

H-France Review Vol. 10 (January 2010), No. 6

Jeffrey Merrick and Suzanne Desan, eds. *Family, Gender, and Law in Early Modern France*. University Park: Penn State University Press, 2009. 272 pages. \$55 (hb.) 978-0-27103-469-0.

Review by Jennifer Heuer, University of Massachusetts, Amherst.

This excellent collection developed from a 2002 conference, “Law, Family, and State Organization in the Early Modern World,” and from dialogues at subsequent conferences. Unlike many such volumes, it offers a remarkable coherence, and the essays have likely been considerably reworked from earlier incarnations.

The title sums up the major themes of the volume: All of the essays examine the intersections of family, gender, and law in seventeenth and, especially, eighteenth-century France. Jeffrey Merrick and Suzanne Desan open with an effective introduction. They trace changing methodologies for analyzing the history of European families and the challenges and opportunities provided by thinking about family together with gender and law. The rest of the book is structured by articles moving from marriage negotiations and relations within marriage to studies of the breakdown of marriage, and finally, to legal issues around parenthood, especially guardianship and bastardy. Unusually for a collection that seems to be aimed at an academic as well as a textbook market, each chapter ends with a short document or set of documents relevant to the author’s material.

The first substantive essay is by Desan, “Making and Breaking Marriage: An Overview of Old Regime Marriage as a Social Practice.” It fulfills Desan’s goal of providing an outline of both marriage alliances and separations. It also provides the reader with a useful context for the case studies that follow in the volume. Desan illuminates eighteenth-century law in general, explaining the broad differences between property regimes in southern France (and to some extent in Normandy) and those in the northern and western parts of the country.

Dena Goodman then looks at two propertied couples. She shows that Bernard de Bonnard and Sophie Sylvestre married primarily for financial reasons, but developed a loving relationship, while Jean-Marie Roland and Manon Phlipon wed despite familial opposition, but did not have a happy marriage. Goodman’s point in contrasting these two couples is to draw our attention away from the Enlightenment campaign for free marital choice to dynamics within marriage. She claims that for eighteenth-century women, “marital happiness depended not on the free choice of a partner, but on accepting one’s subordination to one’s partner, no matter how chosen or by whom.” (p. 47)

In the next essay, Clare Crowston questions the subordination of married women, at least in certain contexts. More precisely, she asks a provocative and innovative question. Given the legal control husbands enjoyed over family property, why did contemporaries fear that wives would drive families into bankruptcy? Her answer is trade credit. While a married woman technically required her husband’s written authorization to take on debt, she could effectively act as independent agent in daily transactions. Crowston argues that women’s trade credit helped fuel the consumer revolution of the late eighteenth century, in turn, changing patterns of consumption reshaped the importance of such credit. To elucidate her argument, she turns to the fashion merchant Rose Bertin. Bertin ran a prosperous

business that involved both extending credit and taking on debt herself. Her affairs went downhill with the Revolution, and her heirs spent years trying to reclaim money they were allegedly owed. Crowston uses these lawsuits to show that even when specific transactions were contested, the validity of debts assumed by women was unquestioned. She concludes with precautionary tales against excessive use of women's credit and consumption from Mme de Genlis.

Julie Hardwick and Jeffrey Merrick bring us to marital conflicts and separations. Hardwick bases her analysis on one hundred and fifty suits for marital separation in seventeenth- and eighteenth-century Nantes. Her concern is less with the plaintiffs in these trials than with witnesses. Part of her argument is methodological. She contends that witnesses should be seen as "litigation communities" that both addressed issues specific to a case and articulated larger grassroots assumptions about family, state, and the nature of gendered authority. Specifically, she examines the social diversity of witnesses and the logistics of witnessing in the period, noting that in contrast to many other countries, "French women of every age, marital status, and rank were credible, critical members" of litigation communities (p. 126). She also contrasts elite understandings of marital authority to the more popular vision expressed in these testimonies, in which men earned their privileges as heads of household through their actions and behavior.

Jeffrey Merrick also focuses on suits for marital separation, but on a particular case, that of Aglaé Langeac vs. the marquis de Chambonas in 1775. Because of the couple's social prominence and the notoriety that had surrounded Aglaé's mother, Mme Sabatine, their dispute was a *cause célèbre*. Langeac accused her husband of having mistreated her cruelly, describing sexual and financial misconduct; he riposted with accusations of insolence and adultery. Merrick argues that the marquise lost her case because she violated gender norms by claiming independence. In the distinctive context of the first year of Louis XVI's reign, when family values were celebrated, such claims were particularly damning. While Sarah Maza argued that sensational courtroom literature contributed to the birth of public opinion judging aristocracy and monarchy, Merrick reverses this to suggest how contemporary attitudes towards power could affect individual families. [1]

The remaining two essays look at other aspects of family and law. In "Gender, Kin, and Guardianship in Early Modern Burgundy," Christopher Corley examines the institution of *tutelle* or guardianship. Like Hardwick, Corley focuses on a particular body of legal documents, in his case, guardianship cases in Dijon from 1580 to 1780. He also contends that analysis of early modern gender and family relations should not be limited to the household. While Hardwick uses family law to explore the roles of witnesses, Corley uses it to show the importance of kin networks, especially maternal kin. He argues that "despite extensive legal changes that favored the patrilineal family, most families continued to empower women as guardians." (p. 185) Here, he claims that the Burgundian code is especially illuminating because it contained aspects of Roman and northern customary law. While sixteenth-century legal reformers attempted to limit women's control within families, guardianship trials continued to favor widows.

In the concluding essay, Matthew Gerber looks at the practice of buying legitimation through royal rescript, that is, purchasing letters of legitimation from the royal government. The use of such letters declined in the seventeenth century, but natural parents and their offspring revitalized the form during the eighteenth century, both in terms of numbers and increasing use of sentimental language. While Gerber presents a series of detailed graphs and charts analyzing his data, the essay is ultimately less ambitious than some of the others in the volume. He concludes by suggesting that such letters may have made thinkable revolutionary laws allowing illegitimate children to inherit from their parents, even if the influence of such letters was less important in 1793 than was the pressing problem of child abandonment.

The documents appended to individual essays often provide vivid snapshots of the period. Some relate more directly to an author's argument than others. Desan, for example, concludes her essay by appending a 1757 letter from a man in the army assuring his wife that she has not been abandoned. The letter is intriguing, but only loosely connected to her analysis, which focuses more on the logistics of marriage and of legal separations than the reasons couples might remain together, or why in particular a man might seek to reassure his wife. However, all of the documents in the volume are well-chosen. Those looking at the collection for teaching purposes could use many of them to introduce students both to specific themes and to the range of possible sources in the period.

Most of the articles focus on case studies, and as such, raise the question of whether their examples are representative of more general social relations or patterns. For example, Goodman's juxtaposition of two couples is effective. But in several respects, her couples were atypical. For example, in both of her cases, the husband was roughly twice as old as his wife, while the average age of marriage in the eighteenth century was 27 to 28 for men and 25 to 26 for women. [2] The unusual age difference of her subjects may have intensified the experience of inequality within the couple.

Hardwick, Corley, and Gerber each focus on a corpus of one kind of legal source over a long period of time, respectively, suits for marital separation, guardianship hearings, and letters of legitimation. This choice allows the authors to look closely at the people involved with the trials and the language of the documents, and to track patterns with some precision. But it leaves other questions unanswered. While Hardwick explains how the specific conditions of lawsuits for separations affected who was called to witness and what they were asked in such trials, she does not fully address how litigation communities functioned in other kinds of conflicts. Other essays similarly leave one wondering about broader generalizations. How did guardianship work outside of Burgundy? How does the sentimental language in letters of legitimation compare to that used in other contemporary documents?

The collection focuses on the ancien regime rather than the Revolution, thus increasing the coherence of the volume and avoiding the dangers of teleology all too frequent in studies of late eighteenth-century France. Nonetheless, several of the authors touch on the political and social crises that led to the Revolution. Merrick provides a snapshot of tensions within elite society and the ways of critiquing both domestic and political disorder. While he briefly contrasts Langeac vs. Chambonas to another highly publicized lawsuit in the 1770s, it would also be revealing to compare it to subsequent conflicts. How much was this emphasis on "family values" specific to the beginning of Louis XVI's reign? How much do these attitudes suggest longer-term patterns or developments? His claim that a woman's alleged insolence and adultery sounded more serious to contemporaries than a husband's alleged insolvency and brutality also makes an interesting contrast to Crowston's discussion of women's debt. Crowston takes on the question of gender and the Revolution most directly, contending that public debate over feminine consumption should not only be seen as growing anxiety or hostility to elite women, but also as an indication of changing relations to credit. In this light, her claim that Genlis should be seen as offering a self-critique of reforming nobility is intriguing, raising the question of how to position other contemporary commentators. Crowston also suggests surprising continuities across the revolutionary caesura, pointing out that wives' access to credit would not be challenged or limited during last decade of the eighteenth century or the first decades of the nineteenth.

One cumulative effect of these essays is to call attention to potential sites of negotiation within a highly inegalitarian system. While Goodman emphasizes the subordination of married women, several of the other authors highlight the (circumscribed) ways in which women could exercise agency. Crowston focuses on women's use of trade credit, Hardwick points to the importance of women as witnesses in trials, while Corley explores the role of widows as guardians. To some extent this is a question of sources and emphasis: Identifying exceptions within the context of patriarchal law does not contradict accounts of the experience of constraints by women. However, calling attention to the functional limits

of prescriptive regulations on gender also seems to be part of a more general trend in the field. Since the 1980s, scholarship on early-modern French law and gender has been marked by Sarah Hanley's formulation of a "Family-State compact" in which she argued that French state power and that of patriarchal families expanded together from the sixteenth century onwards. [3] Her formulation remains potent. But a number of new books emphasize the limits of such power in practice, and most of these essays lead in that direction. [4]

While most of the contributors address women and femininity, they also look at men. This is perhaps most explicit in Hardwick's essay, where she explores the repertoire of masculinity, connecting public sociability to roles within the home. But it is a recurrent theme elsewhere in the volume, from Goodman's discussion of courtship to Merrick's analysis of masculinity, power, and scandal. The essays cumulatively expand and reframe our ideas about both femininity and masculinity in the period, especially in relation to marriage and fatherhood.

Finally an article on the French colonial empire might have provided a useful addition and counterpoint to these essays. There is an increasing body of literature on the very themes of gender, family, and law within early modern French colonialism, from changing laws affecting interracial marriage in the Caribbean to the trans-Atlantic negotiations and complicated gender roles of metropolitan European families involved with colonial business. [5] Exploring such themes would not only illuminate to what extent contemporary legal structures and social attitudes applied outside the hexagon, but would also complicate our understanding of relations within the metropole.

Overall, however, this is a rich, creative and timely collection. The contributors make clear that looking at the apparently narrow realm of family, law and gender can lead us to rethink many assumptions about old regime society. They also offer a series of analytical lenses and approaches that should be seriously considered even by those investigating very different periods and contexts.

LIST OF ESSAYS

Suzanne Desan and Jeffrey Merrick, "Introduction."

Suzanne Desan, "Making and Breaking Marriage: An Overview of Old Regime Marriage as a Social Practice."

Dena Goodman, ""Making Choice and Marital Success: Reasoning about Marriage, Love, and Happiness."

Clare Crowston, "Family Affairs: Wives, Credit, Consumption, and the Law in Old Regime France."

Julie Hardwick, "Between State and Street: Witnesses and the Family Politics of Litigation in Early Modern France."

Jeffrey Merrick, "Marital Conflict in Political Context: Langeac v. Chambonas, 1775."

Christopher Corley, "Gender, Kin, and Guardianship in Early Modern Burgundy."

Matthew Gerber, "On the Contested Margins of the Family: Bastardy and Legitimation by Royal Rescript in Eighteenth-Century France."

NOTES

[1] Sarah Maza, *Private Lives and Public Affairs: The Causes Célèbres of Prerevolutionary France* (Berkeley and Los Angeles: University of California Press, 1993).

[2] François Lebrun, *La vie conjugale sous l'ancien régime* (Paris: Armand Colin, 1993), 30. Phillipe Daumas, ed., *Familles en révolution: Vie et changements familiales en Ile de France, changements et continuités (1775-1825)* (Rennes: Presses Universitaires de Rennes, 2003), 135, gives similar numbers, although he extends the age for men until 29. However, this was the age at first marriage; age differences were often different for subsequent marriages. Goodman does address marriage much more generally in her recent book, *Becoming a Woman in the Age of Letters* (Ithaca, NY: Cornell University Press, 2009).

[3] Sarah Hanley, "Engendering the State: Family Formation and State Building in Early Modern France," *French Historical Studies* 16, no. 1(1989): 4-27.

[4] For example, on the basis of visual evidence, Geraldine Sheridan has suggested that trade practices and gender relations often changed little in practice despite increasingly restrictive legislation on women's ability to become apprentices or masters or to take on apprenticeships. Geraldine Sheridan, *Louder Than Words: Ways of Seeing Women Workers in Eighteenth-Century France* (Lubbock, TX: Texas Tech University Press, 2009). Similarly, based on her assessment of the opportunities for widows of guild masters, Janine Lanza argues for "the limitations of patriarchy in practice." Janine Lanza, *From Wives to Widows in Early Modern Paris: Gender, Economy, and Law* (Aldershot, UK: Ashgate, 2007).

[5] Among other works, see Jennifer Spear, "Colonial Intimacies: Legislating Sex in French Louisiana," *William and Mary Quarterly* 60, no. 1(2003): 75-98, John Garrigus, "Redrawing the Colour Line: Gender and the Social Construction of Race in Pre-Revolutionary Haiti," *The Journal of Caribbean History* 30, no. 1-2(1996): 29-38, Sue Peabody, "Négresse, Mulâtresse, Citoyenne: Gender and Emancipation in the French Caribbean, 1650-1848," in *Gender and Emancipation in the Atlantic World*, ed. Diana Paton and Pamela Scully (Durham and London: Duke University Press, 2005), 56-78, and Jennifer Palmer, "Atlantic Crossings: Race, Gender, and the Construction of Families in Eighteenth-Century La Rochelle" (Ph.D. thesis, University of Michigan, 2008).

Jennifer Heuer
University of Massachusetts, Amherst
heuer@history.umass.edu

Copyright © 2010 by the Society for French Historical Studies, all rights reserved. The Society for French Historical Studies permits the electronic distribution of individual reviews for non-profit educational purposes, provided that full and accurate credit is given to the author, the date of publication, and the location of the review on the H-France website. The Society for French Historical Studies reserves the right to withdraw the license for redistribution/republication of individual reviews at any time and for any specific case. Neither bulk redistribution/republication in electronic form of more than five percent of the contents of H-France Review nor re-publication of any amount in print form will be permitted without permission. For any other proposed uses, contact the Editor-in-Chief of H-France. The views posted on H-France Review are not necessarily the views of the Society for French Historical Studies.