blamed for allowing their private feelings to cause chaos within the clan and break off the ancestral sacrifices, thereby violating the rules of patrilineal descent (Waltner 1990, 64).

Such a relatively intimate relationship between widows and the descent-line principle in Korea seems to stem from the fact that widows involved in succession disputes were mainly eldest daughters-in-law, another significant difference from China. Such a difference has its origin in the extent to which primogeniture was implemented in the two countries, with the Korean lineage system being much more rigidly structured than that of China. In China, from the mid-11th century when Song Neo-Confucians advocated primogeniture as the main mechanism of lineal continuation in an attempt to reform society by reviving the descent-line system, the practice never fully established itself as the dominant norm. Instead, partible inheritance—the custom of dividing inheritance equally among all sons—prevailed as the primary practice for most of imperial China's history.

By contrast, in Joseon society, as the idea of primogeniture became firmly implanted in the social consciousness by the second half of the dynasty, the primary eldest son was singled out as the ideal and therefore preferred heir in both ritual succession and economic inheritance, to the detriment of younger as well as secondary sons. This implied a greater emphasis on the continuation of the main line at the cost of collateral lines (Deuchler 1992, 283–285; 2015, 189–191, 268, 270–271, 275).

As the primary eldest son in Joseon emerged as the sole lineage heir and main inheritor of rituals and family property, his wife, the eldest daughter-in-law, was also granted corresponding ritual rights and respected by her husband's family as the wife of the lineage heir. Scholars in Joseon emphasized the proper distinction between the wife of the eldest son and wives of other sons in daily and ritual lives. They believed that the eldest daughter-in-law held a prominent position over other daughters-in-law since she was the one who assumed the role of her mother-in-law in assisting with ancestor worship and receiving guests. She was charged with

the critical task of continuing the line of descent, especially the patriline.³⁰ According to *Zhu Xi's Family Rites* (*Juja garye* 朱子家禮 in Korean), the most important family ritual guidebook for Joseon scholar-officials, the eldest daughter-in-law had a ritual responsibility to make a second offering during the ancestor worship following the first one by her husband, the lineage heir (Zhu Xi, *Jiali*, 135). Scholars in Joseon held that other daughters-in-law could never replace the eldest daughter-in-law in the performance of this ritual duty. The proper order between the eldest daughter-in-law and other daughters-in-law was so important even in daily life that a father would write such instructions in a letter to his daughter when marrying her off,³¹ and it would often be recorded in family education textbooks to be observed daily.³²

With such rights and corresponding duties, those eldest daughters-in-law whose husbands had died felt desperate and obliged to maintain their husband's descent line. If she had a son, this was not a matter of concern, but if she were a sonless widow, she would be eager to adopt an heir to continue her husband's descent line and for her own sake. Furthermore, due to the social fabric in which the position of the eldest daughter-in-law was largely acknowledged, these women were able to appropriate the lineage principle to their own favor, actively claiming their position as wives of the lineage heir or as representatives of the direct line of descent, as examined above.

In short, the differences in kinship practice and, more largely, the lineage structure between pre-modern Korea and China can also be observed through the lens of widow's heir adoption in these respective societies.

30. *Samsanjaejip* (Collected Works of Kim Ian), vol. 4, 48b9–10; *Seungjeongwon ilgi* 2677, Gojong 1 (1864), month 5, day 30, entry 23.

31. The Confucian scholar-official An Jeongbok (1712–1791) advised his daughter in a letter when marrying her off to get along well with other daughters-in-law, especially specifying to bear in mind the distinction between eldest daughter-in-law and other daughters-in-law and to never transgress its prescribed position (*Sunamjip* [Collected Works of An Jeongbok], vol. 14, 39a5–8).

32. *Geunjaejip* (Collected Works of Bak Yunwon), vol. 23, 10a3–5; *Yangwon yujip* (Collected Works of Sin Giseon), vol. 14, 11a4–5.

Conclusion

This paper explored the characteristic of widows' heir adoptions in the late Joseon period through succession disputes that involved widows and compared these with cases of their Chinese counterparts. It revealed how deeply widows were involved and how actively they pursued their interests in adoption matters against the conventional wisdom that viewed adoption, and more largely, the family succession, in late Joseon society as primarily an arena of male descent group members.

Many succession disputes that involved widows were related to conflicts with their husbands' younger brothers or the entire patrilineal descent group. While some widows had to protect their positions from the threat of their brothers-in-law claiming the status of lineage heir, others actively pursued their choice of a distant relative with a powerful social background as adoptee, even by challenging the concerted efforts of the husband's descent group to adopt a closer one.

In many cases, the state supported the widow's request not only by law but also by acknowledging the widow's position as the wife of the eldest son who could secure the lineal succession of one's descent group against the collateral line. The state believed that, in the absence of an heir, the widowed eldest daughters-in-law could secure the lineal succession of a descent group against any other male collateral relative who might be a potential danger to the direct line of descent.

Using this peculiar position, some widows went on to appropriate the descent-line principle for their own sake. When the sonless widow faced threats from her brother-in-law aiming for the position and property of the ritual heir, she petitioned the state, presenting herself as the only remaining representative of the lineal descent on behalf of her late husband. Her appeal complied with the state's pursuit of family succession by lineal descent, and therefore she was often able to win the case. Such cases show that patrilineality or patrilineal kinship norms were not incompatible with the presence of widows in late Joseon.

The characteristics of widows' heir adoption in Joseon become much more evident when compared with that in late imperial China, where

widows who did not remarry could also become the proper subject for adopting an heir. In succession disputes, widows' requests for adoption were largely endorsed by the authorities in both societies, but their reasoning for the judgment differed. Unlike Joseon, where the reasoning for supporting the widow's adoption mainly rested upon the descent-line principle, judges in China rarely made references to it. This implies that widows in late Joseon had a more intimate relationship with the lineage principle than their counterparts in China, a result of the different kinship structures of each society. With the prevalence of primogeniture in late Joseon, issues of family succession and inheritance became the concern of those eldest daughters-in-law, especially in the absence of the husband, the lineage heir. By strictly adhering to the agnatic principle in practicing adoption, widows of Joseon were able to maintain a stable position in their husband's lineage. In this sense, widow's heir adoption can be a useful lens through which differences in practicing kinship, and more largely, the lineage structure, between pre-modern Korea and China could be observed.

Widows discussed in this paper were mainly upper-class women. As there is evidence suggesting that lower-class people also showed interest in agnatic adoption and family succession toward the end of the dynasty,³³ more research should be done on lower-class women's adoption to obtain a comprehensive understanding of widow's heir adoption in general and illuminate further the complex relationship between women and the Confucian family order in late Joseon society.

33. Based on the household registers of Danseong county, Gyeongsang-do province, Naehyun Kwon argues that the adoption practice of the upper yangban class gradually diffused to the middle and lower classes. Especially from the late 18th century onward, there is much evidence to indicate that lower-class people adopted or imitated the family culture of the yangban class, agnatic adoption only being one of them. According to Kwon, the overall soaring number of adopted sons in the early 19th century can partly be attributed to the increase in adoption by the lower class (Kwon 2009, 221–229).

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