

DOWRY OR INHERITANCE? KINSHIP, PROPERTY,
AND WOMEN'S AGENCY IN LISBON, VENICE,
AND FLORENCE (1572)*

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ABSTRACT

The marital property regimes, inheritance practices, and kinship structures of Renaissance Italy and early modern Portugal were at opposite ends of a spectrum. In Italy, the legitimacy of marriage was defined as the outcome of dowry exchange governed by *exclusio propter dotem*, thus conceptually linked to the disinheritance of daughters and wives. In Portugal, where the Roman principle of equal inheritance was never abolished, domestic unions qualified as marriages insofar as joint ownership was established. Kinship structures were rigidly agnatic in Italy, but cognatic, even residually matrilineal, in Portugal. An investigation of notarial records from Lisbon, Venice, and Florence shows how women's capacity for full legal agency as property owners in both societies differed. Female legal agency, however, whether measured by women's capacity to engage in property transactions independently of their marital status (Portugal), or as the manipulation of limited legal resources, even resistance against a system of dispossession (Italy), always unfolded within the context of larger agendas that were beyond women's control, such as the processes of state formation in medieval Italy and empire-building in Portugal.

INTRODUCTION

At the turn of the seventeenth century, a heated debate over issues of women's rights and position in society emerged in the Republic of Venice. Lucrezia Marinella and Moderata Fonte were perhaps the most ardent participants in this debate, proclaiming women's need for a better education, and, most importantly, access to property and positions of authority. Marinella, in particular, made an observation with which I would like to open my discussion of Venetian, Florentine, and Portuguese women's property rights and legal agency. It is provocative in contradicting most Venetian historians' rather positive assessment of contemporary women's property rights and agency. Comparing the situation of Italian women

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with that of women in other European countries, Marinella came to the following conclusion:

Women's nobility and excellence is recognized by the French and Spanish [and Portuguese, we might add] more than by the Italians. In these countries they are allowed to inherit estates, succeeding not only to dukedoms, but to principalities exactly like men do. Not only to principalities, but to the monarchy itself, like the sister of the King of Spain, who was able to ascend to the monarchy, as well as have dominion over numerous other principalities. Women who inherit estates can be seen every day in France and England; the Germans, too, recognize women's superiority. The women there conduct all the business dealings and mercantile transactions in the cities while the men remain at the stoves. This also occurs in Flanders and in France. In France men may not spend even a *centime* unless at the request of their wives, and women not only administrate business dealings and sales but private income as well."¹

Although many of the possibilities for public engagement and property holding that Marinella described as available to non-Italian women all over Europe would soon be—or were already beginning to be—subject to patriarchal tendencies similar to the ones that had curtailed Italian women's agency in the Middle Ages, contemporary scholarship suggests that she had good reason for her enthusiastic assessment of the opportunities that women outside of Italy still enjoyed in terms of conducting business, inheriting real estate, and ascending to the rule of principalities and monarchies. In the sixteenth century, women were able to govern as queens in their own right or as regents for their sons in most European countries, while in Venice, women's public authority was limited to the ceremonial role the *Dogaressa* played during her coronation ritual.² In Florence, Medici wives were able to exert informal power, sometimes even formal authority, as has been argued recently,³ but the difficulties that Bianca Capello (1548-87), Venetian patrician and second wife of Fernando I de' Medici, Grand Duke of Tuscany, encountered at the Florentine court, stood in stark contrast to the power Catherine de' Medici and Marie de' Medici were able to exert in France as regents for their sons.⁴

¹ Lucrezia Marinella, *The Nobility and Excellence of Women and the Defects and Vices of Men*, ed. by Anne Dunhill (Chicago, 1999), 74.

² Holly S. Hurlburt, "Public exposure? consorts and ritual in late medieval Europe: the example of the entrance of the dogaresse of Venice," in *Gendering the Master Narrative: Women and Power in the Middle Ages*, ed. by Mary C. Erler and Maryanne Kowaleski (Ithaca, NY, 2003), 174-89.

³ Natalie R. Tomas, *The Medici Women: Gender and Power in Renaissance Florence* (Aldershot, 2003).

⁴ Catherine de' Medici ruled for her son Charles between 1560 and 1563, while Marie de' Medici ruled between 1610 and 1617 for her son Louis XIII. In France, Salic law prohibiting women's access to the throne had been suspended in the middle of the sixteenth

With respect to property of landed estates, women from Northern and Central Italian cities were disadvantaged vis-à-vis their counterparts in other European countries as well, but the differences were not as clear cut. By the sixteenth century, women's access to real estate had been limited almost everywhere, albeit to varying degrees. In Venice and Florence, women would receive cash dowries upon marriage instead of inheritance shares of parental patrimonies, even if no direct male heirs existed; other male, agnatic kin usually had preference.⁵ In England, daughters were able to inherit lands in those 20 percent of all families that did not produce sons, but they were limited in their rights to hold such properties as wives or widows, or pass them on to their children as they saw fit, due to married women's loss of legal status under English Common Law (*coverture*).⁶ In Normandy, as in England, common law mandated primogeniture and wives' loss of property rights to their husbands, and thus did not favor the transmission of landed estates to daughters either.⁷ In Southern France, where lineage properties and dotal marriage characterized practices of devolution, women would, likewise, inherit estates

century, when it was discovered to be a forgery, but similar prohibitions would soon be reenacted. Sarah Hanley, "Social Sites of Political Practice in France: Lawsuits, Civil Rights, and the Separation of Powers in Domestic and State Government, 1500-1800," *American Historical Review*, vol. 102, no. 1 (1997):27-52.

⁵ Isabelle Chabot, "La loi du lignage. Notes sur le système successoral florentin (XIV^e/XV^e-XVII^e siècles)," *Clio*, 7 (1998):51-72; Anna Bellavitis, "Patrimoni e matrimoni a Venezia nel Cinquecento," *Le ricchezze delle donne: diritti patrimoniali e poteri familiari in Italia (XIII-XIX secc.)*, ed. by Giulia Calvi e Isabelle Chabot (Turin, 1998), 149-60.

⁶ Common law rules distinguished between three main types of property, to which married and widowed women enjoyed different degrees of ownership. During marriage, a woman technically continued to own all the real (freehold or copyhold) property she brought into the marriage, but she lost the right to manage it or retrieve revenues from it. She did, however, retain the right to veto sales. At her predecease, her husband inherited all of her lands, whereas she inherited only 1/3 of his properties. Leasehold property (which can include title to paper investments) was governed by a similar partitioning of rights, but the widow received it back only if the husband did not previously dispose of it. All chattel and movable properties passed permanently to the husband, as well as any other properties a woman acquired during marriage. The rules governing women's access to personal property were more generous according to canon law or equity law, so widows had other options in retrieving these properties. See Amy Louise Erickson, *Women and Property in Early Modern England* (London and Boston, 1993), especially 24-25; Tim Stretton, "Married Women and the Law in England since the Eighteenth Century," *L'Homme. Z.F.G.*, 14,1 (2003):124-30; Miriam Slater, *Family life in the Seventeenth Century: the Verneys of Claydon House* (London and Boston, 1984).

⁷ Zoë A. Schneider, "Women before the Bench: Female Litigants in Early Modern Normandy," *French Historical Studies*, vol. 23, no. 1 (2000):1-32; Jochen Hoock and Nicholas Julien, "Dots normandes (mi-XVII^e-XVIII^e siècle)," *L'Homme. Z.F.G.*, 14,1 (2003):117-38.

only rarely.⁸ In the central regions around Paris, however, where equal inheritance was coupled with joint ownership, daughters could theoretically aspire to inherit estates more easily, but testamentary practice often revealed a strong inclination to favor males.⁹ In central Germany, lower aristocrats would establish so-called *Kunkel-* or *Weiberlehen* (women's fiefs) in order to prevent the loss of feudal properties in the absence of sons; the church endowed women with such lands and jurisdictions as well, the administration of which, however, was granted to their husbands.¹⁰ Marinella's optimistic assessment of women's ability to acquire landed estates was perhaps most appropriate for Portugal (at the time included in the crown of Spain), where women continued to inherit non-feudal properties from husbands and parents, and where colonial fiefs (*prazos*) were offered to brides in marriages arranged by the king.¹¹

Women's business activities—which Marinella claimed were ample among the German, French, and Flemish urban middle classes—have been well documented by recent historians. As Barbara Diefendorf argued, “it was not uncommon [among sixteenth-century Parisian elites] for the husband virtually to abandon the day-to-day administration of the family's financial affairs to his wife.”¹² Merry Wiesner showed that in sixteenth-century southern Germany, women were regularly employed in small-scale retail, since wives of artisans would usually sell their husbands' products.¹³ In central Germany, domestic objects necessary for the production of “nourishment” were, according to Karin Gottschalk, in the exclusive possession of women, which suggests wives' ample participation in productive, household-based activities. Such *Geraden* could consist of linens, china, and clothes, but also tools and containers, fodder and female

⁸ Barbara Diefendorf, “Women and Property in ancien régime France. Theory and Practice in Dauphiné and Paris,” *Early Modern Conceptions of Property*, ed. by John Brewer and Susan Staves, (London and N.Y. 1996) 170-89.

⁹ B. Diefendorf, “Women and Property.”

¹⁰ Anke Hufschmidt, *Adlige Frauen im Weserraum zwischen 1570 und 1700* (Aschendorff, Münster, 2001), 350-53.

¹¹ Rita Costa Gomes, *The Making of a Court Society: Kings and Nobles in Late Medieval Portugal* (Cambridge, 2003); Allen Isaacman, *Mozambique. The Africanization of a European Institution: The Zambesi Prazos, 1750-1902* (Madison, 1972); Timothy Coates, *Convicts and Orphans: Forced and State-Sponsored Colonizers in the Portuguese Empire, 1550-1755* (Stanford, 2001).

¹² Barbara Diefendorf, “Women and Property,” 183.

¹³ Merry Wiesner, “Paltry Peddlers or Essential Merchants? Women in the Distributive Trades in Early Modern Nuremberg,” *Sixteenth-Century Journal*, 12, no. 2 (1981):3-13; idem, *Working Women in the Renaissance* (Rutgers, New Brunswick, 1986).

livestock.¹⁴ Venetian women's involvement in business transactions, by contrast, has recently been called "modest" by Monica Chojnacka,¹⁵ while similar studies for sixteenth-century Florentine women seem to be entirely lacking. Marinella's observation that wives needed to consent to their husbands' property transactions in marriages with joint ownership in urban France and central Europe can likewise be substantiated by current historiography.¹⁶

Moderata Fonte's posthumous dialogue *On the Worth of Women*, published the same year as Marinella's (Venice, 1600), can in my view be regarded as the companion piece to *On the Nobility of Women*. Fonte's analysis of gender relations is to a large extent devoted to an attack on the institution of marriage and the dowry system.¹⁷ In Fonte's eyes, women's lack of full ownership rights was a direct result of dowry exchange, which denied daughters equal shares in their fathers' patrimonies and deprived wives of the active possession of their dotal assets. Dowry exchange, especially under the condition of hyper-inflation, had turned marriage into a predominantly monetary transaction, and infused all relations between women and their husbands, sons, fathers, and brothers with financial concerns and rivalry. Corinna, a professed *dimessa* (third-order nun) and the most eloquent and "feminist" lady in Fonte's conversation piece, addressed women's economic discrimination as a result of their sexual exploitation by men, and concluded pessimistically that true lovers would have to forgo the fulfillment of their desire. Lack of reciprocity in the game of gendered giving—of pleasure, love, or money—created, in Corinna's eyes, intolerable dependencies for the woman in question.¹⁸ While Adrianna, widowed mother of a bride-to-be, wondered whether harmony could be established if men's expectations were simply more modest,¹⁹

¹⁴ Karin Gottschalk, *Eigentum, Geschlecht, Gerechtigkeit: Haushalten und Erben im frühneuzeitlichen Leipzig* (Frankfurt a. M., 2003); A. Hufschmidt, *Adlige Frauen im Weserraum*, 373.

¹⁵ Monica Chojnacka, *Working Women of Early Modern Venice*, (Johns Hopkins, 2001), 46.

¹⁶ B. Diefendorf, "Women and Property," 176.

¹⁷ Moderata Fonte (Modesta Pozzo), *The Worth of Women Wherein Is Clearly Revealed Their Nobility and Their Superiority to Men*, ed. by Virginia Cox (Chicago, 1997). Virginia Cox, "The Single Self: Feminist Thought and the Marriage Market in Early Modern Venice," *Renaissance Quarterly*, 48, no. 3 (1995):513-81.

¹⁸ A true lover, she explained, "desires nothing, hopes for nothing, and demands nothing except to be loved in return. . . . A refined love will extend only as far as a sigh." M. Fonte, *The Worth of Women*, 80-81.

¹⁹ "If men contented themselves with little and women were prepared to give them that little, the sweetest and most blissful harmony and peace would reign between them." M. Fonte, *The Worth of Women*, 81.

Corinna reminded her audience that true love in marriage had existed only once—in the Golden Age—i.e. before the invention of dowry exchange and the prohibition of women's downward marriages.²⁰ A similar utopia of disinterested marital love was pondered by Sister Arcangela Tarabotti a few decades later, who advised the Venetian government to abolish dowry exchange in the manner of Lycurgus, in order to abolish impediments to marriage based on love and mutual consent, and to combat coerced monachizations.²¹

Tarabotti's and Fonte's polemic against dowry exchange, and Marinella's claim that in the European context, Italian women were uniquely disadvantaged in terms of ownership rights and legal status, are positions that I would like to combine by proposing a causal relationship between the two. Was Italian-style dowry exchange responsible for women's unprecedented loss of property and authority since the Middle Ages?²² Did women enjoy more extensive property rights in societies that continued to practice equal inheritance and joint ownership, as was the case in Portugal? My analysis of women's notarial acts from Venice, Florence, and Lisbon (1572) is meant to address these questions by investigating female property rights in the context of Italy's and Portugal's different marital property regimes, inheritance systems, and kinship patterns—which, as I hope to show, were at opposite ends in a Europe-wide spectrum of more or less patriarchal legal norms and practices. My synchronic, comparative approach in investigating these notarial acts as manifestations of two different legal cultures—one characterized by household-based property sharing, the other one by lineage-conscious separation of goods—is meant to add to Martha Howell's diachronic research on the transition from joint ownership to dowry exchange in early modern

²⁰ "The noblest and most elevated youths of the cities, spurred on by such a powerful and irresistible motive, gave no thought to dowries, or to the shame of kinship with those below their status . . . O happy you women of that age, who enjoyed such ardent lovers and whose beauty was never suffered to wilt in solitude for the lack of a sufficient dowry!" *Ibid.*, 252-53.

²¹ Sister Arcangela Tarabotti, *La semplicità ingannata* (Leyden, 1654), 92.

²² Diane O. Hughes, "From Brideprice to Dowry in Mediterranean Europe," *Journal of Family History*, 3 (1978):262-95. My hypothesis is in direct contrast to Jack Goody's euphemistic assessment of dowry exchange as a form of bilateral devolution, for which, in my view, equal inheritance offers a more appropriate example. Jack Goody, "Bridewealth and Dowry in Africa and Eurasia," *Bridewealth and Dowry*, (Cambridge, 1973), 17; idem, "Inheritance, property and women: some comparative considerations," in: *Family and Inheritance: Rural Society in Western Europe (1200-1800)*, ed. by Jack Goody, Joan Thirsk, and E. P. Thompson (Cambridge, 1976), 13, 15; idem, *The Development of the Family in Europe* (Cambridge, 1983), 243, 246; idem, *The European Family: An Anthropologico-historical Essay* (Oxford, 2000).

Douai, a city in the Low Countries. Martha Howell argued that with the change from joint ownership to dowry exchange, wives did not necessarily lose properties in terms of quantity; what they did lose was the right to manage them, as well as their status as partners in a formerly couple-oriented marriage.²³ My hypothesis builds on Howell's, suggesting that dowry exchange, which in Italy did function as an instrument of dispossession, aimed at reducing women's agency as property owners—before, during, and after marriage.

My claim that Italian dowry exchange was meant to abolish or prevent not only equal inheritance of all children, but joint ownership in marriage, begs the question of whether different types of marriage accompanied or resulted from such differently structured access to property. In fact, I argue that in Italy, the Catholic definition of how to establish a valid marriage—namely, through the partners' simple exchange of the words of present consent—was in direct opposition to the concept of legitimate marriage as it emerged in statutory law with its stress on dowry exchange and the prohibition of elopements. In Portugal, the Catholic definition of the sacramental nature of marriage, i.e. its view of it as an entirely voluntary, but life-long commitment, neatly merged with existing practices of equal inheritance and joint ownership, and fended off parental involvement and feudal pressures in matters of matrimony.

If dowry exchange in medieval Italian communes had the purpose of eliminating property rights previously held by daughters, wives and widows, it also served to construct the "legitimacy" of marriage proper, because the dispossession of women took place as a particular form of bridal exchange. Ultimately, it was the notarized exchange of wedding gifts and bridal properties that established "legal" marriage, aside from other publicly celebrated rituals and privately held festivities. In Italy, marital legitimacy thus derived, in a somewhat paradoxical, and clearly problematic manner, from the legalization of women's exclusion from active property rights as wives—which is probably why marriage and dowry exchange ranked among the most heavily contested institutions in Italian Renaissance legal culture. In Portugal, where such severe curtailment of married women's property rights did not take place, boundaries surrounding the legitimacy of marriage remained more fluid, permeable, and fuzzy. The validity of a domestic union as marriage was, in fact, constructed as the direct result of property sharing (see below). In

²³ Martha C. Howell, *The Marriage Exchange: Property, Social Place, and Gender in Cities of the Low Countries, 1300-1550* (Chicago, 1998), 143, 169.

my view, the degree of marital “legitimacy” can thus be observed to stand in an inverse relation to the amount of agency women could exert as property owners. I also maintain that different kinds of kinship patterns accompanied, perhaps even resulted from or caused, such different styles of marriage and patterns of devolution.

HISTORIOGRAPHY: WOMEN’S PROPERTY RIGHTS AND AGENCY

My study of women’s property transactions in Lisbon, Venice, and Florence seeks to assess the respective effects of dowry exchange and property sharing more accurately, but is also meant to problematize women’s agency as a historiographical problem. Agency is a relational and dynamic concept; legal agency, which is the focus of the present essay, takes place within a hierarchically structured environment that is bound to be reproduced even when challenged. Accordingly, Italian historians have shown female agency to be deeply embedded in the practice of legitimate marriage, by analyzing marriage litigation trials,²⁴ examining widows’ struggles to retrieve their dowries,²⁵ wives’ testamentary provisions to distribute them,²⁶ and daughters’ attempts to acquire them,²⁷ or else by investigating women’s petitions for guardianship²⁸ and their law suits over inheritance.²⁹ Others have analyzed women as heads of household during times of crisis,³⁰ and as active participants in the process of agnatic identity

²⁴ See, for the Veneto: Joanne Ferraro, *Marriage Wars in Late Renaissance Venice* (Oxford, 2001); Daniela Hacke, *Women, Sex, and Marriage in Early Modern Venice* (Aldershot, 2004); Emlyn Eisenach, *Husbands, Wives, and Concubines: Marriage, Family, and Social Order in Sixteenth-Century Verona* (Kirksville, MO, 2004).

²⁵ Stanley Chojnacki, “Riprendersi la dote: Venezia, 1360-1530” in: *Tempi e spazi di vita femminile tra medioevo ed età moderna*, ed. by Silvana Seidel Menchi, Anne Jacobson Schutte, Thomas Kuehn (Bologna, 1999), 461-92; Linda Guzzetti, “Dowries in fourteenth-century Venice,” *Renaissance Studies*, 16, no. 4 (2002):429-73; Julius Kirshner, “Wives’ Claims against Insolvent Husbands in Late Medieval Italy,” in: *Women of the Medieval World*, ed. by S. Wemple and J. Kirshner (Oxford, 1985), 256-303.

²⁶ S. Chojnacki, “Patrician Women in Early Renaissance Venice,” and “Dowries and Kinsmen,” in: Stanley Chojnacki, *Women and Men in Renaissance Venice: Twelve Essays on Patrician Society* (Baltimore and London, 2000), 115-52.

²⁷ Donald Queller and Thomas F. Madden, “Father of the Bride: Fathers, Daughters, and Dowries in Late Medieval and Early Renaissance Venice,” *Renaissance Quarterly*, 46, no. 4 (1993):685-711.

²⁸ Giulia Calvi, *Il contratto morale: madri e figli nella Toscana moderna* (Bari, 1994).

²⁹ Laura Turchi, “L’eredità della madre. Un conflitto giuridico nello stato estense alla fine del cinquecento,” in: G. Calvi and I. Chabot, *Le Ricchezze delle donne*, 161-85.

³⁰ Margery Ganz, “Paying the Price for Political Failure: Florentine Women in the Aftermath of 1466,” *Rinascimento*, seconda serie, 34 (1994):237-57.

formation through commemorative bequests.³¹ Portuguese women's agency, by contrast, has been located independently, even outside, of marriage, in the forging of professional identities of fishmongers, bakers, weavers, and wet-nurses,³² in concubines' manipulation of their lovers' estates and inheritance, even of entailed crown goods,³³ or in the evidence of single mothers' law suits for their lovers' alimony payments to their children (see below). In both cases, women "agents," be they married or not, have been cast as property owners—some actual, some virtual. Portuguese women's agency emerges in historical records often as the notarized disposal of properties, while Italian manifestations of female agency unfold as women's attempts to manipulate a prohibitive legal culture to their advantage.³⁴ On the one hand, Italian women's attempts to sue close relatives for missing dowry payments, for example,³⁵ testify to their courage in resisting patriarchal power, and document the proto-democratic spirit of a legal culture and court system in which such litigations were taking place; Portuguese women's property transactions, on the other hand, point to a society in which women's access to properties seems to have been less embattled. Apart from these qualitative differences in women's agency that are hard to quantify—what difference does it make if a woman's legal persona derives from birth, marriage, or widowhood? if ownership is unfettered, conditioned, or altogether nominal?—I would

³¹ Sharon Strocchia, "Remembering the Family: Women, Kin, and Commemorative Masses in Renaissance Florence," *Renaissance Quarterly*, 42, no. 4 (1989):635-54.

³² Darlene Abreu-Ferreira, "Fishmongers and Shipowners: Women in Martime Communities of Early Modern Portugal," *Sixteenth Century Journal*, 31, no. 1 (2000):7-23; idem, "Work and Identity in Early Modern Portugal: What Did Gender Have To Do With It?" *Journal of Social History*, 35, no. 4 (2002):859-887; idem, "From Mere Survival to Near Success: Womens' Economic Strategies in Early Modern Portugal," *Journal of Women's History*, 13, no. 2 (2001):58-79; on the prevalence of wetnursing among female professions, see Cristovão Rodrigues de Oliveira, *Lisboa em 1551, Sumário em que brevemente se contém algumas coisas assim eclesiásticas como seculares que há na cidade de Lisboa* (Lisbon, 1551); ed. by José da Felicidade Alves (Lisbon 1987), 136.

³³ Arquivo Nacional de Torre do Tombo (ANTT), Chancelarias Régias, *Chancelaria Dom João I*, Livro 4, 56r-v; September 25, 1459; Jutta Sperling, "Women's Property Rights in Portugal under Dom João I (1385-1433). A comparison with Renaissance Italy," *Portuguese Studies Review*, 13, no. 1-2 (2005; publication delayed; expected 2007).

³⁴ Giovanna Benadusi, for example, has analyzed testaments of domestic servants, who bequeathed monies, which they were still due from their masters as salary payments, for memorial masses, in a posthumous attempt to protest against this form of exploitation. Giovanna Benadusi, "Investing the Riches of the Poor: Servant Women and Their Last Wills," *American Historical Review*, 109, no. 3 (2004):805-26.

³⁵ See Bianca Capello's litigation against her father. Archivio di Stato di Venezia (=ASV), *Notarile*, Atti, reg. 8348; Giovanni Battista Malcavazza; 1572, Feb. 15 (*more romano*); c. 29r.

like to emphasize that both Portuguese and Italian women, as property owners, participated in a government agenda over which they had little or no control at all, and that they, as litigants, were implicated in reproducing the very legal structures they were protesting. In both cases, women's agency was authorized by and evolved within a male-dominated political structure, which female engagements could not but affirm, maintain, and reinforce.

Italian historians have since Manlio Bellomo's path-breaking study on *Patrimonial Relations Among Spouses* (1961) only rarely ventured to engage in a systematic critique of dowry exchange.³⁶ Bellomo postulated that Italian dowry exchange was revived in the twelfth century, when magnate families had achieved the independence of feudal estates from imperial jurisdiction, and turned toward a new, local concept of pruning property rights in favor of communal politics, rejecting both Germanic and Roman legal traditions. Dowry exchange conceived as the circulation of credit, thus trust, prestige, and honor, was instrumental in fostering ties between soon-to-be-ruling elite families of communal Italy.³⁷ Bellomo thus firmly anchored the re-introduction of dowry exchange in the context of an emerging, male dominated public sphere in the medieval cities of Italy's northern and central regions, and it is the political function of the dowry system as a means to turn enemies into in-laws that in my view deserves further study.³⁸ Historians of Renaissance Florence have, by and large, painted a rather bleak picture of women's agency, following Christiane Klapisch-Zuber's assessment of dowry exchange as an instrument of women's dispossession.³⁹ Giulia Calvi and Isabelle Chabot see female agency and subjectivity as unfolding in law suits in which women exploited an ambiguously structured legal environment.

³⁶ With a few exceptions: Christiane Klapisch-Zuber and Isabelle Chabot; see footnote 39. Manlio Bellomo, *Ricerche sui rapporti patrimoniali tra coniugi* (Laterza, Bari, 1961).

³⁷ M. Bellomo, *Ricerche sui rapporti patrimoniali*, pp. 11, 20; see also Jane Fair Bestor, "Marriage Transactions in Renaissance Italy and Mauss's Essay on the Gift," *Past and Present*, 164 (1999):6-46.

³⁸ Katherine Ludwig Jansen, "Florentine Peacemaking: the Oltrarno, 1287-1297," *Pope, Church and City: Essays in Honour of Brenda M. Bolton*, ed. by Frances Andrews et al. (Brill: Leiden, 2004), 327-44.

³⁹ Christine Klapisch-Zuber, *Women, Family, and Ritual in Renaissance Italy* (Chicago, 1985). Isabelle Chabot followed Klapisch-Zuber's anthropologically inspired approach with her fascinating article "La sposa in nero. La ritualizzazione del lutto delle vedove fiorentine (secoli XIV-XV)," *Quaderni Storici*, 86, no. 2 (1994):421-462. See also: I. Chabot, "La loi du lignage." On the idea of dowry as credit, see I. Chabot, "Risorse e diritti patrimoniali," *Il lavoro delle donne*, ed. by Angela Groppi (Bari, 1996), 56; idem, "Lineage

Because the principle of equal inheritance from the Codex of Justinian never ceased to haunt medieval Italian glossators and lawmakers, Roman law offered a space for the articulation of daughters' and sons' opposing demands, and contributed to the very formation of women's subjectivity as property holders.⁴⁰ In a previous study, Calvi argued that Florentine magistrates often assigned widowed mothers as guardians of their underage children because of the—legally mandated—“disinterested” nature of their love, thus, perhaps unintentionally, revealing the utter unfeasibility, even *reductio ad absurdum*, of a legal system that did not recognize mothers' kinship ties to their children, and prevented the transmission of properties between them.⁴¹

Venetian historians, by contrast, have emphasized the relatively moderate patriarchal design of Venetian dowry exchange, especially when compared with its more rigidly agnatic Florentine counterpart, and insisted on the ample opportunities for agency it afforded wives in writing testaments, contributing to their daughters' dowries, or suing their

Strategies and the Control of Widows in Renaissance Florence,” *Widowhood in Medieval and Early Modern Europe*, ed. by Sandra Cavallo and Lyndan Warner (Harlow, U.K., 1999), 127-44. See also Eleanor Riemer, who showed how in Siena, the re-introduction of dowry exchange through statutory law had the effect of disinheriting women and curtailing their agency. E. S. Riemer, “Women, Dowries, and Capital Investment in Thirteenth-Century Siena,” in: *The Marriage Bargain: Women and Dowries in European History*, ed. by Marion A. Kaplan (New York, 1985), 59-80.

Important research on family property law in Renaissance Florence has also been conducted by Julius Kirshner, Anthony Molho, and Thomas Kuehn, among others. Julius Kirshner, “Maritus Lucretur Dotem Uxoris Sue Premortue in Late Medieval Florence,” *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*, 108, Kanonistische Abteilung Band 77 (1991): 111-155; idem, “Materials for a Gilded Cage: Non-Dotal Assets in Florence, 1300-1500,” *The Family in Italy from Antiquity to Present*, ed. by David I. Kertzer and Richard P. Saller (New Haven, 1991), 184-207; idem, with Anthony Molho, “The Dowry Fund and the Marriage Market in Early *Quattrocento* Florence,” *Journal of Modern History*, 50 (1978):403-78; idem, “*Li Emergenti Bisogni Matrimoniali* in Renaissance Florence,” *Society and Individual in Renaissance Florence*, ed. by William J. Connell (Berkeley, 2002), 79-109. Thomas Kuehn, *Law, Family, and Women: Toward a Legal Anthropology of Renaissance Italy* (Chicago, 1991).

⁴⁰ Giulia Calvi and Isabelle Chabot, eds., *Le ricchezze delle donne: diritti patrimoniali e poteri familiari in Italia (XIII-XIX secc.)* (Turin, 1998), 17. On equal inheritance in Roman Law, see: *Codex Justinianus*, ed. by Paul Krüger, (Berlin, 1877); *De Legitimis Heredibus*, VI, 15, 613. The preamble to this law (531 C.E.) traces the tradition of female inheritance back to the Twelve Tables (451-450 B.C.E.). See also J. A. Crook, “Women in Roman Succession,” in *The Family in Ancient Rome: New Perspectives*, ed. by Beryl Rawson, (Cornell, 1986), 60.

⁴¹ G. Calvi, *Il contratto morale*. On concepts of patrilineal consanguinity in Roman law, from which mothers were excluded, see Gianna Pomata, “Blood Ties and Semen Ties, Consanguinity and Agnation in Roman Law,” in: *Gender, Kinship, Power*, ed. by Maynes, Waltner, Soland, Strasser (Routledge, 1996), 43-64.

husbands' heirs for the return of their dotal assets as widows.⁴² A positive assessment of nominal dotal properties continues to persist, even though a wife's managerial right over her dowry was confined to retrieving it from a deceased husband's patrimony in the case of a remarriage, and to disposing of it in testaments.⁴³ Stanley Chojnacki even claimed that in Venice, patrician mothers contributed to dowry inflation by complementing their daughters' dowries⁴⁴—a position recently criticized by Isabelle Chabot. Chabot argued that Venetian mothers might have been pressured to condition their bequests to daughters as dowries, in order to prevent young women from enjoying their maternal inheritance shares as less restricted, extra-dotal properties. In her eyes, the widespread use of testaments by Venetian women does not necessarily indicate their extensive ownership rights, especially when compared to their Florentine counter-parts, but served to circumvent Venice's egalitarian intestate succession law regarding maternal properties.⁴⁵ A fairly circumspect view of dowry exchange has recently been proposed by Laura McGough as well, who interpreted women's preference for charitable institutions as overseers of their wills as incidents of female "resistance" against Venetian property laws and state bureaucracy.⁴⁶

While Italian, i.e., mostly Venetian, historians have insisted on locating forms of female agency in Renaissance legal and notarial culture despite—or rather, because of—women's limited opportunities to hold property and gain access to positions of authority, Portuguese historians have, in my view, drawn an overly pessimistic picture of early modern women's legal status. António Manuel Hespanha, Nuno Monteiro, and Maria de Lurdes Rosa, for example, have emphasized the exclusion of women from the public sphere according to Roman law, and pointed to the effects of the so-called *Lei Mental*, a law that required

⁴² S. Chojnacki, *Women and Men in Renaissance Venice*; idem, "Riprendersi la dote;" Anna Bellavitis, *Identité, mariage, mobilité sociale. Citoyennes et citoyens à Venise au xvi^e siècle* (Rome, 2001); L. Guzzetti, "Dowries in fourteenth-century Venice;" Gianna Pomata, "Family and Gender," in: *Early Modern Italy*, ed. by John A. Marino (Oxford, 2002).

⁴³ Linda Guzzetti, "Dowries in fourteenth-century Venice," *Renaissance Studies*, 16, no. 4 (2002):431-32.

⁴⁴ S. Chojnacki, "Dowries and Kinsmen," in: *Women and Men in Renaissance Venice*, (Johns Hopkins Press, 2000), 143.

⁴⁵ Isabelle Chabot, "A proposito di "Men and Women in Renaissance Venice," di Stanley Chojnacki: Ricchezze femminili e parentela nel Rinascimento. Riflessioni attorno ai contesti veneziani e fiorentini," *Quaderni storici*, 118, no. 1 (2005), especially 214.

⁴⁶ Laura McGough, "Women, Private Property, and the Limitations of State Authority in Early Modern Venice," *Journal of Women's History*, 14, no. 3 (2002):32-52.

crown goods entailed as *morgadios* (lineage properties) to follow the rule of male primogeniture.⁴⁷ While such patriarchal tendencies certainly existed, I contend that they did not have far-reaching consequences in a culture which continued to protect domestic partnerships as marriage, greatly valued a wife's in-law relations, and emphasized the capacity of both partners to accrue wealth during marriage. Early modern Portuguese historians' assessments of women's property rights are in stark contrast not only to contemporary accounts (see below), but to recent Brazilian historians' investigations of matrimonial strategies among early modern creole elites. Muriel Nazzari has argued, following Russell-Wood and Metcalf, that fathers in seventeenth-century São Paulo privileged daughters over sons in the transmission of family fortunes in order to attract white immigrants as sons-in-law. Sons, presumed to marry "down" into less wealthy, mixed-raced local families, were expected to make their fortunes in slave raids instead.⁴⁸ Such favoring of daughters over sons had its source in Portuguese property laws, but developed further in the context of a slave-owning, racist society in which the policing of women's reproductive capacities was key to the formation of a whitened elite. In both Italian as well as Portuguese/Brazilian scholarship on women's agency, female property holders are thus portrayed as participating in and contributing to the maintenance of the particular regime that governed their transactions, independently of whether they were favored or disfavored by it.

Early modern authors described Portuguese women's property rights as very generous. In his treatise on the *Privileges and prerogatives that the female sex holds according to the ius comune and royal ordenances* (1557), Ruy Gonçalves gave a comprehensive listing of women's special rights, which he claimed were more extensive than men's. This tract was dedicated to the Dowager Queen Catarina (1514-78) at the beginning of her regency for her son,

⁴⁷ Nuno Gonçalo Freitas Monteiro, *O Crepúsculo dos Grandes (1750-1832)* (Lisbon, 1998); Maria de Lurdes Rosa, *O Morgadio em Portugal (sécs. XIV-XV): modelos e práticas de comportamento linhagístico*, (Lisbon, 1995); António Manuel Hespanha, *História de Portugal Moderno, Político e Institucional* (Lisbon, 1995); idem, *As Vésperas do Leviathan: Instituições e poder político. Portugal—Séc. XVII* (Coimbra, 1994), 413ss.

⁴⁸ Muriel Nazzari, *The Disappearance of the Dowry: Women, Families, and Social Change in São Paulo, Brazil (1600-1900)* (Stanford, 1991); idem, "Parents and Daughters: Change in the Practice of the Dowry in São Paulo (1600-1770)," *The Hispanic American Historical Review*, 70, no. 4 (1990):639-65; Alida Metcalf, "Father and Sons; The Politics of Inheritance in a Colonial Brazilian Township," *The Hispanic American Historical Review*, 66, no. 3 (1986):455-84; J. R. Russell-Wood, "Women and Society in Colonial Brazil," *Journal of Latin American Studies*, 9, no. 1 (1977):1-33.

Dom Sebastião (1554-78).⁴⁹ After documenting many historical and literary examples of women's virtues, which "sometimes even surpassed men's,"⁵⁰ and describing the queen's ample powers in great detail, Gonçalves gave a fairly accurate account of women's property rights. Among other things, he pointed out that all goods acquired by married couples were shared properties, even in marriages conducted "with the exchange of dowry and *arras*" (counter-dowry or *Morgengabe*).⁵¹

Outside of Portugal, references to Portuguese women's generous access to positions of authority and property rights were rare and oblique, but did exist. In her anonymously published treatise *Hardships of the English Laws in Relation to Wives* (London, 1735), Sarah Kirkham Chapone expressed her admiration for Portuguese property law, according to which "a Wife . . . if she brought never a Farthing [into marriage], has [the] Power to dispose of half her Husband's Estate by Will; whereas a Woman by our Laws alienates all her own Property so entirely by Marriage, that if she brought an hundred thousand Pounds in Money, she cannot bequeath one single Penny."⁵² Chapone's polemical address to the English parliament contained a systematic critique of the concept of women's *coverture* in English Common Law, according to which married women lost title to all real properties they brought into marriage, and depended on their husbands' testaments for the assignment of a dower.⁵³ One of the most painful consequences of this cancellation of women's legal persona was, according to the author, mothers' lack of guardianship rights over their children—an interesting analogy to Renaissance Florence.⁵⁴ Marinella's fascination with Iberian succession law centered on Spain only, probably because The Kingdom of Portugal had since 1580 been ruled from Spain. Had she looked to history more closely, she would have found ample evidence of Portuguese queens ruling as regents of their sons.⁵⁵ In Fonte's colloquium, a gender reversal in dowry exchange—indeed the general practice in the Basque countries, Galicia, and northern Portugal,

⁴⁹ Ruy Gonçalves, *Privilegios e prerogativas que o genero feminino tem por Direito commum, e Ordenaçoens do Reino, mais que o genero masculino* (Lisbon, 1785; first ed. 1557).

⁵⁰ R. Gonçalves, *Privilegios e prerogativas*, 72.

⁵¹ *Ibid.*, 186.

⁵² Anon., *Hardships of the English Laws in Relation to Wives*, (London, 1735), 29-30; quoted from the facsimile edition by Lynne A. Greenberg, *Essential Works for the Study of Early Modern Women*: part I, vol. 2, *Legal Treatises*, 2 (Aldershot, 2005).

⁵³ A. L. Erickson, *Women and Property*; T. Stretton, "Married Women and the Law."

⁵⁴ G. Calvi, *Il Contratto Morale*.

⁵⁵ Leonor Teles de Menezes (1350-86); Leonor de Aragão (1402-49); Joana of Portugal (1452-90); Caterina of Austria (1507-78); see also R. Gonçalves, *Privilegios e prerogativas*.

where the groom offered a dowry or *arras* to his bride as her inalienable possession⁵⁶—was briefly considered, but immediately dismissed by Corinna as an inappropriate solution to the monetarization of marital relationships she complained about so vehemently.⁵⁷

HISTORIOGRAPHY: WOMEN'S PROPERTY RIGHTS AND MARRIAGE

As Chapone correctly hinted at, women's ample property rights and a flexible, couple-oriented form of *de facto* marriage was firmly anchored in Portuguese society and legal practice since the Middle Ages, and continued to be reconfirmed in royal legislation until the seventeenth century and beyond.⁵⁸ In the sixteenth century, both authors of legal treatises like Ruy Gonçalves, and proponents of Portugal's colonial policy in India and elsewhere, chose to portray Portuguese property law as very generous to women. Governors of Portuguese Asia promised Hindu women instant protection under Portuguese property law should they convert, and, as was hoped, marry Portuguese men.⁵⁹ Meanwhile, other

⁵⁶ Alyson M. Poska, "Gender, Property, and Retirement Strategies in Early Modern Northwestern Spain," *Journal of Family History*, vol. 25, no. 3 (2000):313-25; Roslyn M. Frank, Monique Laxalt, Nancy Vosburg, "Inheritance, Marriage, and Dowry Rights in the Navarrese and French Basque Law Codes," *Proceedings of the Annual Meeting of the Western Society for French History*, 4 (1976):22-31; David I. Kertzer, Caroline Brettell, "Advances in Italian and Iberian Family History," *Journal of Family History*, vol. 12, no. 1-3 (1987):87-120; Helena Osswald, "Dowry, Norms, and Household Formation: A Case Study From North Portugal," *Journal of Family History*, 15, no. 2 (1990):201-24.

⁵⁷ "Surely it would not be much of an honor for us to receive a dowry from them. Women have too much sense of their own dignity ever to deign to be bought by men. And besides, we are like jewels so precious as to be beyond price." M. Fonte, *The Worth of Women*, 114.

⁵⁸ *Ordenações e leis do reyno de Portugal, confirmadas, e estabelecidas pelo senhor rey D. João IV novamente impressas por Mandado do . . . D. João V* (Lisbon, 1747), book iv, title xlvī, 35-36; Caroline B. Brettell, "Kinship and Contract: Property Transmission and Family Relations in Northwestern Portugal," *Comparative Studies in Society and History*, 33, no. 3 (1991):443-465, especially 447. See also Guilherme Braga da Cruz, who argues that in Europe, only Finnish marriage law was as liberal and generous with respect to women's property rights as Portuguese law. G. Braga da Cruz, "O regime matrimonial de bens supletivo no direito luso-brasileiro," *Scientia Iuridica: Revista Bimestral Portuguesa e Brasileira*, tomo VI, no. 30-32 (1957):384-413. See also Julius Kirshner, who mentioned that in Renaissance Italy, joint ownership of spouses was limited to usufruct rights of *monte* shares, and who pointed out that especially in the northwestern regions of Portugal, "wives could retain rights over their own property and dispose of it without marital authorization." "Materials for a Gilded Cage: Non-Dotal Assets in Florence, 1300-1500," *The Family in Italy from Antiquity to Present*, ed. by David I. Kertzer and Richard P. Saller (New Haven, 1991), 206.

⁵⁹ "Lei sobre o modo que hão de ter na herança da fazenda de seus pais e avós os filhos, netos, e parentes, que são feitos, ou se fizerem christãos;" "Law regarding the

colonial powers, actual or future, like France, Spain, and England aimed to control marriage and women's properties in marriage through secular legislation and religious practices,⁶⁰ and cracked down on the relatively ample powers wives had enjoyed in the household-based economies of the late Middle Ages.⁶¹ Even Germany and Eastern Europe participated in this process; there, probably thanks to the reception of Roman Law, dowry exchange appeared and the public role of the *pater familias* grew, so that the notion of the married couple as a household team gradually vanished.⁶²

Portugal's choice as a counter-example to Venice and, above all, to Florence, where the statutes enshrined patterns of devolution arguably the least bilateral in all of Italy,⁶³ and where women's loss of property rights and agency was rivaled only by the concept of married women's *coverture* in English and Norman Common Law,⁶⁴ is warranted not only by its fairly egalitarian concept of property sharing, but its extra-ordinarily "liberal" marriage law. Prior research of mine has shown that Portuguese couples preferred to engage in informal domestic partnerships legitimized

manner in which sons, grandsons, nephews, or parents come into their inheritance of fathers and grandfather, once they have converted to Christianity;" 26 March, 1559; in: *Arquivo Portuguez Oriental* (=APO), vol. 5, parts I, II, ed. by Cunha Rivara, (Lisbon, 1857-77), 392-94.

⁶⁰ Sarah Hanley, "Engendering the State: Family Formation and State Building in Early Modern France," *French Historical Studies*, 16, no. 1 (1989):4-27; Lyndan Warner, "Widows, widowers and the problem of 'second marriages' in sixteenth-century France," *Widowhood in Medieval and Early Modern Europe*, ed. by Sandra Cavallo and Lyndan Warner (Harlow, 1999), 84-107; for Spain: Charlene Villaseñor Black, "Love and Marriage in the Spanish Empire: Depictions of Holy Matrimony and Gender Discourses in the Seventeenth Century," *Sixteenth Century Journal*, 32, no. 3 (2001):637-68; A. L. Erickson, *Women and Property*.

⁶¹ Heide Wunder, "Herrschaft und öffentliches Handeln von Frauen in der Gesellschaft der Frühen Neuzeit," *Frauen in der Geschichte des Rechts*, ed. by Heide Wunder (München, 1997), 27-54.

⁶² Ann M. Kleimola, "In Accordance with the Canons of the Holy Apostles': Muscovite Dowries and Women's Property Rights," *Russian Review*, 51, no. 2 (1992):204-29; Teresa Zielinska, "Noblewomen's Property Rights in 16th-18th century Polish-Lithuanian Commonwealth," *Acta Poloniae Historica*, 81 (2000):79-89; Charlotte Becher-Fritz, "Die finanzielle Sicherstellung der adeligen Frau vom 14. bis ins 16. Jahrhundert in Böhmen und Mähren," *Adler*, 11, no. 7 (1978):232-34; Tzetzvana Bonceva und Anelia Kasabova-Dintcheva, "Brautpreise und/oder Mitgift in Bulgarien," *L'Homme Z.F.G.*, 14,1 (2003):131-39; Beatrix Bastl, *Tugend, Liebe, Ehre: Die adelige Frau in der Frühen Neuzeit* (Böhlau Verlag, 2000); A. Hufschmidt, *Adlige Frauen im Weserraum*.

⁶³ I. Chabot, "La loi du lignage," 61.

⁶⁴ A. L. Erickson, *Women and Property*; T. Stretton, "Married Women and the Law;" Z. A. Schneider, "Women Before the Bench."

by cohabitation, joint ownership, and the expression of the words of present consent—a deeply rooted practice in Portugal that even the Council of Trent (1548-63) could not abolish—while Italian weddings were public, i.e. properly witnessed events, authorized by parental consent and the notarized exchange of dowries and other marriage gifts.⁶⁵ In both instances, marital “legitimacy” was defined as the outcome of a distinct marital property regime. While Portuguese partnerships qualified as “marriage” insofar as joint ownership was established, the Italian style separation of goods required the bride to be outfitted with a dowry, the groom’s acceptance of which sealed the marriage contract. Portuguese and Italian women’s forms of agency—legally defined—thus unfolded in the context of marital property laws that could not have been further apart.

In medieval Italy, the concept of marital legitimacy became synonymous with dowry exchange, despite other options to conceive of matrimony.⁶⁶ The church, for example, declared in 1215 that the partners’ freely expressed consent established the marital bond, a definition readily confirmed by Portuguese kings Dom Afonso II (1211-23) and Dom Afonso III (1248-79).⁶⁷ Italian statutory law, however, prohibited “elopements,”⁶⁸ and introduced the notion of *exclusio propter dotem*, according to which a daughter’s claim to her parents’ patrimony was limited to a dowry upon marriage.⁶⁹ The uncoupling of a daughter’s dowry from

⁶⁵ Jutta Sperling, “Marriage at the Time of the Council of Trent (1560-1570): Clandestine Marriages, Kinship Prohibitions, and Dowry Exchange in European Comparison,” *Journal of Early Modern History*, 8, no. 1-2 (2004):67-108.

⁶⁶ The “legitimacy” of marriage was since the Middle Ages guaranteed through a public wedding, with or without a priest’s blessing, but in any case sealed by the notarized exchange of wedding gifts. James A. Brundage, *Law, Sex, and Christian Society in Medieval Europe* (Chicago, 1987), 189.

⁶⁷ “Marriages have to be free; neither we nor our successors can force anybody to marry.” *Portugalliae Monumenta Historica* (=PMH), *Leges et Consuetudines*, vol. 1 (Lisbon, 1856; facsimile ed. Liechtenstein, 1967), p. 175. “The King, in deliberation with his council, mandates that neither he nor any aristocrat (*Rico-homen*), nor any powerful person of whatever condition or status, in all of the Kingdom, be he a clergyman or a lay person, can not force through threats or violence any man or woman into a marriage against their wishes; instead, all marriages should be based on the true wishes of those who are about to be married, in accordance with the ordinances of the Holy Church.” *PMH*, *Leges et Consuetudines*, vol. 1, 329.

⁶⁸ Daniela Lombardi, *Matrimoni di antico regime* (Bologna, 2001), *Annali dell’istituto storico italo-germanico in Trento*, Monografie 34 (Bologna, 2001), 42-48.

⁶⁹ Laurent Mayali, *Droit savant et coutumes: L’exclusion des filles dotées XII^{ème}-XV^{ème} siècles*, *Ius commune: Veröffentlichungen des Max-Planck-Instituts für Europäische Rechtsgeschichte* (Frankfurt am Main, 1987). For a case study on *exclusio propter dotem* in late medieval

her father's really existing wealth at the moment of his death, and the recommendation that it be "congruous" in size to his (and her groom's) social status, meant that the amount of a dowry depended, among other factors, on the marriage "market." A daughter's dowry was assessed according to the match she was expected to make; because the return of the dowry at the time of her husband's death needed to be guaranteed, its size proclaimed the liquidity of the father as well as the creditworthiness of the groom.⁷⁰ Dowries now compensated for the loss of the legitimate share a daughter could expect of both parents' patrimonies, and acquired a speculative dimension. Dowry inflation, i.e. the expectation of a return "with interest" of dowries spent, was an effect of this speculative dimension, and thus a direct result of *exclusio propter dotem*.

While Italian dowry exchange was practiced even among the lower classes,⁷¹ Portuguese dowry exchange remained confined to the aristocracy and propertied urban elites. In Portugal, as also in Southern Italy and Sicily,⁷² dowry exchange continued to follow the ancient Roman maxim of equal inheritance, according to which dowries could be returned (*ad collationem*) to the pool of family wealth to be re-distributed.⁷³ The separation of goods thus established never extended to properties acquired during marriage, however, which followed the so-called *carta da metade*, or rule of halves, governing the married couple's joint ownership.⁷⁴ When

Bologna, see Shona Kelly Wray's book entitled *Communities and Crisis: The Libri Memoriali of Bologna during the Black Death* (Leiden, forthcoming); S. K. Wray also gave a talk on the topic: "Dowry and Women's Inheritance in Late Medieval Bologna," *Berkshire Conference on the History of Women*, June 2-5, 2005.

⁷⁰ On the idea of dowry as credit, see Isabelle Chabot, *La dette des familles. Femmes, lignage et patrimoine à Florence aux XIV^e et XV^e siècle* (Rome, forthcoming).

⁷¹ On the *Monte delle Doti*, or dowry fund, see Anthony Molho, *Marriage Alliance in Late Medieval Florence* (Cambridge, MA, 1994); on charitable dowry bequests or small dowries among the poor, see: Isabelle Chabot, "La beneficenza dotale nei testamenti del tardo Medioevo," in: *Povert  e innovazioni istituzionali in Italia*, ed. by Vera Zamagni (Bologna, date), 55-76; Mauro Carboni, *Le doti della "povert ." Famiglia, risparmio, provvidenza: il Monte del Matrimonio di Bologna (1583-1796)* (Bologna, 1999); Isabelle Chabot and Massimo Fornasari, *L'economia della carit : le doti del Monte di Piet  a Bologna (secoli XVI-XX)* (Bologna, 1997).

⁷² Igor Mineo, *Nobilt  di Stato: Famiglie e identit  aristocratiche nel tardo medioevo. La Sicilia* (Rome, 2001).

⁷³ L. Mayali, *Droit savant et coutumes; Kalliopi Papakonstantinou, Die Collatio Dotis: Mitgift und Miterben-Auseinandersetzung im r mischen Recht* (K ln, Weimar, Wien, 1998).

⁷⁴ Already Dom Dinis (1279-1325) established rules for distinguishing common-law marriages from simple co-habitation: a partnership was to be conceived of as marriage after seven years of cohabitation, after sales and purchases had been made together, after loans had been taken out together, or after the partners had been recognized by

dowry exchange was re-established in twelfth- and thirteenth-century Italy, widows lost their claims to the third or fourth part of their deceased husbands' properties based on Lombard law.⁷⁵ In Portugal, widows continued to enjoy half of all goods acquired during marriage in addition to their dowries.⁷⁶

The harshness of Italian dowry exchange as defined in statutory law might in part be explained by the importance that Lombard law had acquired in the early Middle Ages. The rule that all women were legally incapacitated and needed the representation of a *mundualdo*, or legal guardian, for their legal transactions to be valid, lived on in Florence until the late sixteenth century and beyond. Lombard law did not contain the principle of equal inheritance, but established complicated calculations of shares that legitimate daughters could expect depending on their number and the number of natural half-brothers.⁷⁷ Illegitimate daughters would never inherit, and legitimate daughters only insofar as they had no legitimate brothers. The Lombard invasion did not extend to Venice, which explains the faint echo of Byzantine equal inheritance in Venetian statutory law.⁷⁸ Visigothic law, by contrast, was more comparable to Roman law in its insistence on equal inheritance and the requirement of a dowry as a necessary component of upper-class

their communities as married. *Ordenações del-Rei Dom Duarte*, ed. by Martim de Albuquerque and Eduardo Borges Nunes, Fundação Calouste Gulbenkian (Lisbon, 1988), 216. For the survival of the "rule of halves" into the eighteenth century, see Ruy Gonçalves, *Privilegios e prerogativas*, 185-87; legislation by Dom João IV (1640-56) suggests that in marriages by "arras and dowry," the extent of property sharing of acquired goods during marriage could be negotiated in marriage settlements. *Ordenações e leys do reyno de Portugal, confirmadas, e estabelecidas pelo senhor rey D. João IV novamente impressas por Mandado do . . . D. João V* (Lisbon, 1747), book iv, title xlvi, 35-36.

⁷⁵ Diane Owen Hughes, "Urban Growth and Family Structure in Medieval Genoa," *Past and Present*, 66 (1975):3-28, especially 13-16.

⁷⁶ R. Gonçalves, *Privilegios e prerogativas*, 186.

⁷⁷ In early Lombard succession law, by contrast, daughters' inheritance rights depended on the marital status of their mother, and the gender, legal status, and number of their siblings. According to Rothari's edicts (643), for example, surviving legitimate daughters could claim up to a third of her parents' inheritance, if they had illegitimate brothers only; if the legitimate daughters outnumbered the natural sons, the daughters could claim half of the inheritance, their brothers one third. There is no provision specifying what illegitimate daughters might receive, or legitimate daughters in the presence of legitimate sons. *Monumenta Germaniae Historica* (=MGH), *Leges inde ab anno Christi quingentesimo usque ad annum millesimum et quingentesimum . . .*; Legum, vol. 4, ed. by Georgius Heinricus Pertz (Hanover, 1868), 36-37.

⁷⁸ *Gli statuti veneziani di Jacopo Tiepolo del 1242 e le loro glosse*. *Memorie del Reale Istituto Veneto di Scienze, lettere ed Arti*, vol. XXX no. 2, ed. by Roberto Cessi (Venice, 1938), book IV, no. XXIII, 200-05; A. Bellavitis, "Patrimoni e matrimoni," 149-59.

marriage.⁷⁹ The *dos*, however, was given to sons as a gift for their brides, an institution later called *arras*. While the Visigothic *dos* was, functionally, similar to bride price and *Morgengabe* as an inalienable gift to the wife, male dowries continued to exist in the matrilineally organized Basque country until the sixteenth century.⁸⁰ The extent to which Islamic inheritance rules had an influence on early medieval Portuguese customs in the South remains to be studied.⁸¹

In sum, dowry exchange as it was practiced in medieval and Renaissance Italy was designed to compensate daughters for their loss of inheritance rights;⁸² to deny widows shares in their husbands' patrimonies;⁸³ and to obstruct and limit married women's legal agency.⁸⁴ It introduced a strict separation of assets between spouses, and a legal system of kinship in which cognatic, i.e. maternal, ties were erased as avenues for property transfer in intestate successions.⁸⁵ In Portugal, strong

⁷⁹ "If a father or mother dies intestate, sisters and brothers succeed to their parents' inheritance without any objection in equal parts." Lex Visigothorum, IV, Titulus II, De Successionibus, I, in: *PMH*, vol. I, Leges et Consuetudines, ed. by the Academy of Sciences of Lisbon (Lisbon, 1856, reprint Liechtenstein, 196745); "A woman succeeds to the inheritance of father or mother, grandfathers or grandmothers, maternal as well as paternal, of her brothers and sisters, as well as to those inheritances that come from her paternal uncle or the son of her paternal uncle, as well as the brother or sister of her paternal uncle, equally with her brothers. Because it is only just that those whom the vicinity of nature brought together should not be divided by inheritance regimes." *MGH*, Leges Nationum Germanicarum, vol. 1, Leges Visigothorum, ed. by Societas Aperiendis Fontibus Rerum Germanicarum Medii Aevi (Hanover and Leipzig, 1902), 177.

⁸⁰ R. M. Frank, M. Laxalt, N. Vosburg, "Inheritance, Marriage, and Dowry Rights in the Navarrese and French Basque Law Codes."

⁸¹ In my eyes, the Maliki family endowments studied by David Powers brea a striking resemblance to the *morgadios*, or entailed family estates, studied by Maria de Lurdes Rosa for the same period. These family endowments emerged in eighth-century Muslim Spain and the Maghreb. David S. Powers, "The Maliki Family Endowment: Legal Norms and Social Practices," *International Journal of Middle Eastern Studies*, 25 (1993):379-406; Maria de Lurdes Rosa, *O Morgadio em Portugal (sécs. XIV-XV): modelos e práticas de comportamento linhagístico*, (Lisbon, 1995).

⁸² Diane O. Hughes, "From Brideprice to Dowry;" L. Mayali, *Droit savant et coutumes*, 23-24.

⁸³ M. T. Guerra Medici, *L'aria di città*.

⁸⁴ E. S. Riemer, "Women, Dowries, and Capital Investment;" in this context, the first-century Roman law known as "Senatusconsultum Velleianum" is interesting as well, designed to "protect" wives from obligating their dotal and other properties in favor of the financial commitments of their husbands and sons, but which in Crook's eyes, referring to a comment by Ulpian, rather intended to "denegare actionem" (negate agency) to women. This law was still being applied in the Renaissance. J. A. Crook "Feminine Inadequacy and the Senatusconsultum Velleianum," in: *The Family in Ancient Rome: New Perspectives*, ed. by Beryl Rawson, (Ithaca, NY, 1986), 88.

⁸⁵ I am aware of the importance of in-law relations, the so-called *parentado*, in early modern Italian society; these relations, however, operated in an extra-legal realm, while

cognatic, even residually matrilineal,⁸⁶ kinship ties found their legal expression in equal inheritance practices and joint ownership between husband and wife. Tendencies to disinherit women emerged in the fourteenth and fifteenth centuries with the application of the *Lei Mental*, according to which women would not be called on to succeed to crown goods and privately entailed lineage properties (*morgadios*), but remained ambiguous in their application, and never extended beyond the aristocracy.⁸⁷

CASE STUDIES

My study of notarial acts from Lisbon, Venice, and Florence aims to show that a variety of features in Portuguese legal culture, none of which are documented for either Venice or Florence, facilitated women's extensive access to property. Among these Portuguese peculiarities were the strong position of the husband's mother-in-law, single mothers' claims to alimony payments, joint ownership between spouses, royal awards for arranged marriages in the form of female fiefs, equal inheritance rights for daughters, dowry system (as in the Codex of Justinian) without *exclusio propter dotem*. While I do present compatible quantitative data for the three cities under consideration, my numeric evidence is meant to indicate a trend rather than to quantify differences in property holding. My argument for Portuguese women's extensive rights rests mainly on a qualitative analysis of notarial acts redacted by Belchior Montalvo,⁸⁸ but is corroborated by similar studies of mine for the previous century. A comparison of fifteenth-century royal chancellery acts with Montalvo's records shows an even stronger presence of women agents and the enduring presence of joint ownership in the later period.⁸⁹ Fewer noblewomen are documented as receiving large donations and bequests, due to the more urban setting of Montalvo's clientele, although noteworthy exceptions also occurred. In these records, women emerge as agents or beneficiaries of property transactions in 97 of 200 such contracts, or 48.5%. I decided to pay attention to both agents and beneficiaries, since on the one hand, women could be awarded property in contracts initiated

in Portugal, cognatic ties were legally recognized. For Italy, see G. Pomata, "Family and Gender."

⁸⁶ D. I. Kertzer, C. Brettell, "Advances in Italian and Iberian Family History;" H. Osswald, "Dowry, Norms, and Household Formation."

⁸⁷ M. de Lurdes Rosa, *O Morgadio*.

⁸⁸ ANTT, *Livros de notas*, cartorio 15, livros 8, 9 (Belchior Montalvo, 1572).

⁸⁹ J. Sperling, "Women's Property Rights."

by men, and, on the other, much of women's notarial agency consisted of surrendering rights by assigning men as proxies in business dealings. In fact, of those 97 contracts that feature women, 43.3% were transfers of power-of-attorney, which women most often gave away (31), but which they also received in 13 cases, i.e. 6.5% of the entire sample (double entries in 2 cases). The degree to which women were appointed as *procuradoras* (proxies, general estate managers) is astonishingly high, and can in my view be taken as a measure for women's property rights and legal agency at large. By comparison, only four Venetian women and one Florentine woman in my sample assumed this responsibility.⁹⁰ The relatively high rate of Portuguese women's proxy appointments is particularly interesting in light of the fact that both canon and Roman civil law prohibited women from performing this role.⁹¹

The rest of my Portuguese women's acts consists of quitclaims (13), dowry contracts (11), sureties (11), leases (7), emancipations of slaves (4), sales (3), obligations (2), testaments (2), and donations (1). There is evidence of joint ownership or joint action of spouses in one-quarter of all women's contracts (or 12% of entire sample), but in 9% of all cases, married women also acted independently of their spouses. In absolute numbers, married women appear in 51 contracts, widows in 29, single women in 16, and nuns in one. In one-quarter of all women's contracts, women figure as full and independent agents of business transactions; this includes women's appointments as *procuradoras* (general estate managers, proxies) and women's interventions as sole agents, but excludes women's *procura* appointments to men. In another quarter of those 97 female acts (25), women figure as beneficiaries, not including recipients of powers of attorney. Only 11 contracts (or 5.5% of the entire sample) dealt with dowries, in contrast with 13.5% in the Venetian and 8% in the Florentine sample; 12 acts centered on issues of women's inheritance. Colonial references appear in 22 women's contracts, including references to slavery. In 36 cases, transactions occurred between women and their relatives, most frequently between mothers and their children (16), followed by contracts between women and their sons- and daughters-in-law (5) (see Table 2).

⁹⁰ ASV, *Notarile*, Atti, reg. 8348, p. 47v; 51v; 58v; 70v; Archivio di Stato di Firenze (=ASF), *Notarile Moderno*, Protocolli 4485, 34v.

⁹¹ António Manuel Hespanha, "Carne de uma só carne. Para um compreensão dos fundamentos histórico antropológicos da família na época moderna," *Análise Social*, 28 (123/24) no. 4-5 (1991):951-74.

Table 1: Comparison of Notarial Acts from Lisbon, Venice, and Florence (1572)¹

	Lisbon	%	Venice	%	Florence	%	V&F combined	%
Women as agents or main beneficiaries of contracts	97	48.5	77	38.5	60	30	137	34
Powers of attorney given by women	31	15.5	32	16	19	9.5	51	13
Powers of attorney received by women	13	6.5	4	2	1	0.5	5	1
Evidence of joint ownership	24	12						
Married women acting independently	18	9	1	0.5			1	0.5
Dowries	11	5.5	27	13.5	16	8	43	11
Colonial references	22	11						
Cognatic relationships between business partners ¹	30	15	14	7	12	6	26	6.5
Agnatic relationships between business partners ¹	19	9.5	33	16.5	23	11.5	56	14

¹ Sample size: 200 contracts per city; percentages taken of entire sample; double entries possible

A qualitative analysis of Belchior Montalvo's records gives detailed insight into women's broad access to inherited wealth and their ability to do business. His acts show a strong evidence of joint ownership in marriage, and the importance that in-law relations could assume, particularly the economic ties a husband might form with his wife's parents and siblings.⁹² Portuguese widows could expect to receive up to two-thirds of their husband's estates (of which one third belonged to their underage children), but women also inherited from their sons, mothers, and aunts. Breatis Jorge, widow of Ignaci Alveres and Nuno Pinto, for example, sued Nuno's sister for the sum of 14,500 *reis*⁹³ from her deceased

⁹² On uxorilocal marriages, particularly those in northern Portugal, see D. I. Kertzer and C. Brettell, "Advances in Italian and Iberian Family History."

⁹³ To give an idea of the value of *reis*: a chicken could cost up to 300 *reis*, a slave between 20,000 and 35,000 *reis*; a vineyard was estimated at 20,000 *reis*. One gold *cruzado* was calculated at 60 *reis*.

first husband's inheritance, a sum awarded to her by the *Casa do Cívell* for raising their four children.⁹⁴ In another act, Ines Amdre, widow of Francisco Anes, sued the heirs of Bishop Dom Gemes for the outstanding salary of her mother Ana Perez.⁹⁵ In his testament, Chevalier Francisco Chama disposed of his fortune as follows: one-third was to go to his mother "because of the trouble he caused her and because of the great love with which she raised him," the rest (two-thirds) went to his wife, unless she were yet to bear him children, in which case she and the children would split the remainder into two equal halves.⁹⁶ In another contract, Ljanor Rodriguez, childless widow of Manuel Jorge, received half of her deceased husband's estate; the other half went to his parents.⁹⁷ Ana Lopez, finally, widow of Francisco Martinez, sued the Confraternity of Santa Maria, universal heir of her uncle, for the portion of 40,000 *reis* that her aunt Catarina Afonso had awarded her.⁹⁸

While childless widows shared their husbands' wealth with in-laws, men's relations with their wives' parents could be just as close, perhaps closer: Giacomo Afonso, worker, and his wife Marqueza Mendes appointed Marqueza's parents as *procuradores* of Giacomo's parents' inheritance.⁹⁹ In another contract, Mateus Sobrinho donated 15,000 *reis* to his mother-in-law Jnes Goncalvez, widow of Afonso Martinez, because of the "many favors" he had received from her, and because of her poverty. Mateus was the rightful owner of his father-in-law's property, which Afonso Martinez had earned for his royal service in the *Casa da India*.¹⁰⁰ Grimanesa Mateus, finally, widow of Afonso Fernandez, appointed her son-in-law Amdre Fernandez to act as her estate manager.¹⁰¹ As already mentioned, women were quite frequently named as *procuradoras* of men to whom most, but not all, were related. Typically, women took over the management of the estates of men, or other women, whose jobs required extensive traveling, or who resided in parts of the country where notarial, financial, and legal services seem to have been lacking. For example, Senhor Gaspar Perreira, vassal of the king, awarded his mother

⁹⁴ ANTT, *Registro Notarias de Lisboa*, Cartorio 15, livro de notas 8, Belchior de Montalvo, 4r.

⁹⁵ *Ibid.*, livro de notas 8, 36r.

⁹⁶ *Ibid.*, livro de notas 9, 75r.

⁹⁷ *Ibid.*, livro de notas 9, 128v.

⁹⁸ *Ibid.*, livro de notas 9, 19v.

⁹⁹ *Ibid.*, livro de notas 8, 7r.

¹⁰⁰ *Ibid.*, livro de notas 8, 77r.

¹⁰¹ *Ibid.*, livro de notas 8, 112r.

Dona Ynacja Perreira and his servant Amrique Coreia joint powers-of-attorney over his income from an ecclesiastic benefice, which each of them could also exercise alone.¹⁰² In another contract, Ana Perez and her husband received a proxy appointment from Ana's brother Viegas Almogrove for the management of the estate of Pelonja Rodriguez, wife of said Viegas.¹⁰³ Other examples include Costana Godinho, wife of Manuell Coelho, who took over the management of her son's financial affairs.¹⁰⁴ Amtonia Mjgueis, wife of Amdre Aparjcio, sailor, was authorized to administer her husband's estate while he was abroad.¹⁰⁵ Clara Lopez was entrusted with collecting the salary of a certain Alvaro Domjngues, resident of Viseu, and "natural" son of Alvaro Domjngues, who fought in the army of Joo de Mendoa.¹⁰⁶ Marquos Ligeiro, belonging to the lower echelons of the nobility, appointed his wife Jnes Martinez and her mother Maria Vaasquez joint *procuradoras* of his estate.¹⁰⁷ Breatis Fernandez received full power-of-attorney from her husband,¹⁰⁸ as did Senhora Dona Jsabel Demjranda, wife of Senhor Guomez Frejre, vassal of the king, and resident of Bejra.¹⁰⁹ Francisca Dias, widow of Joo Fernandez, managed the estate of Amtonio Rodriguez, resident of Monferte.¹¹⁰ Francisca da Rocha, finally, acted on behalf of her daughter Ynes da Rocha, wife of Dominguos Perez and resident of So Tome. She certified to have received 70,000 *reis* from the sale of the two slaves her daughter had sent her.¹¹¹

Women functioned as emancipators of slaves more frequently than as slave dealers; in fact, only women are mentioned in this capacity in the records under investigation. Senhora Maria da Fonseca, courtier of the king, manumitted Costantino, the "very white and blond" four-year-old son of her slave Breatis Anulata, who "always served me very well, and helped me to raise all of my children."¹¹² Ana Fernandez Pimintell, widow of Dominguos Demorais, rewarded her 50-year-old Indian slave

¹⁰² *Ibid.*, livro de notas 9, 40r.

¹⁰³ *Ibid.*, livro de notas 8, 18v.

¹⁰⁴ *Ibid.*, livro de notas 8, 112v.

¹⁰⁵ *Ibid.*, livro de notas 9, 59v.

¹⁰⁶ *Ibid.*, livro de notas 9, 61v.

¹⁰⁷ *Ibid.*, livro de notas 9, 77v.

¹⁰⁸ *Ibid.*, livro de notas 9, 82v.

¹⁰⁹ *Ibid.*, livro de notas 9, 90r.

¹¹⁰ *Ibid.*, livro de notas 9, 123r.

¹¹¹ *Ibid.*, livro de notas 9, 116v-117r.

¹¹² *Ibid.*, livro de notas 8, 26r.

Catarina Demoraiz in the same manner for her good service.¹¹³ Ana Paiz, chambermaid of the *Infanta* Dona Maria, emancipated Justa Fernandez, inherited from her father. Justa was approximately 45 years old, and, it seems, had bad teeth.¹¹⁴ Colonial references, including slavery, appear in one fifth of all women's acts, in the form of slave sales (6) and emancipations (4), but also transactions involving properties and titles in India, Morocco, Madeira, and São Tomé (12). These records testify to Portuguese women's heavy investment in their country's colonial exploits.

Apart from the servants, courtiers, and chambermaids mentioned above, several other women were classified as working women or professionals.¹¹⁵ Ana Manuel and her husband Domjnguo Fernandez sued their former employers João Guomez and Eva do Tojall for outstanding salary payments—15,000 *reis* for Domjnguo's five years of service, and 13,000 *reis* for Ana's nine years of service.¹¹⁶ In another contract, Brizida Lopez, widow and royal baker, signed a quitclaim for the receipt of 56,000 *reis* from her lover Juljão Soares, royal chaplain and treasurer of the Queen's Chapel. Brizida had sued him for the payment of alimonies for the upbringing of "certain children" she had had by him.¹¹⁷ Her case is particularly interesting because it reveals that fathers of illegitimate children were expected, or legally obligated, to contribute financially to their upbringing. Single or widowed mothers, as well as mothers who remarried after the death of their first husbands, routinely assumed guardianship of their children. Margarida Djas, wife of João Fernandez, received permission from the Judge of Orphans¹¹⁸ to sell a few houses which her son Amtonio had inherited from the mother of her first husband Dominguo Francisco. Since her son had not received his *legítima* from his father, she planned to give him the proceeds of those houses, estimated at 12,000 *reis*.¹¹⁹ In another act, Elena Lopez,

¹¹³ *Ibid.*, livro de notas 9, 98v.

¹¹⁴ *Ibid.*, livro de notas 9, 3v.

¹¹⁵ On Portuguese women's strong professional identity, see D. Abreu-Ferreira, "Work and Identity in Early Modern Portugal."

¹¹⁶ ANTT, *Registro Notarias de Lisboa*, Cartorio 15, livro de notas 8, Belchior de Montalvo, 2v.

¹¹⁷ *Ibid.*, livro de notas 9, 20v.

¹¹⁸ Orphans were children whose fathers had died. Although widows would automatically become their children's guardians, the Judge of Orphans figured as an overseeing agency, making sure that children's inheritances would not be squandered. Timothy Coates, *Convicts and Orphans: Forced and State-Sponsored Colonizers in the Portuguese Empire, 1550-1755* (Stanford, 2001).

¹¹⁹ ANTT, *Registro Notarias de Lisboa*, Cartorio 15, livro de notas 9, Belchior de Montalvo, 84r.

widow of Ames Castela, negotiated an apprenticeship for her eighteen-year-old son Duarte with Matias Guomez, shoemaker, in her capacity of “guardian and caregiver” of her underage children.¹²⁰

Many women—regardless of their marital status—conducted financial transactions on their own. Just a few examples might suffice: Breatis Fernandez, widow of Bertolameu Despinhosa, owed Crijstovão Fernandez, hatmaker, the substantial sum of 37,300 *reis*.¹²¹ Jsabell Martinez, widow of Crjstão Mosquarenhas, signed a lease contract regarding certain properties with Amtonio Goncalvez in exchange for 12,000 *reis*.¹²² Senhora Ysabell de Sequejra, wife of Amtonio Becudo, ratified a long-term lease contract negotiated earlier between her husband on the one hand, and Francisco Guomez and his wife on the other.¹²³

Once in a while, women appear in notarial acts as perpetrators or victims of legal transgressions. According to Roman law, women were supposed to await trial in convents rather than public prisons,¹²⁴ but Ines de Varguas, wife of Garcia Alveres, was held at the prison of the Inquisition. She had to put up her entire fortune, worth 4,000 *cruzados* (or 240,000 *reis*), as bail in order to be temporarily released from prison. Doutor Baltezar da Fonseca, Judge of Confiscated Goods of the Royal Chamber of Criminal Justice, approved of this arrangement, for which Rodrigo, as vassal and servant of the King, gave surety.¹²⁵ In another contract, Breatis de Silvejra, held at the municipal prison, had Lunardo Alveres, artilleryman, put up 100 *cruzados* (6,000 *reis*) for her pretrial release—the usual sum for prisoners other than those held by the Inquisition.¹²⁶ Cecilia Demorais petitioned to have Luis Lopez, butler of Dom Duarte, put up the same amount for her pretrial release.¹²⁷ Marguarjda Fernandez, finally, wife of Afonso Fernandez, protested against the violent abuse she suffered at the hand of Pedro Fernandez dal Miranda, vassal of the *Infanta* Dona Isabell. She was first pressured into dropping her charges against this nobleman who allegedly beat her

¹²⁰ *Ibid.*, livro de notas 8, 37v.

¹²¹ *Ibid.*, livro de notas 9, 11r.

¹²² *Ibid.*, livro de notas 9, 57v.

¹²³ *Ibid.*, livro de notas 9, 108r.

¹²⁴ António Manuel Hespanha, “O estatuto jurídico da mulher na época da expansão,” unpublished paper, in which he refers to the *Ordenações Filipinas*, III 47; V, 124, 16.

¹²⁵ ANTT, *Registro Notarias de Lisboa*, Cartorio 15, livro de notas 8, Belchior de Montalvo, 49r.

¹²⁶ *Ibid.*, livro de notas 8, 51r.

¹²⁷ *Ibid.*, livro de notas 8, 55r.

after she had provoked him with offensive remarks, but now insisted on re-opening the trial.¹²⁸

Other women accused their former partners of having violated their honor in breach-of-promise cases: Maria Djas, daughter of Afonso Fernandez and Ana Estevez, claimed to have been deceived by Jorge Anes, her employers' son. Only after they had engaged in a relationship had she found out about his prior marriage, which ruined her reputation as a "good and virtuous wife." Jorge's father forced her "under threats" to sign an official pardon, which she could not refuse to do at the time. As his—presumably underage—servant, she was under his legal guardianship, until her own father took her home. Back at home, she sought to have her pardon annulled, and to initiate criminal or civil proceedings (probably the latter) against Jorge.¹²⁹ It appears as though, Marja had decided to sue Jorge for a "dowry" in exchange for her virginity by couching her complaint against sexual abuse in the language of a breach-of-promise suit.¹³⁰ Another such litigation in defense of female honor was initiated by Ljanor Rjbejra, former wet-nurse of Luis de Carvalho and resident of the royal court. She claimed that Jorge Dias, shoemaker, had promised "not to marry any woman but her," but that he now wished to break his vow and marry someone from his hometown, Delameguo. Under no circumstance did Ljanor want to let this happen, which is why she employed Manuell Tejxejra, priest in Delameguo, and Luis Amador, to hunt him down, press charges with the local bishop in her name, and use every judicial means at their disposal to spoil Jorge's plans, such as lobbying the bishop to threaten the unfaithful lover with excommunication.¹³¹

While contracts involving women as *procuradoras*, agents of property transactions, recipients of inheritances, alimonies, and donations, as prisoners or claimants, show their remarkable access to notarial services, it is once again dowry contracts we should now turn to in order to explore more fully the differences between Portuguese and Italian kinship structures, marital property arrangements, and women's legal status. Out of

¹²⁸ *Ibid.*, livro de notas 9, 110r.

¹²⁹ *Ibid.*, livro de notas 9, 114r.

¹³⁰ There is ample evidence of similar suits from Italy. See, for example, Daniela Hacke, "La promessa disattesa: il caso di Perina Gabrieli (Venezia 1620)," in: *Matrimoni in dubbio*, ed. by Silvana Seidel Menchi and Diego Quaglioni, pp. 395-414; Daniela Lombardi, *Matrimoni di antico regime* (Bologna, 2001).

¹³¹ ANTT, *Registro Notarias de Lisboa*, Cartorio 15, livro de notas 8, Belchior de Montalvo, 63r.

my randomly chosen sample of 200 notarial documents, 11 or 5.5% are dowry contracts or contracts involving the sale of dotal properties.¹³² Three of these contracts do not show any obvious difference from the Italian practice, such as the quitclaim of Belchior Pinto, who simply certified to have received 100,000 *reis* from Amtonio Guomez for his marriage with Maria Marques, daughter of Caterina Marques de Crjstovão.¹³³ Francisco Vaz's obligation to pay 50,000 *reis* in dowry to Bertolameu Gaguao likewise does not reveal anything out of the ordinary, except perhaps Francisco's condition that Bertolameu marry his daughter Mecia by pronouncing the words of present consent "according to the rule of the Holy Mother Church of Rome,"¹³⁴ a rite which nine years prior had been abolished by the Council of Trent. This formula, which appears regularly in all premarital dowry contracts under investigation, confirms the Portuguese disregard for the change in Catholic marriage legislation as discussed above.¹³⁵ Another feature of the contract, namely Francisco's promise to pay 40% of the money prior to the wedding, so that Bertolameu would be able to invest the money on his upcoming trip to São Tomé—probably to buy slaves—reminds us of the function that dowries had assumed in medieval and early Renaissance Italy, namely, to provide start-up capital for young businessmen. Finally, Margarida Lopez, widow of Pedro Fernandez, left a charitable dowry of 10,000 *reis* from her husband's inheritance to Catarina Nunes, "an honorable orphan of good reputation," in order to help her find a spouse.¹³⁶

All other dowry arrangements, however, do show noteworthy differences from the Italian practice. Some specify not only the bride's mother and father as donors, but also both groom and bride as recipients of the dowry. Joao Guaio and his wife Ana Pirez, for example, promised to give Andre Camelo and their daughter Maria Gaia a dowry consisting of a farm with a vineyard and several houses.¹³⁷ Another vineyard was given by Bertolameu da Marall, artilleryman, and his wife Catarina Fernandez to their daughter Brjdanga da Bren and her fiancé Dominguos de Loureiro.¹³⁸ Amtonio da Giar's contract also suggests joint ownership

¹³² *Ibid.*, livro de notas 9 (entire), livro das notas 8 (first 81 contracts).

¹³³ *Ibid.*, livro de notas 8, 5r.

¹³⁴ *Ibid.*, livro de notas 8, 14r.

¹³⁵ J. Sperling, "Marriage at the Time of the Council of Trent."

¹³⁶ ANTT, *Registro Notarias de Lisboa*, Cartorio 15, livro de notas 9, Belchior de Montalvo, 21v.

¹³⁷ *Ibid.*, livro de notas 8, 57v.

¹³⁸ *Ibid.*, livro de notas 9, 45v.

of bridal dowries: he and his wife Gujomar Soares signed the sales contract for the estate to which Gujomar was entitled as heiress of her father and siblings, and as recipient of her mother's dowry.¹³⁹ Likewise, Baltezar Davjde, vassal of the king, needed the explicit consent of his wife Breatis Nicullas to sell the houses worth 80,000 *reis*, which she had received in dowry payments from her father M.te Njculão, servant of former King Dom João.¹⁴⁰

When dowries were larger than the inheritance portion of sons (i.e., larger than the bride's *legítima* or legitimate share), they had to be ratified by the bride's male and female siblings—another difference from the Italian custom. Such seems to have been the case with Senhora Jsabell Rodriguez, daughter of merchant Amrique Rodriguez, whose dowry amounted to 2,000 gold *cruzados* (120,000 *reis*) and 1,500 *cruzados* worth of furniture and other mobile properties. Jsabell's brother, Amtonio Rodriguez, was appointed as her and her husband's main creditor.¹⁴¹

A very special type of kinship bond—based on milk instead of blood—was pronounced by Priest Rodrigo Fernandez, who gave a black slave to his milk sister Jsabell de Cujnha—i.e. his wet-nurse's daughter—“in order to see her married and honored according to her station.”¹⁴² Apart from the fact that this contract was conducted between “siblings” of a very special kind, one that did not originate in the sharing of paternal blood and seed, it also showed that Portuguese dowries, like Brazilian ones,¹⁴³ were often paid in slaves—another difference from Italy.

Among the most interesting dowry arrangements from the Italian perspective are those in which the bride was endowed with a royal gift to be passed on in the female line for three generations, or in which the bride received a dowry far surpassing her legal share of her parents' inheritance. One of Montalvo's dowry contracts boasted both features, and thus deserves to be scrutinized in greater detail: On July 21, 1572, several of Montalvo's most illustrious clients and their legal agents gathered at the residence of Dom Afonso de Noronha, son of the Marques da Vjlla Reall Dom Fernando, and his wife Dona Maria de Sà in order to settle the dowry contract of their daughter Dona Caterina.¹⁴⁴ She was

¹³⁹ *Ibid.*, livro de notas 9, 53v.

¹⁴⁰ *Ibid.*, livro de notas 9, 124r.

¹⁴¹ *Ibid.*, livro de notas 9, 97r.

¹⁴² *Ibid.*, livro de notas 8, 41r.

¹⁴³ M. Nazzari, *The Disappearance of the Dowry*; idem, “Parents and Daughters;” A. Metcalf, “Father and Sons;” J. R. Russell-Wood, “Women and Society.”

¹⁴⁴ ANTT, *Registro Notarias de Lisboa*, Cartorio 15, livro de notas 9, Belchior de Montalvo, 24r.

supposed to receive 30,000 *cruzados* (1,800,000 *reis*) for her marriage to Dom Rodrigo, first born son of Dom Francisco, son of Marques de Fereira, Conde de Tentugal. Of this sum, 4,000 *cruzados* were to be paid in cash from Caterina's inheritance from Dom António, former Viceroy of India. In immovable properties, Caterina was promised houses worth 1,500 *cruzados*. Her jewels, pearls, gold, and silver items were also counted among her dowry payments, estimated at 9,000 *cruzados* by independent experts such as "jewellers, goldsmiths, and *homens da Índia*" (men from India). The bulk of the money, however—13,000 *cruzados*—was to come in the form of slaves. The remaining 5,500 *cruzados* were to be paid in the form of two *prazos* (landed estates awarded by the king) which Caterina's mother owned in Guolegam and Zinhaga,¹⁴⁵ and over which she gave her daughter full seigneurial rights. As surety, her parents appointed Afonso's royal pension consisting of 56,000 *reis* (ca. 9,300 *cruzados*) in annual revenues in addition to her *legítima*. After a precise schedule of payment procedures was laid out, all but one of Caterina's brothers and their wives signed quitclaims, that is, they renounced their legitimate shares in Dom Afonso's and Dona Maria's inheritance in favor of Caterina's dowry, and obligated their own shares for its payment. They thereby approved that Caterina's dowry would not come back *a colação* after the death of her parents, which meant that it would not be returned to the common pool of properties to be distributed evenly among all siblings, as was the norm.¹⁴⁶ This clause suggests that Caterina's dowry was considerably larger than her *legítima* would have been. In exchange for her dowry, Dom Rodrigo, the groom, promised Dona Caterina the legal amount of one-third of the dowry amount or 10,000 *cruzados* as *arras* (bride-gift), which she could keep regardless of whether they were going to have children or not. Should the marriage be annulled, the dowry was to be returned to Caterina's parents. The contract then specified that, even though the marriage was to be concluded by contract of dowry and *arras* instead of *carta da metade* (arrangement of joint ownership), every fortune to be made "honorably" during the course of the marriage was to be owned in common, and would be passed on to their children in equal shares "as if they had married

¹⁴⁵ I have been unable to determine the location of these territories, but assume that they belong to present-day Mozambique.

¹⁴⁶ As Muriel Nazzari has shown for seventeenth-century Brazil, this was common whenever the dowry was larger than the bride's *legítima*. M. Nazzari, *The Disappearance of the Dowry*.

by *carta da metade*.¹⁴⁷ Should Caterina die intestate without children, the entire dowry would be returned to her parents; if she were to make a testament and die childless, she could dispose of half of her dowry and *arras* as she wished, the other half would remain with her husband's family. Dom Francisco, finally, promised his son Dom Rodrigo the annual income of 3,000 *cruzados* from his villa, including full seigneurial rights, since he was not to inherit his "house" (i.e. Dom Rodrigo, despite the fact that he was Dom Francisco's first-born son, was not to become his principal heir.) As already mentioned, all of Caterina's brothers and their wives signed the contract except Jorge da Noronha—a gap in the otherwise water-tight document, the legal consequences of which are not discussed. His wife Dona Isabell de Mendonça, however, who seemed to have established separate residence, gave her approval, albeit reluctantly, and only "because the majority of Dom Afonso's and Dona Maria's sons have already signed it."

Catarina's dowry was exceptionally large: not only did she inherit the bulk of her parents' patrimony, but contributed at least five times more to the marriage than did her fiancé Dom Rodrigo. Their union seems to have been arranged for political purposes of the highest order: the king himself guaranteed Catarina's oversize dowry against all claims of her brothers and—interestingly—sisters-in-law, in addition to sponsoring it in the form of royal *prazos*.¹⁴⁸ His interest might have been to promote greater cohesion between members of the old aristocracy, to which Dom Rodrigo's family seems to have belonged, and "new" families like Dona Caterina's, who got rich in India, thus continuing the policy of royal match-making of which I found evidence also among the documents from the Chancellery of Dom João I.

Another case of royal dowry gifts, and of strong ties between the husband and his parents-in-law, is revealed in the contract signed by Jorge da Franqua, who passed on his office of local administrator) of Beja to his son-in-law Bras Mestre.¹⁴⁹ And Martim Callado, knight of the Order of Our Lord Jesus Christ, resident of Tangier, Morocco, received permission from the king to pass on his royal pension of 5,000 *reis* annually to his daughter Felipa Ribejra on the occasion of her marriage to Pedro Ribejra, likewise residing in war-torn Morocco.¹⁵⁰

¹⁴⁷ ANTT, *Registro Notarias de Lisboa*, Cartorio 15, livro de notas 9, Belchior de Montalvo, 27v.

¹⁴⁸ *Ibid.*, livro de notas 9, 26r.

¹⁴⁹ *Ibid.*, livro de notas 8, 78r.

¹⁵⁰ *Ibid.*, livro de notas 8, 81v.

The study of Portuguese law codes and notarial contracts thus reveals that women continued to enjoy legal independence and relatively broad access to properties despite those agnatic, exclusionary tendencies described by Maria Lurdes de Rosa and António Manuel Hespanha.¹⁵¹ Common-law marriages with joint ownership and equal inheritance among sons and daughters (including illegitimate children's rights to alimonies) remained the norm. Dowries seem to have been adopted for very special purposes—often it was the king himself who sponsored certain marriages in the form of *prazos*. Such state-sponsored marriages were predominantly aimed at whitening the colonial ruling classes, or at fostering greater cohesion among old and new elites. The accompanying dowries were, in some cases, disproportionately large; Dona Caterina's dowry contract bordered on the illegal, which is why all other heirs of her parents' estate (including her sisters-in-law) had to sign quitclaims.

The relatively high degree to which Portuguese women had access to property and legal services seems to correlate with the frequency with which cognatic or even matrilineal female kinship bonds are articulated in Montalvo's contracts: In over a third of all women's acts (36), transactions were notarized between women and their kin and affines, 19 of which would have qualified as "agnatic" or "of agnatic consequence" from the perspective of Renaissance Italy.¹⁵² Such ties, which in Italy were at the core of patrilineal modes of women's dispossession, were relations between wives and husbands (12);¹⁵³ sisters and brothers (5); and daughters and their fathers/parents (2). The majority of all contracts, however, in which women did business with relatives, show matrilineal or cognatic ties (29; multiple entries possible). Property transactions conducted between women and their sons- and daughters-in-law (5) perhaps best characterize the fully developed cognatic nature of Portuguese kinship and its matrilineal remnants, as do relations between mothers and their sons (10), daughters (4), and other, legitimately (1) or illegitimately born children (1). Most interesting for our purposes is the reference to Rodrigo Fernandez's milk-sister, a relationship entirely devoid of agnatic or legal consequence.

¹⁵¹ M. de Lurdes Rosa, *O Morgadio em Portugal*; A. M. Hespanha, *História de Portugal Moderno*.

¹⁵² On the concept of agnatic (i.e. patrilineal) kinship and inheritance in Roman Law, see Gianna Pomata, "Blood Ties and Semen Ties."

¹⁵³ Despite the fact that husbands and wives were not agnatically related to each other, because, clearly, they were not descended from a common father, their marriage was meant to produce agnatic heirs for the husband. The legal tie between husbands and wives can thus be described as of "agnatic consequence."

Table 2: Kinship Relations in Women's Notarial Acts (1572)

	Lisbon	Venice	Florence	V & F combined	% Lisbon**	% V&F**
Contracts with references to female kinship*	36	47	35	82	18	20.5
Women's agnatic relations	19	31	22	53	9.5	13.25
Wife — husband (of agnatic consequence)	12	16	10	26	6	6.5
Wife — husband's brother		1	2	3		0.75
Wife — father-in-law	1				0.5	
Daughter — father	1	5	2	7	0.5	1.75
Daughter — parents	1				0.5	
Sister — brother	5	5	7	12	2.5	3
Granddaughter — paternal grandfather		1		1		0.25
Niece — paternal aunt			1	1		0.25
Paternal aunt — nephews		1		1		0.25
Female paternal cousin — male paternal cousins		1		1		0.25
Patruolo?		1		1		0.25
Women's non-agnatic kin	29	17	13	30	14.5	7.5
Mother — son	10	3	8	11	6	2.75
Mother — daughter	5	5	2	7	2.5	1.75
Mother — children	1				0.5	
Mother — illegitimate children	1				0.5	
Mother — son-in-law	4	1		1	2	0.25
Mother — daughter-in-law	1				0.5	
Sister — sister (agnatic, but of cognatic consequence)	2	5	3	8	1	2
Sister — sister's husband		1	3	4		1
Grandmother — grandson		3		3		0.75
Grandmother — granddaughter	1				0.5	
Granddaughter — maternal grandfather		1	1	2		0.5
Aunt — niece	1				0.5	
Greataunt — greatniece		1		1		0.25
Female cousin — male cousin	1				0.5	
Wife — parents-in-law	1				0.5	
Milk siblings	1				0.5	

* multiple entries possible

** percentages taken of entire sample

My collection of notarial acts from Venice and Florence for the year 1572 shows how women lagged behind their Portuguese counterparts in terms of access to property and legal agency, even though a slight increase in business activities seems to be noticeable compared with the fifteenth century.¹⁵⁴ My sample also indicates that Florentine women had, indeed, less access to property than their Venetian counterparts, as has been argued before.¹⁵⁵ Due to the more developed and differentiated notarial culture in Italy, I thought it best to compose my Venetian and Florentine samples from different notaries, each of whom randomly selected. My Venetian sample consists of 100 contracts by Giovanni Battista Malcavazza,¹⁵⁶ and 50 contracts each by Giovanni Figolin¹⁵⁷ and Pietro Giovanni Mamoli.¹⁵⁸ Malcavazza's records are by far the most diverse of the three sets in terms of clientele, consisting to a large extent of middle-class residents of Venice, but extending occasionally to members of the patriciate and other nobilities; 37% of his acts list women agents, compared with Figolin's at 26% and Mamoli's at 14%. Figolin's and Mamoli's clients were, on the average, more exclusive; four of Mamoli's seven female clients belonged to the Venetian, Friulian, or Florentine nobility.

My Florentine sample consists of 50 acts each by notaries Raffaello Benini,¹⁵⁹ Lorenzo Cantini,¹⁶⁰ Pietro Vieri,¹⁶¹ and Filippo Franchini.¹⁶² Benini's records are by far the most inclusive of women's notarial agency (40%), followed by Franchini's (14%), Vieri's (10%), and Cantini's (8%). Vieri's low rate of female actors might be the result of his work for the Florentine merchants' court (*Curia Universitatis Mercatorum*), while Cantini specialized in notarized depositions for a variety of civic and criminal appeal courts. Franchini's preferred clientele consisted of clerics and ecclesiastical institutions, such that 6 out of his 7 women agents were nuns or abbesses. Benini's patrons, on the other hand, were to a high degree composed of middle- and upper-class Florentine citizens, including members of the wool industry.

¹⁵⁴ J. Sperling, "Women's Property Rights."

¹⁵⁵ Samuel K. Cohn Jr., *Women in the Streets: Essays on Sex and Power in Renaissance Italy* (Baltimore, 1996), 1.

¹⁵⁶ ASV, *Notarile*, Atti, reg. 8348

¹⁵⁷ ASV, *Notarile*, Atti, reg. 5616

¹⁵⁸ ASV, *Notarile*, Atti, reg. 8290

¹⁵⁹ ASF, *Notarile Moderno*, Protocolli, reg. 4485.

¹⁶⁰ ASF, *Notarile Moderno*, Protocolli, reg. 4620.

¹⁶¹ ASF, *Notarile Moderno*, Protocolli, reg. 561.

¹⁶² ASF, *Notarile Moderno*, Protocolli, reg. 662.

In both the Venetian and the Florentine samples, proxy appointments were the most frequent form of transaction overall (44%).¹⁶³ Women's contracts consisted of 34% of *procura* assignments. The second-most frequently mentioned type of act dealt with dowry transfers (11% of the entire sample); the rest were inventories, debt payments, quitclaims, marriages, arbitrations, leases, divisions of inheritance, donations, sales and purchases, renunciations, refusals of inheritance, appeals, monastic vows, testaments, sureties, renunciations of rights, and so on. Unsurprisingly, there is no evidence of joint action among spouses.

As already mentioned, Venetian and even Florentine women were capable of being appointed estate managers, albeit at a considerably lower rate than their Portuguese counterparts: 1.25% of all Italian acts were *procura* assignments to women, as opposed to 6.5% in the Portuguese sample. Women figured as actors and recipients in 137 out of 400 contracts or 34% (compared with 49% in Portugal); after adjusting for women's proxy assignments to men, in which women let experts take over the management of their estates, only 86 or 21.5% of all contracts contain signs of actual female agency, as opposed to 33.5% in Portugal.¹⁶⁴ Furthermore, many women acted through legal representatives (21), and, in Florence, with the consent of their husbands (7) and/or *mundualdi* (22).¹⁶⁵ Looking more closely at the content of such agency, it is noteworthy that many such notarial acts involved consenting to a system of dispossession, when, for example, Venetian women signed quitclaims for dowries (3), had inventories drawn up of their deceased husbands' estates (2), engaged in "legitimate" marriages (1), guaranteed their sons' debts (1),¹⁶⁶ refused inheritances (1), or renounced properties (1).¹⁶⁷ Of course, women also paid off debts (4), leased (4) and sold properties (2), wrote testaments (1), and received donations (1), but evidence of female agency more "active"

¹⁶³ The percentage refers to 175 *procura* assignments among the total of 400 records.

¹⁶⁴ Percentages calculated by subtracting women's *procura* assignments to men from the number of "women's acts."

¹⁶⁵ The institution of the *mundualdo*, or legal guardian, goes back to Lombard times, but was embraced by the Florentine *comune* and required of any woman's legal activity until the eighteenth century. See, among others: Thomas Kuehn, *Law, Family, and Women: Toward a legal Anthropology of Renaissance Italy* (Chicago, 1991).

¹⁶⁶ This is the case of Lucretia, daughter of Antonio Luca de Ugolini in Florence, who guaranteed payment of Aloisius's debt of 1800 Florins; ASF, *Notarile Moderno*, Protocolli reg. 561; Piero Vieri, 1572, July 4; c. 104v.

¹⁶⁷ Catherina, widow of Jacobo Andrea Michaeli Angeli di Bizzochi of Prato, conceded a house to the Friars of Santa Lucia in Prato for only 25 Florins. ASF, *Notarile Moderno*, Protocolli 4485; Raffaello Benini; 1572, May 22; c. 2v.

than that is rare. Only two cases in which women took legal action to defend their—however limited—financial claims against powerful males stand out as extraordinary: Sandra, Florentine widow of Thoma di Macatti de Baragazza, sued her former employer Alessandro de Boscoli for outstanding salary payments.¹⁶⁸ In Venice, noblewoman Bianca Capello, famous for her affair and later marriage with Ferdinando I, Grand Duke of Tuscany, issued an ultimatum against her father in an arbitration settlement, offering him three further days to pay off her share of her deceased mother's dowry before taking him to court.¹⁶⁹ Unfortunately, we don't know how her suit ended.

The meager notarial evidence of Italian women's agency can in part be explained by the strong agnatic inflection of women's kinship bonds. In 53 (or 38%) of all women's contracts, as opposed to 19.5% in the Portuguese sample,¹⁷⁰ property transfers took place between husbands and wives (26), sisters and brothers (12), daughters and fathers (7), wives and their husbands' brothers (3), followed by more remote relations.¹⁷¹ As already mentioned, wives were, of course, not agnatically related to their husbands, but since the re-introduction of dotal marriage had been key to the establishment of patrilineal inheritance in medieval Italy, marital relations are categorized here as "of agnatic consequence." Likewise, women were not agnatically related to their husbands' brothers, but, again, since much of the patrilineal dispossession of wives, sisters, and daughters worked in favor of brothers, husbands' brothers, and husbands' fathers' brothers and their male descendents, contracts with property transfers between wives and their brothers-in-law are here counted as "agnatic."

Kinship of no agnatic legal relevance was formulated in 30 or 21% of all Italian women's contracts (as opposed to 30% in the Portuguese sample), in which mothers conducted business with sons (11) and daughters (7), or sisters with each other (8).¹⁷² Relationships between sisters, although technically "agnatic," are here listed as of "cognatic consequence,"

¹⁶⁸ ASF, *Notarile Moderno*, Protocolli reg. 561; Piero Vieri; 1572, July 13; c. 107r. Compare with G. Benadusi, "Investing the Riches of the Poor."

¹⁶⁹ ASV, *Notarile*, Atti, reg. 8348; Giovanni Battista Malcavazza; 1572, Feb. 15 (*more romano*); c. 29r.

¹⁷⁰ Percentages are taken here from the 137 Italian and 97 Portuguese contracts with references to women as beneficiaries and agents. See Table 1.

¹⁷¹ I wish to remind the reader again, that none of these relations would have qualified as "agnatic" in the Portuguese legal system.

¹⁷² Note here how the relations between women and their sisters' husbands were an extension of their sibling bonds.

since the agnatic bond between them did not extend to their children. A quantitative comparison between Italian and Portuguese kinship bonds and their expression in property transfers can, however, only indicate trends. The most notable difference appears to be the frequency with which in Portugal, mothers and mothers-in-law did business with children and children-in-law, while in Italy, fathers and brothers-in-law negotiated with daughters and sisters-in-law.

A closer look at the content of contracts within the same kinship category reveals—unsurprisingly—that similar relationships could result in different property rights. While Portuguese mothers-in-law, for example, were often appointed as general estate managers of the properties of daughters and sons-in-law, the one Venetian mother-in-law mentioned in my records, Cattarina, did not enjoy a position of authority at all.¹⁷³ This contract, which stipulated another widow's credit payment (*livello*) upon fields that Cattarina's husband had once "bought,"¹⁷⁴ shows that two thirds of the revenues went to her deceased daughter's husband. In Portugal, the entire sum would have automatically reverted to her, but in Venice, Cattarina could deem herself lucky to receive one third of her husband's investment as usufruct, since she qualified as temporary heir to her deceased son—an option Florentine women did not have, where sons' properties never ascended to their mothers. Of course, the money could have been used to cover outstanding dowry payments to her son-in-law, but the document does not mention this. Cattarina's only surviving daughter Paola received no share at all, probably because she was unmarried; since her mother's portion was conditioned as a lifelong usufruct, she could not even expect to receive it after her mother's death, when it most likely would revert to her brother-in-law as well.

Property relations between Italian aunts and nieces could reveal a similarly strong agnatic inflection, absent in Portuguese records. A Florentine document that settled property onto Piera, wife of Giovanni Scolarij, demonstrates how women's brothers were routinely favored over their sisters' other relations. Piera was assigned one fourth from her father's sister's inheritance—naturally only with the permission of her husband and the Magistracy of Orphans (*Officialium Pupillorum et Adultorum*), acting as her legal guardian (*mundualdo*)—while her aunt's brother

¹⁷³ ASV, *Notarile*, Atti 8348; Giovanni Battista Malcavazza, 1572, May 2, c. 56r.

¹⁷⁴ *Livello* contracts were very widespread in early modern Venice. Because private money lending was prohibited, such *livelli* functioned as loans in disguise, according to which a person in need of cash could "sell" a piece of real estate to the lender with the understanding that it could be redeemed within a certain amount of time.

received two quarters; the last quarter went to her aunt's surviving spouse.¹⁷⁵ In Lisbon, by contrast, a niece, with a great sense of entitlement, contested her aunt's husband's testament in favor of the Confraternity of Santa Maria, and promptly received the 40,000 reis in question.¹⁷⁶

Zooming in on brother-sister relations proper, my legal records reveal a slightly patronizing attitude of Portuguese brothers vis-à-vis their sisters—which, however, did not preclude monetary advantages for the women in question—and a clearly gendered hierarchy between Venetian and Florentine siblings. In two separate Portuguese contracts, brothers functioned as their sisters' legal proxies, one in order to help her retrieve her mother's inheritance, the other one to find renters for real estate that their parents had settled on her.¹⁷⁷ In three other contracts, sisters inherited from their brothers; one sister even received her brothers' quit-claims for the enhancement of her dowry beyond the legal share, to the detriment of her brothers' portions.¹⁷⁸ In my Italian records, six out of twelve contracts between sisters and brothers consisted of *procura* assignments; in two other—Florentine—contracts, brothers stood surety for their legally impaired sisters—one on the occasion of the sale of a house,¹⁷⁹ the other one upon the grant of guardianship, which the widow in question received over her two orphaned sons only insofar as her brother promised that she would honestly administer their properties.¹⁸⁰ Two other contracts reveal clear cases of sisters' dispossession, when, for example, Baptista Alexandri de Serristoris allocated six ducats annually for Sister Cornelia's personal expenses—probably in return for her renunciation of a bridal dowry upon taking the veil¹⁸¹—or when Donna Lisabetta, widowed, signed over her dowry of 279 Florins to her brother in exchange of life-long alimonies.¹⁸² The remaining two contracts, however, reveal

¹⁷⁵ ASF, *Notarile Moderno*, Protocolli 4485; Raffaello Benini, 1572, May 16, c. 2r.

¹⁷⁶ ANTT, *Registro Notariais de Lisboa*, Cartorio 15, livro de notas 9, Belchior Montalvo, 1572, 18 July, c. 19v.

¹⁷⁷ *Ibid.*, livro de notas 9, 1572, 29 July, c. 36v; livro das notas 8, 1572, 7 May, c. 36v.

¹⁷⁸ *Ibid.*, livro de notas 8, 1572, 7 June, c. 100r; livro das notas 9, 1572, 13 September, c. 115v; livro das notas 9, 1572, 21 July, c. 24r.

¹⁷⁹ ASV, *Notarile*, Atti, reg. 8348, c. 31r; Giov. Batt. Malcavazza, 1572, March 4 (*more romano*). This contract was drawn up by a Venetian notary on behalf of a Venetian woman's property, but the house in question was located in Florence, and thus subject to Florentine rules of female guardianship.

¹⁸⁰ ASF, *Notarile Moderno*, Protocolli 4485, c. 45r; Raffaello Benini, 1572, 15 December.

¹⁸¹ ASF, *Notarile Moderno*, Protocolli 4620, c. 16r; Lorenzo Catini, 1572, 18 Feb. (*more fiorentino*).

¹⁸² ASF, *Notarile Moderno*, Protocolli 4485, c. 12v; Raffaello Benini, 1572, 19 August.

a slightly different power dynamic: Dominica, wife of Antonio Francesco de Cutigliano, was appointed tutor and guardian of her teen-age brother;¹⁸³ and Hieronimo de Cionaccis drew up a testament in which he granted Haelisabet, his “carnal” sister, life-long usufruct over all his possessions.¹⁸⁴ Despite the modest size of my sample, it indicates the patrilineal inflection of property rights of Venetian and Florentine women, who lost money and estates to husbands, brothers, fathers’ brothers, husbands’ brothers, and sons-in-law that in the Portuguese legal context would have been theirs.

In conclusion, I would like to return to Lucrezia Marinella’s initial question: “What do you think?” In my opinion, she was more than justified to complain about Italian women’s severely limited property rights and lack of access to positions of authority, especially when compared with the ample opportunities that Portuguese legal practice offered women property holders. I also concur with Fonte’s analysis of dowry exchange—Italian style—as profoundly detrimental to women’s active property rights. And while I do not share Ruy Gonçalves’s assessment of Portuguese women’s property rights as more generous than those of men, I hope to have shown that they remained very extensive all throughout the early modern period, despite tendencies to curtail them.¹⁸⁵

However, my attempts to define and measure “agency” through a comparative analysis of property transactions prompts another question that deserves further study: namely, how can we critically conceive of female agency in the context of legal and political processes over which women had little to no control at all, namely, the state-formation processes in medieval and Renaissance Italy, and the colonization project of early modern Portugal, as mentioned above? If Italian-style dowry exchange served to turn women’s property rights into credit and prestige, it also facilitated the emergence of a distinct “public” realm, that is, a tight-knit network of houses and lineages of men eligible for city-government, from which women, as we know, were excluded. In Portugal, women’s rights to hold property were gradually subsumed to the interests of a colonial empire in the making, when, for example, the king made the concession of crown goods to women contingent upon an arranged marriage with a man he wanted to reward for military service.¹⁸⁶ Often, he

¹⁸³ ASF, *Notarile Moderno*, Protocolli 4485, c. 28v; Raffaello Benini, 1572, 3 Oct.

¹⁸⁴ ASF, *Notarile Moderno*, Protocolli 4485, c. 13v; Raffaello Benini, 1572, 19 August.

¹⁸⁵ R. Gonçalves, *Privilegios e prerogativas*.

¹⁸⁶ J. Sperling, “Women’s Property Rights.”

would grant endowments to upper-class women for a marriage to a particular retainer. While domestic politics certainly played a role, this match-making activity at the highest level gained particular importance as a strategy to recruit a ruling elite first in North Africa, then Portuguese Asia, finally Brazil. Of particular interest in this regard is the *empramento* for “three lives” (a kind of fief or long-term lease) of territories and offices in Africa and India given to women, to be passed on to their daughters and granddaughters. The expectation was that the women thus endowed would go to the colonies to find a Portuguese-born husband, who would then manage these estates or occupy these offices.¹⁸⁷ Other efforts to recruit a white ruling elite on the ground consisted of state-sponsored marriages between “royal orphans” and soldiers in Goa.¹⁸⁸ In São Paulo, Brazil, similar racial demographic policies were implemented without state intervention. Fathers would endow daughters excessively to the detriment of sons, in their hopes of attracting Portuguese-born sons-in-law. They thus preferred passing on the bulk of their wealth to the “white” grandchildren likely to be born of their daughters rather than to their sons’ promiscuous, mixed-race offspring.¹⁸⁹ Such favoring of daughters over sons in defiance of Portuguese rules of equal inheritance was economically viable because the bulk of wealth to be passed on consisted of slaves—which sons, but not daughters, could easily acquire during annual raids. Nowhere is the connection between the preferred treatment of women on the one hand, and slavery and racism on the other, more apparent than in early modern Brazil. But also in India, the generous property rights granted to Portuguese women were exploited for purposes of colonization. In their efforts to combat *sati* (widow burning) and convert Hindis, the Portuguese authorities promised Indian women instant protection under Portuguese property laws if they converted.¹⁹⁰ This promise must have resonated powerfully in a society in which most women did not enjoy property

¹⁸⁷ Allen Isaacman, *Mozambique. The Africanization of a European Institution: The Zambesi Prazos, 1750-1902* (Madison, 1972).

¹⁸⁸ T. Coates, *Convicts and Orphans*.

¹⁸⁹ J. R. Russell-Wood, “Women and Society;” A. Metcalf, “Father and Sons;” M. Nazzari, “Parents and Daughters;” idem, “Women as Obstacles to Business: British Objections to Brazilian Marriage and Inheritance Laws,” *Comparative Studies in Society and History*, 37, no. 4 (1995):781-802; idem, “The Waxing and Waning of Matrilinearity in Sao Paolo, Brazil: Historical Variations in an Ambilineal System, 1500-1900,” in: *Gender, Kinship, Power: A Comparative and Interdisciplinary History*, ed. by Mary Jo Maynes, Ann Waltner, Birgitte Soland and Ulirike Strasser (New York, 1996), 305-17.

¹⁹⁰ “Lei sobre o modo,” in: *APO*, 392-94.

rights at all; the extent to which this strategy was successful remains to be studied, however.

This excursion into the Portuguese colonies was intended to show how in a society with pronounced women's property rights, and true bilateral, cognatic, even residually matrilineal inheritance and kinship patterns, the question of "agency" is still a difficult one to answer. First of all, Portuguese women's independence was severely, if informally, curtailed through the practice of strict domestic seclusion, particularly in the colonies. And secondly, the agency that women displayed in property transactions has to be seen in the context of another type of agency altogether, namely, the imperial agenda. As I have shown, Portuguese women were able to withstand the pressure on their customary rights quite well; however, the ways in which authorities increasingly capitalized on the properties of women served interests other—and larger—than their own.

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