

## Introduction: Women, property and legal change

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The distribution of property in any community reflects a variety of cultural, economic and social influences including, not least, a legal framework that defines property and the rights to use and transfer it. Legal change, in turn, has the capacity to reshape distribution and the complex matrix of culture, society and economy that surrounds access to property. The articles that have been brought together for this special issue of *Continuity and Change* document and analyse the gendered patterns of ownership in a variety of times and places. Each of the contributors has encountered some difficulty in determining the relevant legal framework, the extent to which laws were enforced, who owned what, patterns of inheritance and the meaning of ownership itself. The authors respond by examining a range of sources with imagination, ingenuity and methodologies that originate in different disciplines. The precise shape of the research of course depends on the circumstances of the particular historical context.

In the first contribution Chris Briggs assesses the participation of female litigants at manor courts from four southern English villages during the thirteenth and fourteen centuries. Women figure in a substantial although rapidly declining minority of litigations involving credit. The principal challenge facing the author is to rule out or at least reduce confidence in the possibility that women engaged in credit that remains invisible to the historian. The internal evidence of the manor court rolls betrays no indication that female credit activity was significantly more extensive than is suggested by a straightforward reading of the source. A number of female tenants held land in the area, but they do not appear in

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credit litigation in proportion to their numbers. The author concludes that married women in the four villages engaged in credit transactions rather less than did their descendants three centuries later.

In another rural community, in this case one in northern Sweden during the eighteenth and nineteenth centuries, Maria Ågren examines the use of wills to provide for a widowed spouse. The author reviews the evolution of a legal system which changed significantly in 1734, 1845 and again in 1857. Throughout the period state regulations prohibited the subdivision of farms; those who inherited were themselves constrained in the disposition of family land. The author draws upon the evidence of court cases, prenuptial agreements and, most importantly, a systematic database of surviving mutual wills in order to understand the contribution of inheritance to strategies for care of the elderly. Maria Ågren discovers that couples chose to write mutual wills in response to childlessness, the complications of remarriage and the anxiety that surviving kin would not respect the rights of the widowed spouse.

The passing of the generations in an urban environment provides a starting point for Mary Louise Nagata's study of inheritance patterns in eighteenth- and nineteenth-century Japan. Population registers from two neighbourhoods of Kyoto record 59 examples of family headship succession. The author's analysis of the probability and circumstances of women inheriting headship informs the intensive examination of inheritance within a single family, which is documented by a number of personal and business papers. The seven successions visible in this family from 1725 to 1866 illustrate the important and active role of widows, daughters and sisters in the inheritance decision even though no women in this family inherited directly. The insight afforded by the case study, in turn, contributes to a more nuanced understanding of the diversity of family strategies that leave more cryptic traces in the population registers.

Eileen Mulhare examines dramatic change in the laws surrounding control and access to property in a central Mexican community. A chain of sources beginning in 1582 points to the persistence into the twentieth century of pre-Conquest patterns of landholding and social organization. Legal pressure to curtail communal and church rights to land began in 1786 although the community found ways to circumvent even the strongest privatization initiatives, such as that of 1856. The Mexican Revolution brought another law in 1920 that effectively ended the intergenerational transfer of communal lands. A combination of documentary and oral sources allows the author to argue that privatization did not impoverish this aboriginal community, as some have argued, although traditional mechanisms of social control and dispute resolution were disrupted. Women, in particular, lost an important protection previously

afforded by communal property and the social organization that it sustained.

Mary Beth Combs assesses the impact of another well-known legal innovation, the 1870 English law that allowed married women to hold and control personal property in an open and straightforward manner. The author draws upon the Death Duty and Succession Registers in England and Wales in order to contrast the estates of women who married before and after the legislation. The estates of some women are linked to their husbands' files in order to create a composite picture of household wealth for couples. Personal and household characteristics derived from a linkage to the census permit a rich statistical analysis. The author demonstrates that women who married after the legislation held a larger share of family assets and also held more of their total wealth in personal property than did women who had married before 1870.

A related article by me and Sarah Van Sligtenhorst considers the next wave of change in English-based common law, a relaxation during the 1880s of prohibition on the holding of real property by married women. Property registers, assessment records, wills and census enumerations for a Canadian community confirm that women increased their share of wealth markedly during the later nineteenth century. The central methodological challenge of this study was to find evidence with sufficient scope and precision to determine whether or not legal reform was responsible for the gender redistribution. The authors argue that the evidence does support this hypothesis and that one unintended consequence of the new legal regime was a shift in inheritance practice to favour women.

These examinations of women, property and legal change are diverse and yet they share a recognition of the influence of law and local legal administration upon gender inequalities and women's access to property. A second common feature is the vexing difficulty of determining exactly who owned what. In turn, each of the articles draws on ideas and methodologies originating in different disciplines in order to interpret the evidence that is uncovered. Finally, and not least, each of the authors advances in some significant way our understanding of the relationships linking women, property and legal change.