Hers by Right

Gendered Legal Assumptions and Women's Property in the Medieval Crown of Aragon

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This article explores women's property rights in the Crown of Aragon (Spain) during the high Middle Ages, focusing on the gendered legal assumptions that governed women's economic lives. During the thirteenth and fourteenth centuries, Iberian jurists came under the influence of Roman law, which assumed a male-dominated household economy. Yet medieval women had long exercised substantial property rights that could not simply be abrogated by the new legal culture. An examination of women's litigation from the fourteenth-century Crown of Aragon, placed in the context of particular Roman legal principles that influenced the way cases were adjudicated, reveals a paradox: women's litigation to assert independent property rights depended on the use of laws that were grounded in an assumption of married women's subordination to their husbands. Women's own litigation thus helped to solidify a gendered legal system that would shape women's economic lives for centuries thereafter.

The conjugal life of Sibila and her husband Pere de Sala ended badly. In 1329, in the first of what turned out to be a series of bitter court battles, Sibila alleged that her husband had abandoned her and their daughter, refusing to support either of them financially; she was therefore suing her husband for the support owed her.[1] Pere, who was a judicial official for the king in the Catalan district of Borredà, countersued on the grounds that his wife was a notorious adulteress—a circumstance that would have legally absolved him of any obligation to either her or her daughter. As far as Pere was concerned, his wife and her child were on their own.[2]

In recent years, historians have scrutinized the cultural meaning of cases like the one between Sibila and Pere, pointing out ways in which people in the premodern era regularly used formal legal processes not only to settle disputes but also to exact vengeance, to defame an enemy, or simply to make a statement.[3] For women like Sibila, however, the choice to litigate posed special problems, as it entailed accepting the gendered analytical categories of a learned law that identified women in terms of their relationship to a given man, and construed their standing as legal agents accordingly. Despite the gulf that often existed between specific statutory mandates and broad cultural norms, jurists could not ignore statute law,

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nor were they likely to venture far afield of the gender system that formed one of the cultural frameworks within which that law was interpreted. Nevertheless, the process of pleading a case in court required that litigants adopt the conceptual vocabulary of the learned law, including any gender assumptions that might underpin it. However, lawyers and litigants at times exercised their powers of interpretation in ways that suggest that the relationship between law and gender was negotiable, at least within limits.

It is this negotiable space—what we might think of as the loopholes in the legal conception of gender—that I wish to explore further in the present article, using medieval women's property litigation as an example of a larger pattern of interaction between women and the law. I argue that this interaction goes beyond women's oppression by or resistance to gendered legal assumptions about female subordination to male authority and the vulnerability that went along with that subordinate status. Rather, the cases analyzed in the following pages show that the very principles that were originally designed to undergird a male-dominated household economy provided married women with an efficient means of gaining independent control over their own economic resources. In particular, I focus on the high medieval Crown of Aragon, a composite monarchy whose core territories comprised the semi-independent regions of Catalonia, Valencia, and Aragon in northeastern Spain. During the thirteenth and early fourteenth centuries, the count-kings of the Crown of Aragon were near the forefront of a movement to reshape territorial legal systems in accordance with the principles of the recently "rediscovered" Roman law, a change in the legal culture that would lay the foundations for most continental European law well into the modern era.[4] But despite the patriarchal tone of the assumptions embedded in many of these laws, the content of women's suits over management of their financial resources shows that these gender ideas were not something to be "gotten around" for medieval women. Quite the contrary: if women were to be successful litigants, they had to actively use those ideas.

Legal documents have long provided a window onto women's experience in past societies, and scholars in recent decades have been especially interested in tracing the divide between the gendered ideals expressed in the law codes on the one hand, and the "real" experience of women as represented in litigation records on the other.[5] My focus here is not on these undeniably significant areas of contrast, but rather on how women's litigation depended on an active interaction between the gender systems reflected in these two types of sources. The prescriptive sources I employ fall into two broad categories: law codes from the Crown of Aragon that were constructed during the thirteenth century, when the renaissance of Roman law was beginning to take hold, and materials from the Roman legal codes

that would have been part of the formal education of both the legislators who created the law codes and the lawyers and judges who interpreted actual cases. The descriptive sources that form the core of this article are drawn from records of women's property litigation from the central and regional royal courts of the Crown of Aragon during the first third of the fourteenth century. I do not endeavor to present all cases from this period involving disputes over women's property; to do so would require a much longer article. It is also important to note that in few of these cases do we know the female litigants' socioeconomic standing; we can only roughly place them in the broad middle range of medieval society, based on the combination of an absence of titles or honorifics with the ownership of real property or other resources over which to litigate. What the selected cases do have in common is that they all are adversarial actions in which a wife was suing her own husband to recover her dowry—a particular legal action that shows how female litigants co-opted the gender assumptions built into law in order to achieve an economic independence seemingly at odds with the very assumptions they were employing.

Medieval historians, notably those focusing on the abundant records of medieval Italy, have worked the subject of dowry extensively, questioning what its forms and practices meant for the place of women within their natal and marital families, as well as in society at large. In general, historians of the medieval Mediterranean have tended to agree with Diane Owen Hughes's argument that the growing importance of dowry coincided with an increased emphasis on the husband's lineage (as opposed to the conjugal couple), to the detriment of women's independent financial agency.[6] The scholars responsible for shaping this general picture of the meaning of dowry have done so primarily with a view to describing the social effects of gendered property law. My aim here is to propose a slightly different set of questions, revolving around the legal assumptions that underpinned both laws and litigation, and the way that shifts in these underlying assumptions produced changes in women's ability to control aspects of their economic lives. Beginning with a survey of law codes from throughout the Crown of Aragon and samples of dotal contracts from the northwestern Mediterranean more generally, I will briefly outline the way that women's relationship to their dotal property was understood in this particular society. Having established the economic landscape of the high medieval household as background, I shift to the core of this investigation: an examination of litigation between women and their husbands over dotal properties, the outcome of which often depended upon conflicting interpretations of legal principles that had been developed over a millennium earlier during the time of the Roman Empire. This litigation reveals an internal contradiction

in marital property law, which sought to protect women's property while simultaneously enforcing a patriarchal household structure that gave the male head of household full administrative rights (and responsibilities) over the family economy. An examination of the ways in which both jurists and women themselves negotiated between these two imperatives not only adds to our understanding of women's historical relationship to property law; it also shows how women adjusted their litigation strategies to engage with the gendered assumptions that underpinned those laws. Paradoxically, the courtroom strategies that proved effective in securing a measure of economic agency for a married woman depended upon assumptions about women's inherent incapacity, and women's own use of those assumptions helped to perpetuate them for future generations.

Dowry: Law and Practice

Called the *ajuar* in Aragon, *axuar* in Catalonia, and *exovar* in Valencia, dowry in the Crown of Aragon (as in the rest of medieval Europe) consisted of the property that a woman's family of origin bestowed upon her at the time of her marriage.[7] Dowry could consist of moveable or immovable goods (or a combination of the two), and might additionally include a bride's trousseau—that is, her personal effects and household goods.[8] For one group of fifteen dotal instruments preserved in the municipal archive of Girona during the reign of King Jaume II (1291–1327), dowries ranged from 200 sous (for a marriage between a baker's daughter and a shoemaker) to 3,000 sous plus a significant trousseau (for a marriage between two families of the local military elite).[9] Discounting these two as outliers, far from the mean, the average dowry of the remaining thirteen couples was 680.8 sous, with the amount remaining relatively stable over the course of nearly four decades.[10] While the Girona sample is small, its figures roughly align with those found by historians for other territories in the Crown of Aragon around the same time: Jaume Codina found for the lower Llobregat region, just southwest of Barcelona, an average dowry for the period between 1321 and 1330 of 48.2 *lliures* (964 sous), and an average for the whole fourteenth century of 43.6 *lliures* (872 sous), and Rebecca Winer found an average artisan dowry of 500 sous for the slightly earlier period of 1250–1300 in Perpignan.[11] Even during the much-studied period of dowry inflation of the late Middle Ages, Dana Wessell Lightfoot has found figures not much higher for fifteenth-century Valencia.[12]

Many historians have pointed to the period between the eleventh and fourteenth centuries as a time of transition in the composition of dowries, which increasingly came to be made up of cash, rather than real property,

and have suggested that women's status declined as a result of this shift. According to this line of argument, family lineage and any public authority that went with it were identified with real property, from which women were at least theoretically excluded; the rise during the high Middle Ages of the practice of primogeniture resulted in a tendency to pay dowries in cash to avoid breaking up the family's landed property.[13] Such arguments, however, tend to proceed from studies of the nobility; more broadly based studies of women's testamentary patterns from this period suggest that, despite the increasing use of cash in dowries, women still controlled landed property, and that twelfth- and thirteenth-century dowries were most often mixtures of cash and real estate.[14] While the dotal instruments preserved in the municipal archive of Girona do not directly support the argument that women gained control of landed property through their dowries (all fifteen specified cash dowries, with no real property included), this may be due to the relatively small size of this particular sample. Indeed, broader surveys from nearby areas reveal that real property remained a component (if not always the dominant one) of nonaristocratic women's dowries throughout the northwestern Mediterranean in the high Middle Ages. Women at all levels of society held one-fourth of all the real property in the diocese of Marseille during the high Middle Ages.[15] Likewise, women in fourteenth-century Manosque brought at least some real property to their marriages.[16] Almost half of the late thirteenth-century dotal contracts from Perpignan included real property.[17] And landed property also played a role—albeit a more limited one—in the dowries of Valencian artisan- and laboring-class women.[18] We should also note that, in addition to dowry, women in the Crown of Aragon also might possess separate nondotal property, including landed property, along with the ability to make testamentary bequests from it, independent of their husbands' authority.[19]

Women were further linked to the landed economy through the guarantees on their dowries. When dowries were made up of cash or other fungibles, their depletion was a matter of course; husbands were thus expected to guarantee not the substance of the dowry, but rather its value.[20] While this guarantee was probably implicit in most cases, many couples and their families specified in the dotal instrument precisely which of the prospective groom's properties would serve as collateral on the value of their intended bride's dowry, and land was often part of the mix. Of the fifteen Girona dotal instruments, eight specifically name at least part of the husband's landed properties as security;[21] three men offered up the whole of their moveable and immovable goods as collateral;[22] only four dotal instruments contain no specific guarantee.[23]

This system of guarantees was necessary because of the complex nature of property ownership within the medieval household.[24] Law codes in the

Crown of Aragon assumed a male-headed household in which dotal goods would provide the husband with the extra resources he would need to support a wife.[25] Indeed, laws in the Crown of Aragon granted a woman's husband management of her dowry for as long as he lived, except under certain conditions—for example, a husband's catastrophic mismanagement of his wife's property, or if their marriage failed due to some provable fault of his.[26] However, the same law codes asserted that a married woman maintained ownership, if not possession, of her dotal properties: her husband had no power to alienate her goods, and the courts might order an embezzling husband to replace the goods that he had squandered with property of equal value from his own estate.[27]

Gender and Legal Assumptions: The Marital Property Regime

We may observe here a tension in the prescriptive sources, which seem caught between an imperative to protect women's property on the one hand, and a tendency towards reinforcing a gender system in which husbands legally controlled their wives' economic lives on the other. Two key legal assumptions underlay this tension. The first is that most secular adult women would be a part of what we might call a "marital property regime," in which the husband would manage the couple's financial resources.[28] While women in the Crown of Aragon were not subject to the rules of coverture that deprived married women in England of the legal ability to administer their own marital property by independently making contracts or suing in court, the economic regime of marriage for women in these Iberian kingdoms was a balance between the independence that came with the retention of legal ownership of their dowry, and economic dependence on their husbands, to whom the law granted managerial rights over the dowry and its proceeds during the husband's lifetime. A woman might share in economic decision making with her spouse, but a husband was not legally required to consult with his wife about the administration of marital property, and a more unfortunate married woman could find herself in dire financial straits.

This leads us to the second, less obvious underlying assumption: that the husband would exercise his financial authority responsibly, and for the benefit of the entire household. Particular legal cases in which a husband did not do so illustrate the ways that women could use to their advantage the assumptions that underpinned the marital property regime, despite the fact that written law seemed to give their husbands near-total control of their assets. The marital property regime of the high medieval Crown of Aragon was based on the assumption that a husband would control all

household resources, for the benefit of all members of the household. Once married, a woman had little independent control over her own property, and could face serious financial hardship if her husband turned away from her, or even against her. In each of these circumstances—abandonment and abuse—married women were pushed to the margins of the property regime imagined for them in statute law, and the litigation that arose from these cases shows women actively using the gender ideas that underpinned marital property law to ensure their own economic stability.

The case with which this article opened, in which Sibila was suing her husband Pere for financial support after he had abandoned her, illustrates one of the most important avenues of financial recourse that the courts allowed a married woman: the ability to demand the return of her dowry if her husband refused to support her.[29] Although a husband managed dotal properties along with all the couple's other assets, law codes underlined the fact that a woman's dowry was at least in part designed to offset the costs that a husband, as head of the household economic unit, would incur in supporting a wife. Accordingly, courts throughout the Crown of Aragon during the early fourteenth century ruled in women's favor time and again if they could prove neglect.[30] A lapse in material support effectively constituted a breach of the unwritten agreement between husband and wife; a husband was therefore no longer entitled to the management of property that was supposed to ensure his wife's economic well-being.

Some women who sued in court found themselves not only without financial resources, but homeless as well, as in the case of Jacoba, wife of Andreu Barari, who lodged a complaint in 1328 that her husband had expelled her from the conjugal household near Vic about a year previously.[31] More frequently, though, it was the husband who moved out, as in the case of Bernat Moyet, notary of Lleida, whose wife Natalia sued him for financial support in 1324 when he refused to live with her or treat her with marital affection—including, it seems, his obligation to provide for her financially.[32] Similarly, two years earlier in the same city, a woman named Sibila had taken her husband Arnau de Bosco to court because he had refused to live with her or provide her with the material support that she believed she deserved.[33]

In some instances, as in the case between Pere de Sala and Sibila, the court would order the husband to provide decently for the woman in question while the facts of the case were decided.[34] Sometimes the courts would go further than mandating mere support: when Natalia petitioned the courts to order her husband Bernat to return her dowry, she made it clear that her husband's neglect had left her so poor that she could not pay a lawyer or court costs. In this case, the royal court ordered not only that her husband

should provide her with support while the case was being decided, but also that the local authorities should underwrite her legal expenses; the courts further showed an awareness of the financial hardships that could arise from protracted litigation by explicitly noting that Natalia's case, like other similar cases, be tried using summary procedure.[35]

Another issue that must be taken into account when assessing the economic lives of married women is what happened when a marriage became so intolerable that a woman could not remain in it. For medieval women, as for women in other times and places, one of the major hazards of trying to escape from an abusive relationship was the economic hardship that such a move could entail. Women who raised allegations of spousal abuse in the royal courts of the Crown of Aragon were generally not interested in leveling criminal charges against their husbands, nor were they trying to gain a legal separation—an action that would have been the province of the episcopal courts. Rather, their suits were civil actions, aimed at securing financial judgments that would allow them to live separately from their abusive spouses. The royal courts seemed to recognize that, in some situations, a woman's unilateral decision to separate from her spouse was legitimate, and merited court-ordered financial support. Agnès, daughter of Bertrand, was the plaintiff in one such case. Her husband, also named Bertrand, had expelled her from the conjugal home in the Catalan town of Canyelles, refusing to provide her and her household (*familie sue*) with food and other necessities. The court ordered the local royal justice to investigate the situation, and if Agnès's husband's cruelty (*sevicia*) was indeed such that she could not continue to live with him, then the court should compel him to support her and her household decently in their separate living situation.[36] In another case from the Catalan region of Urgell, María, whose husband Arnau had beaten her to the point where she had been granted an order of *segurament* (a sort of restraining order against physical violence), was suing not for protection of her person, but rather for the financial support that was owed to her as a wife. The fact that the judgment in María's favor had been preceded by a previous (and presumably ignored) injunction that her husband support her as was her due, and the fact that one of the options that the judgment offered to Arnau was that he return María's substantial dowry, may indicate that María had, with or without ecclesiastical sanction, already separated from her abusive husband, and that her main concern was now not her physical safety but her financial security as a single woman.[37]

The most common reason, however, that women sued for restitution of their dowries was neither abuse nor abandonment, but rather a husband's bankruptcy. As noted above, husbands were required to provide collateral from their own property—usually landed property—to guarantee the value

of a wife's dowry. When the integrity of that property was threatened, wives had cause for legal action against their husbands. In the year 1300, Raymunda, wife of Arnau de Cure, was prompted to appear in the court of the king's judicial representative in Terrassa when her husband's creditors threatened to encroach on her dotal properties. Arnau had offered a certain *mas*—that is, a small farmstead—as security for a debt he had incurred, but Raymunda protested that the *mas* in question was hers by right of dowry, and so could not be encumbered to anyone else.[38] In another case from a few years later, the local royal official in Manresa wrote to Bernat, the prior of the abbey of Montserrat, forbidding him from confiscating the home that Guillem de Rausech lived in with his wife Maria because, while the property was Guillem's, he had obligated it to his wife as a guarantee on her dowry. Maria had presented the royal official with documents substantiating her interest in the property in question, and he had accordingly invalidated that part of the abbey's claim.[39]

The phenomenon of wives suing their own husbands for recovery of their dowries is thus an interesting instance in which women were able to exercise a degree of economic autonomy that seems to fly in the face of much statute law and legal theory on women's subordination to male authority. It is also, we should note, not a phenomenon limited to the Crown of Aragon. Historians working on regions throughout the medieval Mediterranean have noted instances of similar legal actions, interpreting them explicitly within the context of the commercial takeoff that took place from the late thirteenth century onwards, which may have prompted couples to turn to a woman's dotal properties as a shelter against creditors.[40] This is not an unreasonable reading: the economy of the Crown territories, especially those coastal ones in Catalonia and Valencia, were just as affected by the Mediterranean commercial revival as any of the Italian urban centers, its citizens just as subject to the impact that economic volatility could have on one's personal fortunes.

This interpretation is further bolstered by indications in courtroom documents of the increasing importance of the dower. Appearing in Catalan and Valencian documents as the *escreix* or *creix*, in Aragonese documents as the *firma de dote*, and additionally in some Catalan documents as the *donació propter nupcias* or *augment*, the dower was a direct gift from the groom and his family to the wife.[41] In the Crown of Aragon at least, the dower seems to have been limited to unions in which the woman had not been previously married.[42] The dower was usually presented at the time of the wedding, and the fact that laws in many parts of the Crown of Aragon set the minimum amount of the dower at half that of the dowry strongly suggests the two were understood to constitute complementary halves of an exchange.[43] We

should note, however, that while laws in the Crown of Aragon mandated a dower of at least half of the value of the dowry, the above-mentioned dotal instruments from fourteenth-century Girona indicate a tendency towards equal matches—fourteen of the fifteen dotal contracts specify a dower of exactly the same amount as the dowry[44]—and in other regions where the dower had fallen into near-complete disuse it underwent a sudden resurgence in popularity.[45]

Since husbands were required to guarantee the value of not only the dowry but also of any dower that they agreed to at the time of marriage, we might well wonder why a prospective groom would add to his expenses by providing a dower twice as high as required by law, which would require him to encumber even more of his property to guarantee it. This tendency may be best explained by reference to the benefits of having marital assigns as a financial shelter in volatile economic times: in such circumstances, a larger dower would mean a larger potential shelter. Indeed, in the Girona group, three of the fifteen grooms represented in the dotal instruments had to encumber all of their moveable and immovable goods to cover the combined value of the marital assigns; eight others offered up substantial landed properties as security.[46] But unlike the abandoned or abused women who could base their suits on assumptions regarding the marital property regime that were embedded in the law codes of the Crown of Aragon, women who wished to sue their husbands because of impending bankruptcy had to reach back to a much older set of legal assumptions that formed part of the legal culture of the High Middle Ages in the wake of the Roman law revival. These suits show women and their legal counsel actively reinterpreting the powerful gender ideas expressed in one Roman legal concept in particular: the Velleian senatus consultum.

Roman Gender Ideas in the Medieval Courtroom

In its original formulation, the Velleian senatus consultum (ca. 46 C.E.) stated that a woman could not be compelled to take part in public business transactions, thereby freeing a wife from economic liability for any contracts her husband made without her direct participation, and legally preventing a woman from having to obligate herself on behalf of another person, usually her husband.[47] The classical Roman jurist Ulpian (d. 228 C.E.) interpreted this decree to mean that a wife could reclaim her dowry in cases of her husband's insolvency, and later Roman law reinforced this interpretation, asserting that the wife of an insolvent husband might be given the management of whatever of his goods had been used as security for her dowry, *donatio ante nuptias* (that is, the dower), and any other goods

that she brought to the marriage.[48] The original rationalization for this decree was that a woman's natural modesty ought to preclude her from being compelled to take part in "masculine" obligations—specifically, in this case, responsibility for her husband's debts, as well as for the public litigation that might ensue. During the period of the early Christian emperors, however, the Velleian senatus consultum took on a new gender meaning: not merely was it unseemly for women to be involved in masculine obligations; the weakness of their sex actually prevented them from doing so competently.[49] This gendered reinterpretation would be further complicated during the sixth century by a piece of Justinianic legislation, *Si qua mulier*, which declared null and void any wife's intervention in the affairs of her husband unless she received an advantage—an interpretation that depended on an underlying assumption of a married woman's essential financial vulnerability and lack of economic agency within her marriage, rather than on her inherent matronly modesty.[50]

Whether grounded in ideas about female incapacity, modesty, or vulnerability and subordination to her husband, the major tension in these laws is between wives' property rights in marriage on the one hand, and the diminished legal agency of women in general on the other. But the existence of different gender meanings of women's restrictions on acting (or being compelled to act) on their husbands' behalf would leave a complicated legacy to women in the Crown of Aragon when the original senatus consultum was reintegrated into local law via the *ius commune*—the combination of revived Roman law and compiled canon law taught in the high medieval law faculties. The Crown of Aragon's commercial and political ties with the Italian cities that were the crucible of the Roman law revival, as well as the presence of an important law school in the southern French town of Montpellier (a possession of the Crown of Aragon from the early thirteenth to mid-fourteenth centuries), meant that the Crown lands felt the impact of the *ius commune* earlier and more profoundly than did many other European territories. By the thirteenth century, Roman law, either verbatim or in principle, was common in new legislation in the Crown of Aragon, and even in redactions of local customs; by the fourteenth century, Catalano-Aragonese jurists increasingly invoked Roman law in their deliberations and verdicts, even using it in preference to autochthonous laws.[51]

The revival of the Velleian senatus consultum in particular can be traced to the twelfth- and thirteenth-century Mediterranean, when both canonist and civilian jurists affirmed a wife's implied claim on her husband's personal goods equal to the amount of her dowry, trousseau, and dower, along with the general principle that that she was her husband's primary creditor.[52] In the territories of the Crown of Aragon, the application of this

provision of Roman law seems to have been only sporadic, likely due to the fragmented nature of the legal system in that composite monarchy. In the local ordinances, the reception of Roman legal ideas was imperfect at best, although it was less distorted in some of the Catalan laws than it was in other parts of the peninsula—possibly due to the proximity and influence of legal faculty of Montpellier.[53] In the law code governing the city of Tortosa and its surrounding territory, for example, the Velleian senatus consultum appears in the section regulating a wife's responsibilities with regards to her husband's debts. The code of Tortosa gives a woman the right to renounce the privilege, but even then, a creditor was required to liquidate her husband's assets first.[54] The law of the neighboring kingdom of Aragon had related traditions, but Aragonese jurists, in contrast to those in the other Crown territories, interpreted this Roman legal principle through the lens of customary practice, with the result that the Velleian senatus consultum became a part of a preexisting discourse on a woman's submission to her husband, rather than that of either a woman's matronly modesty or financial vulnerability, and her concomitant need for legal protection.[55]

This discussion of the Velleian senatus consultum in the context of a composite monarchy illustrates how Roman law could be subject to multiple interpretations, even within a relatively contained geographic area. In some places in the Crown of Aragon, the senatus consultum was interpreted as a limitation on a woman's ability to make legal contracts of any kind; it was assumed to have originated in a woman's legal submission to her husband, thus implying the nullification of all her legal acts. But in most case law, the narrower interpretation, with its emphasis on a woman's right to financial security for herself and her family, was the one that prevailed.

Women proved willing to use the courts to protect that financial security, even when this entailed acting in the public forum of the law courts in a manner that ran counter to the principles of matronly modesty that underpinned the very law these women were using. Statute law from the Crown of Aragon did not prevent women from appearing in court on their own behalf.[56] The documentary record shows them litigating on their own as well as with representation, suggesting at least a basic knowledge of legal principles that touched on their property rights, and an eagerness to take advantage of this new interpretation of a centuries-old legal principle and the financial benefits it could entail, not only for themselves, but also for their husbands and families.[57] A woman's dowry could constitute a significant portion of the conjugal goods, and so a large part of the estate could be sequestered from creditors. For example, in the district of Terrassa, in the years after 1299 when King Jaume II's procurator ordered his local representative to protect women's dotal properties from their husbands'

creditors, or from being confiscated if their husbands had committed a crime, there appears to have been a rash of cases of women asserting their rights to have sequestered from creditors the goods serving as collateral on their marital assigns.[58]

What was open to debate was the procedural threshold for a woman to recover her dowry. The civil (Roman) law jurist Odofredus (d. 1265) opined that a husband need not actually be insolvent; rather, he simply needed to have entered into debt sufficient to bankrupt him if all his debts were called in, or to have begun to mismanage his funds in a way that appeared to be leading to financial catastrophe for the family. Another civilianist, Bartolus (ca. 1313–1357), underlined this broader interpretation, asserting that a woman could reclaim her dowry even if a husband merely tended toward insolvency.[59] Such appears to have been the case with Sibila, who lodged a claim with royal officials in Terrassa to sequester her dotal goods from her husband's creditors. But what differentiates Sibila's case from most other similar claims is that it was not prompted by the collection of a debt in the present, but rather by the fear that her husband, Pere de Bel.lloc, was *sliding into* poverty. Apparently, Pere had incurred debts in a number of districts, using his wife's dotal property as collateral for each one. In 1322, Sibila's procurator appeared before the royal court in Terrassa, bearing letters from royal officials in other districts, all asserting Sibila's rights to her dotal goods.[60]

Sibila's strategy appears to have been preemptive: she was not contesting any particular creditor's claim but rather registering with the proper authorities the fact that certain marital properties might not be claimed by creditors in the future. Around the same time, other women from the same district were taking similar precautions: in 1299, a few months after the officials in Terrassa received the royal letter affirming the immunity of women's dotal properties, Esclaramunda, wife of Guillem Scuder, appeared personally before the local royal officials, bearing a dotal instrument that proved that her husband had obligated all of his goods to guarantee her substantial dowry of 1,800 sous. She requested that the courts thus protect the marital properties from any outside claims.[61] Esclaramunda paid the courts five sous for this document, as did Maria, wife of Ramon de Fontes of Terrassa, who appeared before the local royal court in 1325 or 1326 to settle arguments regarding the goods of her husband. Maria asserted that certain goods that creditors were trying to claim had been previously obligated as security for her dowry, and that her dotal agreement, which obligated all of his goods, was made prior to agreements with any other creditors.[62]

In her legal action, Maria took pains to point out that she had not signed on to any of the debts for which her husband had encumbered these

properties.[63] This was an important point: while a woman could request that the court sequester her goods from her husband's creditors, the courts would deny her claim if she and her husband had incurred the debt jointly. When Jurno de Basanta came to claim a debt of 350 sous owed to him by Bernat Barba of Terrassa and his wife Brunissenda, a full liquidation of Bernat's properties still left the couple fifty sous short, and Jurno insisted that Brunissenda's dotal properties be liquidated as well. Brunissenda appealed to the local royal court in 1316 or 1317 to try to claim the privilege afforded to her by the revived provisions of the Roman law to shield her dotal property, but the court denied her claim, finding that, since she and her husband had contracted the debt jointly, her properties, as well as his, were obligated.[64] We might speculate that, as wives' suits to sequester their marital assigns became more common, creditors might have attempted to insist that wives cosign their husbands' debts. But even in this situation, the patriarchal legal assumptions regarding married women served to protect women's property rights: according to the thirteenth-century Barcelona statutes known as *Recognoverunt proceres*, a woman could be partially liable for joint obligations, but only if she had explicitly renounced her privilege and the husband's goods had been liquidated—and even then, she was only responsible for up to half of the obligations.[65]

One final detail needs to be noted: in all of these cases, a married woman was lodging an explicitly adversarial action against her husband; that is, husband and wife did not go together to the courts to claim the husband's bankruptcy and jointly sequester the value of the wife's dowry and dower. Jurists who commented on the marital property regime tended to oppose voluntary property transfers between spouses, or even voluntary confessions of insolvency made jointly by the couple.[66] This was probably due to a fear of fraud and collusion between husband and wife, but it had the effect of forcing a married woman to claim an economic autonomy that may have been at least in part fictive.

Conclusions

All of the legal claims discussed in the foregoing pages rested not just on a centuries-old law, but also—and, I would argue, more importantly—on the gendered legal assumptions that underpinned it. Women were economic partners in marriage, but property law for married women was constructed under three basic assumptions: first, that all marital property—his, hers, and theirs—would be under the husband's control, if not necessarily his ownership; second, that a woman had an expectation of financial security within her marriage; and third, that a husband had an obligation to be a

prudent administrator of the marital goods. When either of the latter two of these basic assumptions broke down, a woman had the right to act against her husband in court to preserve her property—a fact that may have been used for the woman's benefit, or for the benefit of the conjugal household as a whole.

Laws of the high medieval Crown of Aragon in many ways mirrored the patriarchal household structure of the Roman Empire, shaping the property rights of married women, whose husbands exercised near-complete legal authority over their wives' dotal properties. But at the same time, these laws recognized women's continued claims of ownership of that property, and their concomitant right not to have it diminished through no fault of their own. Married women could take advantage of this tension in the legal imperatives to mitigate the written law's gendered ideas about property management. To do so in court, however, they had to adopt the conceptual vocabulary of the learned law. In other words, for an individual woman to assert her rights to manage her own property in a way that ran counter to legal assumptions about female vulnerability and incapacity, she had to represent herself in court in terms of those very same assumptions. This paradoxical process shows that the relationship between women and the law cannot be reduced to a question of women's oppression by or subversion of gendered legal structures. Rather, through the process of their own litigation, women were active participants in the construction and refinement of the gendered legal discourse that in many ways governed their lives.

NOTES

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[1]Reg. 430, 251r (1329), Cancelleria section, Arxiu de la Corona de Aragó, Barcelona, Spain (hereafter ACA/C).

[2]Reg. 436, 136v-137v (1329), ACA/C.

[3]Among historical studies of this phenomenon in the premodern West, see Tommaso Astarita, *Village Justice: Community, Family, and Popular Culture in Early Modern Italy* (Baltimore, MD: Johns Hopkins University Press, 1999); Bernard Capp,

When Gossips Meet: Women, Family, and Neighbourhood in Early Modern England (Oxford: Oxford University Press, 2003); Madeline H. Caviness and Charles G. Nelson, "Silent Witnesses, Absent Women, and the Law Courts in Medieval Germany," in *Fama: The Politics of Talk and Reputation in Medieval Europe,* ed. Thelma Fenster and Daniel Lord Smail (Ithaca, NY: Cornell University Press, 2003), 47–72; Laura Gowing, *Domestic Dangers: Women, Words, and Sex in Early Modern London* (Oxford: Clarendon Press, 1996); Paul R. Hyams, *Rancor and Reconciliation in Medieval England* (Ithaca, NY: Cornell University Press, 2003); Daniel Lord Smail, "Telling Tales in Angevin Courts," *French Historical Studies* 20, no. 2 (1997): 183–215; Robin Chapman Stacey, *Dark Speech: The Performance of Law in Early Medieval Ireland* (Philadelphia: University of Pennsylvania Press, 2007).

[4]Peter Stein, *Roman Law in European History* (Cambridge: Cambridge University Press, 1999), 45–67.

[5]Some of the most fruitful work on this subject has been done by authors concentrating on the comparatively more richly-documented late medieval and early modern eras. For the continent, see Barbara B. Diefendorf, "Women and Property in *Ancien Régime* France: Theory and Practice in Dauphiné and Paris," in *Early Modern Conceptions of Property*, ed. John Brewer and Susan Staves (London: Routledge, 1996), 170–93; Martha C. Howell, *The Marriage Exchange: Property, Social Place, and Gender in Cities of the Low Countries, 1300–1550* (Chicago: University of Chicago Press, 1998); and Allyson M. Poska, *Women and Authority in Early Modern Spain: The Peasants of Galicia* (Oxford: Oxford University Press, 2006). Even in England, where women's economic and legal subordination to husbands and other male relatives under the Common Law system of coverture is often regarded as a historical commonplace, recent scholarship has critiqued as inadequate the picture painted by the prescriptive sources, arguing that overreliance on these sources may obscure the true scope of women's economic roles; see Amy Louise Erickson, *Women and Property in Early Modern England* (London: Routledge, 1993); and Tim Stretton, *Women Waging Law in Elizabethan England* (Cambridge: Cambridge University Press, 1998).

[6]Diane Owen Hughes, "From Brideprice to Dowry in Mediterranean Europe," *Journal of Family History* 3, no. 3 (1978): 262–96, esp. 285–88. For more recent studies focusing on the Mediterranean region in particular, see María Pont, "L'esponcalici dins la pràctica matrimonial catalana al s. XII," *Medievalia* 4 (1983): 51–62; Christiane Klapisch-Zuber, "The 'Cruel Mother': Maternity, Widowhood, and Dowry in Florence in the Fourteenth and Fifteenth Centuries," in *Feminism and Renaissance Studies*, ed. Lorna Huston (Oxford: Oxford University Press, 1999), 186–202; Christine E. Meek, "Women, Dowries and the Family in Late Medieval Italian Cities," in *"The Fragility of Her Sex?" Medieval Irishwomen in their European Context*, ed. Christine Meek and Katharine Simms (Dublin and Portland, OR: Four Courts Press, 1996), 136–52, esp. 146–48. Scholars have pointed out a different pattern in northern Europe, where customary law, rather than Roman law, was the basis for property regulations. For example, Martha Howell has argued that in late medieval Douai the legal structures surrounding marital property became less nuclear just as households were becoming more so (Howell, *The Marriage Exchange*, 10–45); see also Linda Guzzetti, "Women's Inheritance and Testamentary Practices in Late Fourteenth- and Early Fifteenth-Century Venice and Ghent," in *The Texture of Society: Medieval Women in the Southern Low Countries*, ed. Ellen E. Kittell and Mary A. Suydam (New York: Palgrave Macmillan, 2004), 79–108, esp. 80–86.

[7]Not all marriages in the medieval Crown of Aragon were dowered; in the less frequent but still significant common-property marriages, all marital assets were shared equally, and neither party bore responsibility for the other's debts. At death, the surviving partner would be left with their half of the marital property, but with no claim on any of their deceased spouse's share. See Rebecca Lynn Winer, *Women, Wealth, and Community in Perpignan, c. 1250–1300: Christians, Jews, and Enslaved Muslims in a Medieval Mediterranean Town* (Aldershot, UK: Ashgate, 2006), 28–29; María del Carmen García Herrero, "Viudedad foral y viudas aragonesas a finales de la Edad Media," *Hispania* 53, no. 184 (1993): 431–50, esp. 438–42; and María Angeles Belda, *Instituciones de derecho de familia en los "Furs de Valencia"* (Zaragoza, Spain: Anubar, 1979), 16–18.

[8]See, for example, *Costumbres de Lérida* III [34] (hereafter *CL*), *Costums de Tortosa* V.1.1. (hereafter *C. Tort.*), and *Furs de València* V.I.2 & 5 (hereafter *FV*).

[9]Pergamins 107 (1298) and 112 (1299), Arxiu Municipal de Girona, Spain (hereafter AMG).

[10]The contents of the chests are not specified, but in at least some cases the dotal instrument states that the chest is to come "with its contents"; see, for example, Pergamins 169 (1318), 251 (1331), and 267 (1333), AMG.

[11]25 and 441 cases analyzed, respectively, in Jaume Codina, *Contractes de matrimoni al delta del Llobregat (segles XIV a XIX)* (Barcelona: Noguera, 1997), 255–56; see also Winer, *Women, Wealth, and Community*, 32.

[12]Dana Wessell Lightfoot has found that approximately two-thirds of dowries for women of artisan-status families were from 20 to 80 pounds (400–1600 sous), with the largest number (over half) of those clustered around 40–60 pounds (800–1200 sous). For laboring-status women, half of dowries were valued between 20 and 60 pounds (400–800 sous), with approximately one-third of *those* valued between 20 and 40 pounds (400–600 sous) and the remaining two-thirds between 40 and 60 (600–800 sous). Dowries of *honrats* (leading citizens, including both hereditary nobility and the rising merchant elite), were considerably higher, sometimes over 1000 pounds. Dana Wessell Lightfoot, "Negotiating Agency: Labouring-Status Wives and their Dowries in Early Fifteenth-Century Valencia" (PhD diss., University of Toronto, 2005), 82–98. For dowry inflation in Valencia, see Jaime Castillo Sainz, "Asistencia, matrimonio e inserción social: La loable confraría e almoina de les òrfenes a maridar," *Saitabi: Revista de la facultat de geografia i història* 43 (1993): 135–46.

[13]Most notably and influentially on this point, see Georges Duby, *The Knight, the Lady and the Priest: The Making of Modern Marriage in Medieval France*, trans. Barbara Bray (New York: Pantheon Books, 1983), esp. 104–18. Other historians have disputed Duby's argument that the decline of aristocratic women's status began in the eleventh century, instead suggesting the late twelfth or early thirteenth centuries as more characteristic; see for example Martin Aurell i Cardona, "La détérioration du statut de la femme aristocratique en Provence (Xe–XIIIe siècles)," *Le Moyen Âge* 91 (1985): 5–32, and *Les Noces du Comte: Mariage et Pouvoir en Catalogne, 785–1213* (Paris: Publications de la Sorbonne, 1995), esp. 479–80; Elizabeth Haluska-Rausch, "Transformation in the Powers of Wives and Widows Near Montpellier, 985–1213," in *The Experience of Power in Medieval Europe, 950–1350*, ed. Robert F. Berkhofer III,

et al. (Aldershot, UK: Ashgate, 2005), 153–68. Other scholars have chosen instead to focus on essential continuities in aristocratic women's property holding through at least the twelfth century; see Amy Livingstone, "Noblewomen's Control of Property in Early Twelfth-Century Blois-Chartres," *Medieval Prosopography* 18 (1997): 55–71, as well as many of the essays in Theodore Evergates, ed., *Aristocratic Women in Medieval France* (Philadelphia: University of Pennsylvania Press, 1999).

[14]Daniel Lord Smail, "Démanteler le patrimoine. Les femmes et les biens dans la Marseille médievale," *Annales (H.S.S.)* 52, no. 2 (1997): 343–68, esp. 356–58; Winer, *Women, Wealth, and Community*, 20–25.

[15]Smail, "Démanteler le patrimoine," 356–59. Smail points out that even this figure may be artificially low, as it does not take into account joint marital properties that may have been registered as belonging to a woman's husband alone.

[16]Of the Manosque dotal contracts dating from 1290–1369, 54 percent were cash-only, 24.7 percent were land-only, and 14.3 percent were of mixed composition; the remainder included only moveable goods. Andrée Courtemanche, *La richesse des femmes: Patrimoines et gestion à Manosque au XIVe siècle* (Paris: Vrin, 1993), 104–12.

[17]Winer, *Women, Wealth, and Community*, 26–28.

[18]Only 12 percent of artisan- and laboring-status dowries contained real estate, while the majority were a combination of cash and movables—a pattern that remained relatively consistent into the early modern era. Those women who did bring immovable property as all or part of their dowry tended overwhelmingly to be widows entering into a second or subsequent marriage. Wessell Lightfoot, "Negotiating Agency," 99–117.

[19]See, for example, Linda McMillin, "The House on Sant Pere Street: Four Generations of Women's Land Holding in Thirteenth-Century Barcelona," *Mediterranean Encounters* 12, no. 1 (2006): 62–73; and Nathaniel L. Taylor, "Women and Wills: Sterility and Testacy in Catalonia in the Eleventh and Twelfth Centuries," *Mediterranean Encounters* 12, no. 1 (2006): 87–96.

[20]Gregory IX, *Decretales* 4.20.7, in *Corpus iuris canonici*, ed. Emil Friedberg and Aemilius Ludwig Richter (Graz: Akademische Druck- u. Verlagsanstalt, 1879), 729–30.

[21]Pergamins 105 (1298), 108 (1299), 111 (1299), 129 (1304), 132 (1305), 169 (1318), 196 (1322), and 264 (1332), AMG.

[22]Pergamins 101 (1296), 221 (1326), and 251 (1331), AMG.

[23]Pergamins 107 (1298), 112 (1299), 232 (1328), and 267 (1333), AMG.

[24]As Amy Livingstone has pointed out in a recent examination of women's property in the high medieval Chartrain, property ownership in the Middle Ages was fairly tangled, with differing levels of ownership and proprietorship (Amy Livingstone, "Aristocratic women in the Chartrain," in Evergates, *Aristocratic Women in Medieval France*, 44–73, esp. 52); we should thus not make women's complete and unencumbered control of property the yardstick by which we measure their economic agency.

[25]*C. Tort.* V.1.16; *FV* V.III.5; the Code of Tortosa specifically noted that a woman's dowry and its fruits were to be controlled by her husband during the marriage, "in order that he might support the extra expense of a wife."

[26]For husband's managerial rights, see *C. Tort* V.1.6 and V.3.6; *FV* V.I.17, V.III.5, and V.III.9; for exceptions, see *FV* V.V.16 and 20.

[27]*C. Tort.* V.1.3-5, 7, & 16; *FV* IV.XIX.1, 12, & 28, and V.V.1.

[28]For an argument on this point focusing on the kingdom of Valencia, see Pedro Lopez Elum and Mateu Rodrigo Lizondo, "La mujer en el código de Jaime I de los *Furs de Valencia*," in *Las mujeres medievales y su ámbito jurídico* (Madrid: Universidad Autonoma de Madrid, 1983), 125–33, esp. 132–33.

[29]*C. Tort.* V.1.7; *FV* V.I.8, and V.V.7, 20, & 30.

[30]See, for example, Reg. 371, 88v-89r (1322), ACA/C; Reg. 374 (tomo 2º), 163v (1324), ACA/C; and Reg. 437, 88v-89r (1330), ACA/C.

[31]Reg. 429, 130v-131r (1328), ACA/C.

[32]Reg. 374 (tomo 2º), 163v (1324), ACA/C.

[33]Reg. 371, 88v-89r (1322), ACA/C.

[34]Reg. 430, 251r (1329), ACA/C.

[35]Reg. 374 (tomo 2º), 163v (1324), ACA/C.

[36]Reg. 376, 37 r-v (1325), ACA/C.

[37]Reg. 437, 88v-89r (1330), ACA/C.

[38]Llibres del batlle 1-1, 121v-122r (1300), Arxiu Històric Comarcal de Terrassa, Spain (hereafter AHCT).

[39]Manuals del veguer 6, 73r (1310), Arxiu Històric Comarcal de Manresa, Spain.

[40]Courtemanche, *La richesse des femmes*, 121–26; Julius Kirshner, "Wives' Claims against Insolvent Husbands in Late Medieval Italy," in *Women of the Medieval World*, ed. Julius Kirshner and Suzanne F. Wemple (Oxford and New York: Basil Blackwell, 1985), 256–303; Wessell Lightfoot, "Negotiating Agency," 214–70; Meek, "Women, Dowries and the Family," 140–43; Francine Michaud, *Un signe des temps: Acroissement des crises familiales autour du patrimoine à Marseille à la fin du XIIIe siècle* (Toronto: Pontifical Institute of Mediaeval Studies, 1994), 123–28; Smail, "Démanteler le patrimoine," 359–68; Winer, *Women, Wealth, and Community*, 32–33.

[41]Belda, *Instituciones de derecho de familia*, 19. For probable Roman antecedents, see Susan Treggiari, *Roman Marriage:* Iusti Coniuges *from the Time of Cicero to the Time of Ulpian* (Oxford: Clarendon Press, 1991), 156–57. A gift from husband to wife, or from husband's family to wife's family was also common in early Germanic society; see Hughes, "From Brideprice to Dowry," 266–68; and Suzanne Fonay Wemple,

Women in Frankish Society: Marriage and the Cloister, 500–900 (Philadelphia: University of Pennsylvania Press, 1981), 10–15 and 31–35.

[42]Wessell Lightfoot, "Negotiating Agency," 134–35; see also Rebecca Lynn Winer, "Silent Partners? Women, Commerce and the Family in Medieval Perpignan, c. 1250–1300" (PhD diss., University of California at Los Angeles, 1996), 69; Codina, *Contractes de matrimoni*, 205; and Teresa-María Vinyoles, *Les Barcelonines a les darreries de l'edat mitjana (1370–1410)* (Barcelona: Fundació Salvador Vives Casajuana, 1976), 87–89.

[43]*CL* III. [34] (*De donationibus ante nuptias*); *C. Tort.* V.1.1; *FV* V.I.2. If the dowry was paid in immovable goods, rather than cash, then the bridegift had to equal 50 percent of the appraised value of the real property (*C. Tort.* V.1.1; *FV* V.I.5). If the property was not appraised, then the couple and their families could come to an agreement among themselves as to the proper amount for a bridegift (*C. Tort.* V.1.1). The system of marital assigns was heavily weighted in favor of the feminine dowry. According to one study of marriage contracts from the lower Llobregat region in Catalonia, the most common form of property exchange in fourteenth-century marriage contracts in that region was for a woman bringing a dowry to the marriage (66.2 percent). Distant second (18.2 percent) was a contract for a single man's marital gift to a single woman (Codina, *Contractes de matrimoni*, 53). A third and less common type of marital assign was the *arres* or *arras*, a gift typically consisting of rings, jewelry, or moveable goods that was sometimes given at the time of betrothal as a guarantee of a marriage promise. By the mid-fifteenth century, legislators found it necessary to limit the value of the *arres* to 500 sous (*FV* IX.29.11), suggesting that this type of gift may have been primarily a phenomenon of upper-class marriages.

[44]The two remaining contracts specify, in one case, a dower of 200 sous for a dowry of 800 sous (Pergamins 111 [1299], AMG), and another where the dower is rights over certain lands the groom holds as an *honor*, of unspecified value (Pergamins 232 [1328], AMG). Teresa María Vinyoles notes that a group of Barcelona *escreix* documents dating from the late fourteenth and early fifteenth centuries all adhere to an amount of precisely 50 percent of the dowry. She does, however, note that this 50 percent represents only the coin value, and excludes any additional moveable or immoveable property (Vinyoles, *Les Barcelonines*, 88, n. 90). It is interesting to speculate that this strict adherence to the letter of the law about three-quarters of a century after the period under study in the present article may reflect an attempt on the part of civic authorities to crack down on couples who used marital assigns as a hedge against creditors.

[45]Smail, "Démanteler le patrimoine," 359–68.

[46]See above, at nn. 21–23.

[47]Digest 16.1.1-2, in Paul Krüger et al., eds., *Corpus iuris civilis* (Berlin: Apud Weidmannos, 1954), 1: 238.

[48]For Ulpian, see Digest 24.3.24, in ibid.,1: 359. Codex Justinianus 5.12.29, in ibid., 2: 205–6. A wife who gained control over her dowry was obligated by law to use it to support herself and her family; that is, she was expected to take over for her husband's unfulfilled obligations; see Novellae 97.6, in ibid., 3: 475–76.

[49]Jesús Lalinde Abadía, "La recepción española del senadoconsulto Velleyano," *Anuario de historia del derecho español* 41 (1971), 335–72, esp. 335–37.

[50]Novellae 134.8, in Krüger et al., *Corpus iuris civilis*, 3: 683.

[51]Josep María Font y Rius, "El desarrollo general del derecho en los territorios de la Corona de Aragón (siglos XII–XIV)," in *VII congreso de historia de la Corona de Aragón* (1962), 1: 289–326, esp. 295–97. For the *ius commune* as a preferred system, see Josep María Pons i Guri, "Constitucions de Catalunya," in *Recull d'estudis d'història jurídica catalana* (Barcelona: Fundació Noguera, 1989), 3: 58–76, esp. 65–71. Note especially the *Cervera Corts* of 1359, where Pere III required advocates, judges and assessors to be familiar with the law of either the *Corpus iuris civilis* or the *Corpus iuris canonici*: Const. 2.6.4 (1359) in *Constitucions i altres drets de Catalunya* (Barcelona [n.p.], 1704; repr. Barcelona: Base, 1973).

[52]Kirshner, "Wives' Claims against Insolvent Husbands," 286; Lalinde Abadía, "La recepción española," 345–46.

[53]Abadía, "La recepción española," 341–45.

[54]*C. Tort.* 4.7.1.

[55]Abadía, "La recepción española," 347–51.

[56]Wessell Lightfoot, "Negotiating Agency," 222. While women sometimes used legal representatives known as procurators to press their cases for them, this is not necessarily a gendered phenomenon: by the high Middle Ages, the complexities of law made it less prudent to launch a suit without expert advice, except in the most straightforward of cases.

[57]The source of ordinary people's knowledge of legal ideas is not completely clear in these cases. It is unlikely that laypeople of either sex would have been exposed to legal education or treatises. Still, women in the cases under study in this article display at least basic knowledge of the way that pleas ought to be couched in order to win a case. We do know that courts in other countries were public, and attracted spectators not directly involved with the proceedings; thus, laypeople might have gained their legal knowledge by watching their neighbors litigate, or by having been involved themselves in previous litigation. See Frederik Pedersen, "Did the Medieval Laity Know the Canon Law Rules on Marriage? Some Evidence from Fourteenth-Century York Cause Papers," *Mediaeval Studies* 56 (1994): 111–52, esp. 147–49; and Daniel Lord Smail, *The Consumption of Justice: Emotions, Publicity, and Legal Culture in Marseille, 1264–1423* (Ithaca, NY: Cornell University Press, 2003), 33–34.

[58]Llibres del batlle 1-1, 49r-v (1299), AHCT.

[59]Odofredus, gloss on Cod. 5.12.29, and Bartolus, gloss on Cod. 15.12.29 (*Ubi adhuc*), as cited in Kirshner, "Wives' Claims against Insolvent Husbands," 265–70.

[60]Llibres del batlle 2, 179v (1322), AHCT.

[61]Llibres del batlle 1-1, 72r (1299/1300), AHCT.

[62]Llibres del batlle 3-1, 67r (1325/26), AHCT.

[63]Ibid.

[64]Llibres del batlle 2, 162v-163r (1316/17), AHCT.

[65]*Recognoverunt proceres*, cap. 11, in *Constitucions i altres drets de Catalunya*, 40 (pragmaticas, 1.13) (Barcelona [n.p.], 1704; Barcelona: Base, 1973); see also Abadía, "La recepción española," 341–45.

[66]This was not a unanimous opinion: some jurists held that voluntary joint actions were valid, so long as the claim itself was not fraudulent. Kirshner, "Wives' Claims against Insolvent Husbands," 297.

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