WOMEN, LEGAL STATUS AND MARKET PARTICIPATION IN LATE MEDIEVAL ENGLAND: SOME THOUGHTS ON RECENT RESEARCH

MUJERES, ESTATUS LEGAL Y PARTICIPACIÓN EN EL MERCADO EN LA INGLATERRA BAJOMEDIEVAL: ALGUNAS REFLEXIONES SOBRE INVESTIGACIONES RECIENTES

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Fecha de recepción: 25/07/2023

Fecha de aprobación: 02/10/2023

Abstract

Recent years have seen the appearance of a substantial quantity of new research on the question of the legal rights and experiences of women in later medieval and early modern England. This work has concentrated on the legal standing of married women compared to those who were not married. It has led to a greater understanding of the doctrine of "coverture" which held that married women lacked legal independence, and has asked how far the doctrine was observed by the courts and thus carried practical weight in shaping women's participation in the market economy of both countryside and town. The primary aim of the proposed paper is to review the literature on coverture and property rights and draw out its implications for the study of women's work and involvement in markets for commodities, labour and capital. It is argued that recent research shows coverture to have been a widely recognized reality which had a significant impact on the capacity of women to participate in contractual relationships.

Keywords

Coverture – Credit – Commerce – Market - Litigation

Resumen

En los últimos años hemos asistido a la aparición de una cantidad sustancial de investigaciones sobre la cuestión de los derechos legales y las experiencias de las mujeres en la Inglaterra bajomedieval y moderna. Esta actividad se ha concentrado en el estatus legal de las mujeres casadas en comparación con las solteras. Ello ha llevado a una mejor comprensión de la doctrina de la *coverture*, que sostenía que las mujeres casadas estaban privadas de independencia legal; así como a preguntarse hasta qué punto esta doctrina se cumplía en los tribunales y se aplicaba en la práctica al definir la participación de la mujer en la economía de mercado tanto en el campo como en las ciudades. El propósito principal de este artículo es revisar la historiografía sobre la *coverture* y los derechos de propiedad e inferir sus implicaciones para el estudio del trabajo de las mujeres y su involucramiento en el mercado de bienes, trabajo y capital. Se argumentará que

la investigación reciente muestra que la *coverture* tuvo un impacto significativo en la capacidad de las mujeres de participar en relaciones contractuales.

Palabras clave

Coverture – Crédito – Comercio – Mercado - Litigio

Introduction

In 2004, I published an article which sought to evaluate the degree to which rural women in late medieval England had independent access to credit.[1] The study used records of litigation concerning debt in manor courts in an effort to reconstruct the underlying networks of credit. Those networks were based on mainly oral agreements, involving some loans of cash and grain, but primarily sales credit, especially transactions in which payment was deferred for a later date.[2] In manorial and other English law courts of the period, women formed a minority of litigants in interpersonal litigation about debt, and indeed in most other types of case. The central problem addressed by the article, therefore, was as follows: does the relatively small proportion of female litigants acting in debt and related categories of lawsuit accurately represent the real involvement of women in credit and debt relationships?

In the article, this question was largely answered in the affirmative, and I argued that there was little sign, at least in the evidence examined, of any "hidden" participation of women in lending and borrowing that was not reflected in the recorded litigation evidence. This argument was of course required to address the fundamental point that the disputed debts that came to court in the form of litigation were only a minority of the total pool of debts, most of which will have been repaid successfully and therefore did not enter the record.

Where women are concerned, analysis of the relationship between the debts recorded in litigation and the overall credit market focuses heavily on the effects of a crucially important legal doctrine known as coverture. Coverture was central to the treatment of women in the king's courts of common law, including the powerful "central" courts of king's bench and common pleas. One of the main objectives of the present article is to point out the complex and elusive nature of medieval and early modern coverture as it is currently understood by historians; simple definitions look increasingly problematic. For now, it is enough to note the

[1] Chris BRIGGS, "Empowered or Marginalized? Rural Women and Credit in Later Thirteenth- and Fourteenth-century England", *Continuity and Change*, 19 (2004), pp. 13-43.
[2] Chris BRIGGS, *Credit and Village Society in Fourteenth-century England*, Oxford, British Academy, 2009.

basic idea: coverture held that a married woman had no legal identity separate from that of her husband. Technically, therefore, she could not own property or form contracts independently, nor could she sue or be sued in court in her own right. The 2004 article argued that coverture was not simply something that affected the more elevated courts of common law, but it was also well understood at village level in the local, seigniorial or "customary" courts of the manor. The article's implication was that coverture was an institution in the sense understood by the New Institutional Economics; that is, it was one of the "rules of the game" which shaped economic and political life.[3] Coverture acted in various ways to undermine the legal capacity of wives, and prevent them from becoming involved in debt, but also in any other kind of contract which might require formal legal enforcement. The 2004 study showed that most of the women involved in credit networks in the communities studied were single or not-married women and widows not directly affected by coverture, but that even their role in credit was more modest than existing work on the pre-modern "moneylending widow" would have led one to believe.

As citations throughout the present article will show, since 2004 there has been an explosion of rich, varied and important work on women, agency, economic activity and legal experience in late medieval and early modern England. Drawing on a widening range of legal records, one aim of this body of research has been to interrogate the nature and effects of coverture ever more closely. One strand of this literature —which stretches back before 2004, and is traceable in the work of early modernists in particular— tends to question the real-life impact of coverture. It notes abundant evidence for the independent participation of married women in marketing and enterprise, despite the theoretical legal restrictions on such activities.[4] A related line of argument, and one that has emerged especially from the scrutiny of the records of a widening array of court types, is that coverture was much more complex,

[3] Douglass C. NORTH, *Institutions, Institutional Change and Economic Performance*, Cambridge, Cambridge University Press, 1990.

[4] For summaries of this strand, see e.g. Deborah SIMONTON, "Community of Goods, Coverture and Capability in Britain: Scotland versus England", in Beatrice Zucca MICHELETTO et al., *Gender, Law and Economic Well-Being in Europe from the Fifteenth to the Nineteenth Century: North Sea versus South?*, London, Routledge, 2018, p. 34; Emily IRELAND, "Re-examining the Presumption: Coverture and 'Legal Impossibilities' in Early Modern England Criminal Law", *Journal of Legal History*, 43 (2022), p. 188. Cordelia BEATTIE and Matthew Frank STEVENS, "Introduction: Uncovering Married Women", in Cordelia BEATTIE and Matthew Frank STEVENS, *Married Women and the Law in Premodern Northwest Europe*, Woodbridge, Boydell, 2013, pp. 9-10; Bronach KANE with Fiona WILLIAMSON, "Introduction", in Bronach KANE and Fiona WILLIAMSON, *Women, Agency and the Law, 1300-1700*, London, Pickering and Chatto, 2013, p. 7; Craig MULDREW, "'A Mutual Assent of Her Mind'? Women, Debt, Litigation and Contract in Early Modern England", *History Workshop Journal*, 55 (2003), pp. 47-71; Amy Louise ERICKSON, "Coverture and Capitalism", *History Workshop Journal*, 59 (2005), pp. 1-16, esp. pp. 9-10; Alexandra SHEPARD, "Crediting Women in the Early Modern English Economy", *History Workshop Journal*, 79 (2015), pp. 1-24.

varied and shifting than was understood by historians 25 years ago. Famous later definitions of coverture, most notably that produced in the eighteenth century by the lawyer William Blackstone, emphasized features that were not always so important in the later medieval period.[5] Perhaps the most helpful portions of the abundant recent literature on coverture are those which advocate a "middle way" and caution us against resorting to what Gwen Seabourne has called "a 'strict law v. more positive practice' binary"[6]. Coverture was flexible, multi-faceted and persistent; as Tim Stretton and Krista Kesselring put it, "many wives exercised a good deal of agency and crafted meaningful lives for themselves despite the legal restrictions attendant upon marriage; yet, for all this, the restrictions remained"[7].

One upshot of all this work is to shed new light on the larger question at the heart of my 2004 enquiry: what were the effects of legal rules and practices on women's participation in the commercial economy of the later middle ages (c.1275-c.1500)? The aim of the present article is to examine this question in the light of the work on women, economy and the law that has appeared in the past 20 years. The article is not restricted to rural women, or to credit and debt. Instead, the focus is on the presence of women in all aspects of the market economy that involved the formation of contracts. Loans and credit are thus obviously of central importance, but the purview also extends to matters such as manufacturing and trade, waged employment, and the leasing of real property. Late medieval England had a multiplicity of courts in which women might appear in relation to disputed contracts of this nature.[8] To understand how women's legal capacities and experiences affected their economic opportunities, it is therefore necessary to pursue these questions through studies covering a range of different courts, which essentially shared jurisdiction over the types of lawsuits that interest us. A central point that emerges is that the burgeoning literature of the past 20 years reveals an ongoing need to distinguish clearly between women's experiences and capacities in the courtroom on the one hand, and their place in the market on the other, and to give ever greater attention to the connections between the two spheres.

[5] Sara M. BUTLER, "Discourse on the Nature of Coverture in the Later Medieval Courtroom", in Tim STRETTON and Krista KESSELRING, *Married Women and the Law: Coverture in England and the Common Law World*, Montreal, McGill-Queen's University Press, 2013, pp. 24-44; Gwen SEABOURNE, *Women in the Medieval Common Law c.1200-1500*, Abingdon, Routledge, 2021, pp. 34-43.
[6] SEABOURNE, *Women in the Medieval Common Law*, op. cit., p. 43.
[7] Tim STRETTON and Krista KESSELRING, "Introduction: coverture and continuity", in STRETTON and KESSELRING, *Married Women and the Law*, op. cit., p. 5.
[8] Chris BRIGGS, "Introduction: Law Courts, Contracts and Rural Society in Europe, 1200-1600", *Continuity and Change*, 29 (2014), pp. 3-18.

Common law courts

It makes sense to start with work on the common law courts, as this was the setting in which the doctrine of coverture emerged and was most strictly observed, and against which the practices of other courts should be measured. The common law courts —especially the premier central court for civil litigation, the court of common pleas, situated at Westminster— were important venues for litigation concerning debt and contracts, with a jurisdiction that extended over the entire kingdom. Disputes of the kind that are of interest to us here entered the common law courts in huge numbers in this period, especially via the actions of debt, detinue (withheld property) and account. However, these courts' attention was largely limited to the more significant matters involving claims over 40 shillings (£2) in value.

As hinted above, in a recent study Seabourne has argued for a lack of "conceptual coherence" in the common law rules surrounding the effects of marriage on women's legal rights, which was the result of ideas central to coverture such as unity of person coming up against the messy realities of late medieval social existence.[9] Nonetheless, coverture was a reality. Importantly, Seabourne stresses the requirement for a husband to be present in court in all civil lawsuits (such as debt and trespass) that involved a wife.[10] This points to a strict interpretation at common law of a wife's lack of independent legal capacity.

Sara Butler, like Seabourne, has looked closely at how the common lawyers understood and thought about coverture. Butler gives especial attention to the Year Books, which are reports that describe dialogues and arguments in court involving royal justices and lawyers. Butler's conclusions are rather like Seabourne's, in that she identifies common lawyers struggling to give a consistent account of women's legal disabilities that was able to deal effectively with the complex realties of relations between husbands and wives. Yet while she describes coverture as a "legal fiction", Butler too is keen not to downplay the realities of the doctrine as revealed by legal discourse. Her conclusion is that "the Year Books' ubiquitous misogyny and overblown vision of coverture did have a very real impact on women"[11].

Somewhat in contrast Seabourne and Butler, Matthew Stevens has approached the position of women in the common law courts primarily through a focus on plea rolls – that is, the records of proceedings, as different from the reports in the Year Books - and the use of quantitative methods.[12] This has allowed him to advance several important findings

[9] SEABOURNE, *Women in the Medieval Common Law*, op. cit., p. 41.
[10] Ibid., pp. 38, 108.
[11] BUTLER, "Discourse", op. cit., p. 40.
[12] Matthew Frank STEVENS, "London Women, the Courts and the 'Golden Age': A Quantitative Analysis of Female Litigants in the Fourteenth and Fifteenth Centuries", *The London Journal*, 37 (2012), pp. 67-88; Matthew

concerning London women in the court of common pleas. For instance, Stevens identified a significant long-term decline in the proportion of all civil lawsuits at common pleas involving women, from around 26 per cent in the 1320s to 15 per cent in the 1420s.[13] That said, the absolute numbers of lawsuits involving women did increase across the same period, as did the proportion of debt-related cases among such lawsuits (from 50 to 60 per cent). Crucially, too, Stevens shows that married as well as not-married women were involved in London debt litigation in common pleas. In the case of married women this involvement took the form of joint pleas in which wives were accompanied in court by their husbands, as the rules of coverture would lead one to expect. However, Stevens argues for the significance of such evidence given the assumption that coverture should in theory have severely curtailed the roles of married women and rendered their presence in court unnecessary or invisible.[14]

It is important to note, however, that although the court of common pleas records reveal the involvement of women as parties in debt-related actions, these actions came mainly from certain specific categories. These were cases in which a married female litigant appeared jointly with her husband in relation to debts arising from the time when she was single prior to her present marriage, plus cases in which a not-married or widowed woman was dealing with a husband's or other man's debts as executor or administrator. Cases in which a married woman was litigating as an executor or administrator of a prior husband were also statistically important.[15] Thus Stevens offers little or no evidence from the plea rolls to suggest that the common law courts were prepared to countenance actions which arose from the trading or contracting of wives during their current marriages, either independently or as the agent of the husband. This is what the findings of Seabourne and Butler concerning the realities of coverture at common law would lead one to expect.

Taken as a whole, therefore, recent work on women's position in civil actions at common law provides a strong basis for seeing coverture as a significant force and a strong disincentive to establishing debts and contracts with women of a kind that such courts might be unwilling to enforce. Although debt and related actions at common law did feature women, little evidence has been reported which shows husbands and wives appearing together in

Frank STEVENS, "London's Married Women, Debt Litigation and Coverture in the Court of Common Pleas", in BEATTIE and STEVENS, *Married Women and the Law*, op. cit., pp. 115-31; Matthew Frank STEVENS, "Women, Attorneys and Credit in Late Medieval England", in Elise DERMINEUR, *Women and Credit in Pre-industrial Europe*, Turnhout, Brepols, 2018, pp. 45-72.

[13] STEVENS, "London Women", op. cit., p. 81; STEVENS, "Women, Attorneys and Credit", op. cit., p. 50.

[14] STEVENS, "London's Married Women", op. cit.

[15] STEVENS, "London's Married Women", op. cit., pp. 116, 123; STEVENS, "Women, Attorneys and Credit", op. cit., pp. 50, 57.

relation to disputed contracts involving the wife during her current marriage. Based on this work, it is not even clear how far in the fourteenth and fifteenth centuries it was technically possible to sue a husband at common law in relation to acts undertaken by his wife during their marriage.[16] Also, even the litigation of widows and not-married women seems to have been dominated by their obligations as executors and administrators, as distinct from their own disputed transactions. It will be interesting to see how far further work on common pleas in particular, aided no doubt by the growing availability of digitized indexes to cases in the voluminous plea rolls, supports or refutes these pessimistic conclusions.[17]

Manor courts

At the other end of the curial spectrum from the court of common pleas were the manor courts. These were local legal tribunals that existed in their thousands across England, run by a landlord for his (mainly peasant) tenants, and other local people. Many or perhaps most of those using these courts were villeins of unfree status. The courts' records —the manor court rolls— are our chief source of information on medieval rural life, including the family relations, marriage, work, property rights and landholding of women in the countryside, which was of course where most of the population lived. Manor court rolls contain a lot of detailed information concerning interpersonal lawsuits in debt, detinue, and (more rarely) "covenant", which was a type of suit giving remedies in relation to broken agreements, including those relating to work and the leasing of land. Another major category of interpersonal lawsuit in the court rolls was trespass which, although it mainly concerned forcible wrongs such as assaults rather than debts and contracts, can also shed some light on women's legal capacity and ability to sue and be sued.[18] By analysing the evidence in such lawsuits, and especially those concerning debt, detinue and covenant, we can gain a sense of women's participation in rural commerce, always bearing in mind that the court rolls only tell us about debts or other relationships that were disputed, or at least overdue for payment or performance, and hence were brought to court.[19]

Despite the wealth of manor court litigation evidence potentially available, it is surprising that relatively little detailed work has been done since 2004 to investigate what it

[16] On this point, see STEVENS, "London Women", op. cit., p. 76.
[17] These indexes are available at: http://aalt.law.uh.edu/Indices/CP40Indices/CP40_Indices.html
[18] Collectively these lawsuit types are known as the "personal actions"; for discussion see Chris BRIGGS and Phillipp R. SCHOFIELD, "The Evolution of Manor Courts in Medieval England, c.1250-1350: The Evidence of the Personal Actions", *Journal of Legal History*, 41 (2020), pp. 1-28.
[19] As in BRIGGS, "Empowered or Marginalized?", op. cit.

reveals about market participation involving women, at least by comparison with equivalent work on towns (see next section). Most notable are two contributions, by Müller and Larson respectively. The conclusions of each point in very broadly the same direction.[20] Müller argues that common law understandings of coverture are a misleading starting point for any attempt to grasp women's agency within a manorial setting: "while a woman's access to and ability to affect [sic] any agency in court were curtailed under common law, such restrictions did not apply to manorial courts in the same way"[21]. Her article opens with the example of Agnes de Schonedon, a peasant woman from the village of Heacham in Norfolk, who among other things is recorded via court roll evidence as a moneylender in the late thirteenth century. Contrary to our assumptions based on the limited legal capacities of wives, it seems that Agnes was in fact married, but sued in Heacham manor court in her own name. Müller also presents examples of damages awarded for trespasses done to wives who seem to have appeared in court unaccompanied by their husbands.[22]

Larson studies several manorial courts (and one town court) in the north of England (Yorkshire and Durham) over the fourteenth to sixteenth centuries, and recognizes coverture as a significant presence. Yet local conditions were important and rules on women's legal rights were not enforced rigidly; "coverture was powerful but invoked specifically only when it was convenient for either side"[23]. The proportions of female litigants identified by Larson were quite similar to those noted in previous work on manorial courts, at somewhere between 10 and 17 per cent of litigants, depending on the years sampled.[24] Neither Müller nor Larson looked quantitatively at the issue of changing proportions of female litigants over time. My own 2004 study of manorial records, which investigated Oakington (Cambridgeshire) and Great Horwood (Buckinghamshire) showed that proportions of female litigants declined across the fourteenth century, which is interesting in the light of evidence presented above concerning the decline in the presence of lawsuits involving women in the court of common pleas between the 1320s and 1420s.

Larson was unable confidently to identify the marital status of female litigants in the northern manor courts. He observes that most cases involved a woman acting alone,

[20] Miriam MÜLLER, "Peasant Women, Agency and Status in Mid-thirteenth- to Late Fourteenth-Century England: Some Reconsiderations", in BEATTIE and STEVENS, *Married Women and the Law*, op. cit., pp. 91-113; Peter L. LARSON, "Gendered Roles and Female Litigants in North-eastern England, 1300-1530", in Teresa PHIPPS and Deborah YOUNGS, *Litigating Women: Gender and Justice in Europe, c.1300-c.1800*, Abingdon, Routledge, 2022, pp. 116-132.
[21] MÜLLER, "Peasant Women, Agency and Status", op. cit., p. 106.
[22] MÜLLER, "Peasant Women, Agency and Status", op. cit., p. 107.
[23] LARSON, "Gendered Roles", op. cit., p. 122.
[24] BRIGGS, "Empowered or Marginalized?"; BRIGGS, *Credit*, op. cit., p. 114.

presumably under her own name, rather than a husband and a wife explicitly designated as such acting together. He suggests that many of the women litigating on their own may actually have been wives, and that indications that this was the case may only appear incidentally (a single instance is provided). As Larson notes, identifying whether a woman was married using court records is rarely easy. Also, it may be a mistake to assume that naming patterns conform to marital status in a straightforward manner.[25] However his evidence, as it stands, like that in existing work on manor courts, supports the supposition that most female civil litigants were widows, or not-married women. In general, it seems improbable that married women could have been sued or themselves brought suits concerning contracts in manor courts with any great frequency without historians being able to detect this. This in turn brings us back to the conclusion that the rarity of disputed debts and contracts involving wives (and indeed women in general) in manor courts simply reflects their relative rarity in everyday economic life outside the court.

As yet unpublished work on data collected as part of a collaborative research project provides abundant direct and indirect evidence that coverture was an important force in England's manor courts in the century before 1350.[26] The great advantage of collecting and examining the more detailed lawsuits that reached the stage of "pleading" is that such cases go beyond simply naming the principal parties to the suit, and provide fuller details around the subject matter of the case and any other actors involved. A full exposition of such information contained in the relevant cases of debt, detinue, covenant and trespass, drawn from a large number of manor court roll series, is beyond the scope of the present article.[27] It is worth emphasising, though, that this evidence reveals manorial litigants occasionally displaying explicit knowledge of the tenets of coverture. In a case at Ingoldmells (Lincolnshire) in 1320, for instance, joint husband-and-wife defendants used their knowledge of the coverture principle to object to the claim brought by the plaintiff, William Attecley of Winthorp. The defendants, Ralph son of Margery and his wife Agnes, sought the court's judgement as to whether they were required to respond to the plaintiff's complaint about detinue of malt, which had been bought by the plaintiff for six shillings in Agnes's house. The defendants' basis for the challenge was their assertion that at the opening of his complaint the plaintiff had said "they unjustly detained"

[25] MÜLLER, "Peasant Women, Agency and Status", op. cit.; Teresa PHIPPS, "Coverture and the Marital Partnership in Late Medieval Nottingham: Women's Litigation at the Borough Court, ca.1300-ca.1500", *Journal of British Studies*, 58 (2019), pp. 768-786.

[26] 'Private law and medieval village society: personal actions in manor courts, c.1250-1350', Ref. AH/D502713/1 (2006-09), funded by the Arts and Humanities Research Council, UK.

[27] An extended discussion of coverture in manorial courts is in preparation and will form part of the projected volume *Select Cases in Manorial Courts c.1250-c.1350: Debt, Detinue, and Covenant*, co-edited by Chris Briggs and Phillipp R. Schofield, and to be published by the Selden Society.

(plural), whereas at the end he said "she unjustly detained" (singular), thereby "placing property in the wife, although she is *covered* by her husband". Unfortunately, we do not know the outcome of this remarkable case.[28] In other manor court cases we can clearly see the influence of coverture at work at village level even where it is not appealed to explicitly. This can be seen in the argument in court offered by the defendant, Richard Kiriol, at Messing (Essex) in 1310, in response to a claim from the plaintiff, John le Bret. John's claim was that Richard should return money which had been paid to the latter's wife, Matilda, to purchase an ewe which was never delivered. The defendant claimed that he was not obliged to return the money "because he did not know anything about the reception of any money, nor had he ordered it, nor had he had benefit from any of the money"[29]. John's problem in this case was that he was unable to seek remedy from Matilda, given her legal incapacity, and instead brought a suit against her husband, who then denied knowledge of his wife's actions. This could have left the plaintiff in a legal limbo, though in the end the court did make decision in his favour; unusually, the case was placed in the hands of four arbitrators, which is perhaps indicative of the difficult issues it raised. This Messing suit shows how the attitude of a husband was crucial, and is another good example of how knowledge of the contractual disabilities of married women could be marshalled to challenge liability in court. Such problems heightened the risks involved in contracting with married women.

Ideas about coverture may have entered manor courts through the influence of legal professionals. Several treatises survive which were designed for the use of lawyers working in manorial and other local courts, and these contain occasional references to coverture. One includes the following comment among a list of "exceptions" to the person of a plaintiff that a defendant might make in pleading: "one can say that she has a *baron* [i.e. husband] who is living, and demand judgement whether one should respond to her without her husband"[30]. While Müller was perhaps correct to claim that principles of coverture did not apply in the same way in manor courts as they did in common law jurisdictions, equally there is plenty of evidence that knowledge of the doctrine was pervasive and influential in peasant society. It is certainly possible using the manor court rolls to find examples of lawsuits which reveal wives contracting independently, and which proceeded without objections as to their validity. Research to date suggests, however, that such cases were rare. Also, where wives did appear

[28] Lincolnshire Archives, 1-MM/8/5 (emphasis added); W.O. MASSINGBERD, *Court Rolls of the Manor of Ingoldmells in the County of Lincoln*, London, Spottiswoode and co., 1902, pp. 84-85.
[29] Essex Record Office, D/DH X1.
[30] British Library, MS Hargrave 336, f. 27b (second half of the fourteenth century); see also Bodleian Library, MS. Rawlinson C.459, f. 216r; Bodleian Library, MS. Rawlinson C.507, ff. 175-6. On these treatises, see BRIGGS and SCHOFIELD, "The Evolution of Manor Courts", op. cit., pp. 16-20.

in court in matters to do with debt and contract, they were usually accompanied by their husbands, in accordance with the principle of coverture which held that a husband was responsible for his wife's debts. The available evidence suggests that much of the time manor courts treated women as lacking full legal capacity in contractual matters. This in turn posed obstacles for rural trade.

Urban courts

Courts in towns have been the subject of the most extensive and detailed work on women, legal agency and market participation done over the past two decades. Town courts, sometimes known as "borough courts", can be grouped with manor courts in the category of "local" or "customary" courts which followed their own procedures and customs, and were separate from the royal courts of common law, while at the same time frequently influenced by them. Some large towns, most obviously London, held more than one type of court, while smaller towns often had just a single court, albeit one which held sessions more frequently than the typical manorial jurisdiction. Scholarship that focuses on the records of town courts includes publications framed with a wider interest in women's work and property, such as books by Marjorie McIntosh and Barbara Hanawalt.[31] More directly preoccupied by the question of urban women's litigation are studies by Matthew Stevens and, especially, Teresa Phipps.[32] Collectively, this research takes in towns of various sizes, and several different kinds of court. The overall argument that emerges is that the "culture of coverture" (as Phipps terms it) was very much part of urban life, though its effects varied over time and from place to place. Furthermore, the presence of restrictions on women's legal capacity was not so great as to prevent the significant engagement of women in urban market economies.

An initial important issue to consider in the urban context is the question of *femme sole* status. The custom of *femme sole* represented a set of formal legal characteristics available to married women in some large towns. A woman who possessed *femme sole* status was entitled to trade as if single, entirely separate from her husband, and was responsible in court for her

[31] Marjorie K. McINTOSH, *Working Women in English Society, 1300-1620*, Cambridge, Cambridge University Press, 2005; Barbara HANAWALT, *The Wealth of Wives. Women, Law and Economy in Late Medieval London*, Oxford, Oxford University Press, 2007.

[32] STEVENS, "London Women", op. cit.; PHIPPS, "Coverture and the Marital Partnership", op. cit.; Teresa PHIPPS, "Female Litigants and the Borough Court: Status and Strategy in the Case of Agnes Halum of Nottingham", in Richard GODDARD and Teresa PHIPPS, *Town Courts and Urban Society in Late Medieval England, 1250-1500*, Woodbridge, Boydell, 2019, pp. 77-92; Teresa PHIPPS, "Creditworthy Women and Town Courts in Late Medieval England", in DERMINEUR, *Women and Credit*, op. cit., pp. 73-94; Teresa PHIPPS, *Medieval Women and Urban Justice: Commerce, Crime and Community in England, 1300-1500*, Manchester, Manchester University Press, 2020.

own debts and contracts. A famous description of the London custom of *femme sole* notes that a woman pursuing a craft under this status "shall be bound as a single woman" and shall "plead as a single woman in a Court of Record"[33]. Such evidence makes it clear why an earlier generation of historians attached a good deal of importance to *femme sole* status as a means of bypassing coverture. As research on the subject has developed, however, *femme sole* has come to look increasingly marginal, and its effects have been downplayed.[34] Several arguments have been advanced, including the absence of *femme sole* status from many large towns, despite its significance in London. For instance, of the three substantial towns whose litigation has been studied by Phipps —Nottingham, Winchester and Chester— only one (Chester) displays evidence of formal *femme sole* status in our period. It has also been argued that rather few women chose to assume the identity of *femmes sole*. One relatively optimistic interpretation of this state of affairs is that *femme sole* status was deemed unnecessary in many towns, because the legal capacities of married women were recognized sufficiently well to allow them to operate without it.[35] An alternative is that the disadvantages of *femme sole* status outweighed the advantages, and that many urban women preferred instead to retain the flexibility and ambiguity that was available when operating under coverture.[36] We shall return briefly to this issue below when considering the court of Chancery, since some of the key evidence on the operation of *femme sole* status emerges from the records produced by that court.

The next issue to focus on is the involvement of women in civil litigation in urban courts. Most crucial, as ever, is litigation over debt, and the degree to which married women featured as litigants. In a pattern that aligns closely with the evidence from common law and manor courts reviewed earlier, cases involving women in urban courts were a minority of the total, just as women formed a minority of all litigants. The highest figures are perhaps those reported by Stevens in his work on the London Sheriffs' court, which in 1320 heard a total of 549 civil lawsuits, of which 159 (29 per cent) involved a female litigant; the equivalent figures for debt, detinue and account only were 85 out of 323 (26 per cent). Phipps gives her figures for Nottingham, Winchester and Chester in terms of individual litigants, rather than cases. The maximum percentages of female litigants appearing in debt for any of the sample periods studied by Phipps were 17 per cent (Nottingham), 16 per cent (Winchester) and 14 per cent

[33] Cordelia BEATTIE, "Married Women, Contracts and Coverture in Late Medieval England", in BEATTIE and STEVENS, *Married Women and the Law*; op. cit., p. 149; Marjorie K. McINTOSH, "The Benefits and Drawbacks of *femme sole* Status in England, 1300-1630", *Journal of British Studies*, 44 (2005), pp. 414-415.
[34] Cordelia BEATTIE, "Uncovering the *femme couverte*: Married Women and the Law in Late Medieval English Towns", in Jesús Ángel SOLÓRZANO TELECHEA, Jelle HAEMERS and Christian Drummond LIDDY, *La familia urbana. Matrimonio, parentesco y linaje en la Edad Media*, Logroño, Instituto de Estudios Riojanos, 2021, pp. 219-240.
[35] E.g. PHIPPS, *Medieval Women and Urban Justice*, op. cit., pp. 78-79.
[36] McINTOSH, "Benefits and Drawbacks", op. cit.

(Chester). These values are in the same range as those reported in studies of common law and manorial courts, as noted earlier.

However, a key point made in the work discussed in this section is that there are significant differences between the role of women in urban court litigation, and their presence in equivalent kinds of lawsuit prosecuted in the common law courts. Crucially, the women who involved in debt litigation in the urban courts mentioned in the preceding paragraph included a proportion of married women appearing jointly with their husbands. This is important, first because these were lawsuits concerning debts or contracts that had involved the wife directly, and second, because the wife's presence alongside her husband in court to prosecute or respond to the complaint was deemed desirable or essential. To the studies of urban courts conducted by Stevens and Phipps we can add Larson's comments on the Crossgate court situated in the city of Durham (1312-1531), which is the one borough jurisdiction within his north of England sample. Larson observes that it is easier to identify married women as litigants in the Crossgate court than for the rural courts he investigated. He provides several examples, including a 1391 case in which Robert de Kirkham and Juliana his wife sued William Emery for five shillings owed for hay that William had purchased from Juliana. As Larson remarks, "other than Robert's mention in the record as appearing in court for the suit, he had no role; the transaction was between Juliana and William"[37]. Such instances have very strong similarities with cases recorded in the fourteenth-century borough court rolls of Nottingham, analysed by Phipps. These again are cases in which husbands and wives litigated together in respect of contractual disputes in which the wife was personally involved, acting either on her husband's behalf, or independently. For instance, Phipps cites the 1391 broken covenant case of Robert de Howedyn and his wife Isabella, who brought a suit against Tysson Braban, perhaps an immigrant textile worker from the Low Countries. The couple complained that Isabella had given Tysson some thread to make into cloth for Robert and Isabella, which the defendant subsequently lost. As Phipps argues, the case suggests that the couple were married at the time of the disputed events, and that Isabella "was the key agent in this transaction"[38].

Phipps has even been able to identify examples of married women litigating alone at Nottingham. She has produced a close study of the most securely documented case, that of Agnes Halum, who was involved in some 35 different lawsuits in the Nottingham borough court between 1372 and 1399, 27 of which were debt, detinue or covenant. Crucially, through

[37] LARSON, "Gendered Roles", op. cit., pp. 120-121.
[38] PHIPPS, *Medieval Women and Urban Justice*, op. cit., p. 70; for another good Nottingham example, see PHIPPS, "Creditworthy Women", op. cit., p. 83.

a careful scrutiny of the full range of court roll evidence Phipps is able to demonstrate that Agnes was married for at least part of her legal career, even though she generally litigated alone.[39] Agnes Halum was probably not unique in Nottingham as a wife who engaged independently in market exchange and appeared unaccompanied in court.[40] The problem is securely identifying such women, given that they are recorded in litigation under their own names without indication of marital status. It is traditionally held that women recorded in this fashion were widows or not-married women, but Phipps's analysis suggests that that assumption may be unsafe. That position is supported by the comments of Larson on Durham's Crossgate court, who also finds married women litigating alone.[41]

Neither Stevens, in his study of the Sheriffs' court of London, nor Phipps in her work on Nottingham, Winchester or Chester has interrogated the detail available for debt-detinue and covenant lawsuits that involved male parties only, with a view to determining whether such cases concerned disputes that implicated their wives. After all, such a scenario was perfectly possible in theory given contemporary understandings of coverture. This is a potentially important line of enquiry if we wish to explore the possibility that the real marketing and contracting activities of women are to some extent misrepresented by their presence in litigation. This issue was briefly looked at, however, in Stevens's study of the small Welsh borough of Ruthin. Stevens noted that it was not unusual at Ruthin to find indirect references to female credit or contract arrangements in cases where women did not themselves act as litigants, at least by comparison with the situation revealed by the one other available examination of this issue, which focused on rural manor courts.[42]

Overall, therefore, there is clearly plenty of urban evidence pointing to what Stevens (in connection with London) refers to as "a permissive environment of relative female autonomy in commercial and social affairs"[43]. One must not overstate the significance of such evidence, however, or its tendency to encourage an "optimistic" assessment of the specific issue of coverture and its impact on women's contractual capacity.

The first point to make in this regard is that the percentages of debt (and related) lawsuits involving women, or of female litigants in cases of this type, were never large even at

[39] PHIPPS, "Female Litigants and the Borough Court", op. cit.
[40] PHIPPS, *Medieval Women and Urban Justice*, op. cit., pp. 57-58, 66-67.
[41] LARSON, "Gendered Roles", op. cit., p. 120.
[42] Matthew Frank STEVENS, *Urban Assimilation in Post Conquest Wales: Ethnicity, Gender and Economy in Ruthin, 1282-1348*, Cardiff, University of Wales Press, 2010, pp. 132-134, which draws contrasts with BRIGGS, "Empowered or Marginalized?", op. cit.
[43] STEVENS, "London Women", op. cit., p. 78.

their peak, as we have seen. Moreover, these percentages generally declined across all urban courts in the period under study, just as they did in the court of common pleas and in those manorial courts investigated to date. The Sheriffs' court of London, for instance, saw a decline from a total of 549 cases in 1320 to 353 cases in 1461-62, which is what one might expect given population shrinkage. However, the proportion of cases involving women also declined over the same period, from 29 per cent as noted above, to 18 per cent in 1461-62.[44] In the three provincial town courts investigated by Phipps there was a similar downward trend between the fourteenth and later fifteenth centuries. At Nottingham, for instance, the peak in the female share of debt litigants (17 per cent) came in the sample period 1375-6, but the equivalent value had dwindled to just 6 per cent by 1491-2.[45] Phipps is surely right to associate these changes with an increasingly strict interpretation of coverture.[46] The only slight exception to the trend among the three was seen in Chester's Pentice Court, where there was a minor increase in the fifteenth century in the share of female debt litigants, from seven per cent in the later fourteenth and early fifteenth centuries to 11 percent in 1435 and 12 per cent in 1490.

Moreover, even when we focus on the periods during which female debt litigants were most prominent in the record, the absolute numbers of married women are strikingly small. At Nottingham in the sample period 1394-5, married women constituted 7 per cent of all creditors and 7 per cent of all debtors, which was the maximum for any court in all periods. These percentages equate to around a dozen individuals only, in each case. These seem small numbers for a town of perhaps 2,500 inhabitants in total in the later fourteenth century. It is important to remember, also, that the phenomenon of litigating wives is most fully evident for Nottingham. At Chester and Winchester, the percentages of all creditors who were married women was zero or one per cent in five out of six sample periods, while the share of married female debtors was just one or two per cent in four of the same six sample periods.[47] As in the manorial records studied to date, the general phenomena of declining overall female presence in litigation is not restricted to debt, as Phipps also detected it in trespass litigation, which again points to the wider intensification of the effects of coverture over the late middle ages.[48]

In sum, therefore, although both not-married and married women were sometimes involved in their own right in trade and marketing in late medieval towns, coverture had an

[44] STEVENS, "London Women", op. cit., pp. 73-74.
[45] PHIPPS, *Medieval Women and Urban Justice*, op. cit., p. 53.
[46] Ibid., p. 80.
[47] PHIPPS, "Creditworthy Women", op. cit., Tables 3.1 and 3.2; PHIPPS, *Medieval Women and Urban Justice,* op. cit.
[48] Teresa PHIPPS, "Misbehaving Women: Trespass and Honour in Late Medieval English Towns", *Historical Reflections / Réflections Historiques*, 43 (2017), pp. 62-76; BRIGGS, "Empowered or Marginalized?", op. cit.

impact there, too, and one that intensified over time. As Phipps recognizes, even in the towns there were "increasing limitations on women's ability to represent their commercial actions under local law", which in turn "limited their ability to participate in credit networks and transactions"[49]. Although urban courts did allow wives to sue and be sued over contractual matters, coverture created ambiguity around their legal capacity of a kind that undermined commercial confidence. The Nottingham borough court rolls provide evidence of women and men invoking coverture in court seemingly in an attempt to hinder an opponent's suit. These include the case of defendant Agnes Palmer, said to be a widow, who claimed that her husband was still alive to avoid answering the complaint; or that of defendant Richard Brass, who said that his married opponent Amya Litster was married, and therefore he was not obliged to respond to her claims against him.[50] Interpreting the numerical presence of women in litigation, both as a share of total litigants and in absolute terms, is inevitably a subjective exercise, and the assumption that numbers of women appearing in litigation is a proxy for their presence in marketing and contracting is at best rough and ready. That said, while the presence of any married women at all in litigation is undoubtedly significant, given the strictures of coverture, the small numbers involved arguably tells its own tale.

Chancery

One interesting and important strand of research in the discussion of women's legal capacities and market involvement focuses on the court of Chancery. Chancery emerged in the later fourteenth century and was an "equitable" jurisdiction presided over by the royal chancellor, which operated not in conformity to the rules of the common law but in accordance with a notion of what was fair and just. Cases were begun by petition rather than by a formal writ as under the common law. Chancery was not bound by the common law doctrine of coverture and, as Cordelia Beattie explains, there has been historical debate about whether Chancery was a "better" or more attractive venue for women than the common law courts.[51]

The question at issue for the present discussion is whether the development of Chancery jurisdiction changed the legal landscape sufficiently to mitigate or eliminate the

[49] PHIPPS, *Medieval Women and Urban Justice*, op. cit., p. 64.
[50] PHIPPS, *Medieval Women and Urban Justice*, op. cit., p. 73; PHIPPS, "Coverture and the Marital Partnership", op. cit., p. 785.
[51] Cordelia BEATTIE, "Choosing Chancery? Women's Petitions to the Late Medieval Court of Chancery", in PHIPPS and YOUNGS, *Litigating Women*, op. cit., pp. 99-115; Cordelia BEATTIE, "A Piece of the Puzzle: Women and the Law as Viewed from the Late Medieval Court of Chancery", *Journal of British Studies*, 58 (2019), pp. 751-767; BEATTIE, "Uncovering the *femme couverte*", op. cit.; BEATTIE, "Married Women, Contracts and Coverture", op. cit.

effects of coverture which, as discussed above, were apparent elsewhere in England's network of law courts. To do so one would have to show that Chancery provided a setting in which married women were able frequently to sue or be sued in their own right over contractual matters. A review of the recent secondary literature suggests that Chancery's contribution fell well short of this, and to expect the court to have performed such a function is to misunderstand its character and role. First, many petitions show that petitioners were approaching the chancellor because of alleged injustices encountered in other kinds of court, rather than seeking a remedy in Chancery as a court of first instance. Often, moreover, the petitioner was seeking the removal of the matter back to a "lower" court.[52] Second, those petitions that do bear upon the contracting capacities of wives appear to relate to a relatively narrow range of locations and status groups, with mercantile and metropolitan parties being especially prominent. Finally, while the evidence of some Chancery petitions shows that the court was seen by contemporaries as a venue offering remedy in cases where the rules of coverture had led to the blurring or manipulation of legal responsibility, the evidence of these petitions in many ways simply serves to underline the continuing power and influence of coverture more generally in the late medieval legal system.[53]

Ecclesiastical courts

The church courts are our final category of competing and co-existing late medieval legal jurisdictions to be considered. A point made several times in the literature reviewed for this article is that the ecclesiastical courts, like the court of Chancery, had a view of coverture that was rather more lenient than that of the common law.[54] In an overview of the early modern period, Stretton states unambiguously that the church courts did not observe the doctrine.[55] Of course, the church courts, like the other courts discussed above, handled many different kinds of business, so before commenting further it is necessary to be clear about which aspects of that business are at issue here. Given our attention on matters to do with debts and contracts, the focus will be on *fidei lesio,* or "breach of faith". Under the rubric of *fidei lesio*, the church courts had the power to hear petty debt disputes among the laity, and indeed any other matter that could be construed as a broken promise. It is well known that there was an

[52] BEATTIE, "A Piece of the Puzzle", op. cit.
[53] McINTOSH, "Benefits and Drawbacks", op. cit.
[54] See e.g. KANE with WILLIAMSON, "Introduction", op. cit., p. 7; STRETTON and KESSELRING, "Introduction", op. cit., p. 12.
[55] Tim STRETTON, "Women, Property and Law", in Anita PACHECO, *A Companion to Early Modern Women's Writing*, Oxford, Blackwell, 2002, p. 48.

expansion in the fifteenth century in the quantity of *fidei lesio* suits heard by different kinds of English ecclesiastical jurisdiction, and it has been suggested that this might be connected in some way to a contemporaneous decline in recorded debt litigation that has been documented for many manor courts.[56] What has not, to my knowledge, been examined in any detail is the question of women's legal capacity and its connection to *fidei lesio* litigation prior to 1500, and most crucially, whether the church courts allowed recourse for claims of breach of faith brought by and against married women. This is a challenging area to investigate, given the limited survival of appropriate church court material for this period. However, it is potentially important, since if it is possible to confirm the absence of the coverture doctrine from church court litigation over *fidei lesio*, then it might also be possible to draw a link between a late medieval rise in such litigation and the apparent stricter application of coverture and related decline in lawsuits involving women that is evident in other kinds of court in this era, as discussed above.

A full investigation of this issue is clearly not feasible here. In lieu of that, we look briefly instead at a convenient body of published church court materials. This is the record of sessions of the court of Wisbech deanery (Cambridgeshire) from 1460. This court heard *fidei lesio* (debt) and other matters subject to ecclesiastical jurisdiction arising in the seven rural parishes of the deanery.[57] Most of the church court disputes were of a kind familiar from the manor courts, namely sums of money usually up to 10 shillings arising from loans or credit sales. There were at least 528 debt actions brought before the deanery court between 1460 and 1472, some 418 of which were *inter vivos* as opposed to testamentary matters.[58] Women certainly did appear as litigants in the deanery court. The incidence of married women appearing without their husbands is quite low, however. On the basis of the format in which women are recorded in the court book, we can certainly identify apparent wives who litigated alone. For instance, one short entry notes that Margaret wife of John Dodde breached her faith against Joan Smith, by detaining the small sum of seven and a half pence.[59] Yet this is one of just four cases featuring unaccompanied wives out of the total of 418 *inter vivos* cases. A further seven *inter vivos* cases can be traced, but these all feature a wife acting with her husband, such as a matter prosecuted

[56] Chris BRIGGS, "The Availability of Credit in the English Countryside, 1400-1480", *Agricultural History Review*, 56 (2008), pp. 1-24.
[57] Lawrence R. POOS, *Lower Ecclesiastical Jurisdiction in Late-medieval England. The Courts of the Dean and Chapter of Lincoln, 1336-1349 and the Deanery of Wisbech, 1458-1484*, Oxford, British Academy Records of Social and Economic History new ser. 32, 2001; BRIGGS, "Availability of Credit", op. cit.
[58] BRIGGS, "Availability of Credit", op. cit., p. 21.
[59] POOS, *Lower Ecclesiastical Jurisdiction*, op. cit., p. 348.

between 1467 and 1469 in which John Bernard and Simon Stokyll were found to have detained 22 pence from Robert Cheney and his (unnamed) wife.[60]

More work on this subject is clearly required. In the meantime, the evidence on *fidei lesio* litigants from the Wisbech court suggests two alternative conclusions. One is that coverture did not apply to *fidei lesio* business in this jurisdiction, and that inhabitants of the Wisbech district engaged in market transactions with women both married and not-married in the knowledge that those women possessed full legal capacity in the eyes of the local church court. If this was the case, then the marginal presence of women in *fidei lesio* actions in the Wisbech court book undermines any view that the removal of the restrictions of coverture would have tended to encourage comparatively full participation by women in the market economy. An alternative interpretation is that the limited presence of married women is actually an indication that this church court did indeed follow its secular counterparts in placing legal disabilities on married women, i.e., that coverture applied there. Neither interpretation is especially conducive to the view that the economy of the Wisbech area in the later fifteenth century was one in which women engaged independently on any great scale in credit, contracts, and market exchange.

Conclusion

A review of the rich body of research undertaken over the past two decades in the field shows just how far our understanding of coverture and women's legal lives have been deepened thanks to this scholarship. This work has shown that there was no single monolithic doctrine, but a flexible and varied "culture of coverture" that was widely understood both geographically and across all social strata. There are many signs that coverture was extending its influence as the late medieval period progressed. When it came to the formation of contracts, the main effect of the legal disabilities of married women was to breed uncertainty and increase risk. Some courts might in principle permit married women to sue successfully for repayment of debts or the performance of contracts, and by the same token allow others to enjoy such remedies against married women. On occasions, clearly those who might have had reasonable grounds to deploy the principles of coverture to question the validity of a legal claim chose not to do so. At other times, however, such individuals did choose to raise such objections, thereby potentially leaving their opponents with an unenforceable contract. While coverture might be ignored, the thing about it, as Stretton and Kesselring put it, was that "it

[60] Ibid., p. 391.

remained always available to be called upon"[61]. Therefore, anyone who chose to interact with persons subject to coverture took a legal risk.

This article has focused mainly on married women, but as several authors have noted, the risks entailed by coverture also applied to not-married women, since they might themselves marry and change their legal status accordingly.[62] Moreover, as Cordelia Beattie has shown, a person's marital status was an ambiguous matter about which reliable information was hard to come by.[63] This factor only increased the risks involved in trade. One argument that has been advanced is that women flourished in the informal market economy, in which exchanges were undertaken without expectation of recourse to law courts in case of dispute.[64] This is possible, but hard to demonstrate from the records. Also, any informal system of this kind is likely to have relied on personal knowledge of other actors, and thus there will have been limits to the number and type of trading relationships that might be formed.[65]

Why coverture emerged in the first place, and why it proved so persistent, are large and difficult questions which cannot be pursued here. It is worth noting, however, that while coverture was obviously in many ways a patriarchal structure, its persistence may have had something to do with the advantages that it offered many different actors, both men and women, in different situations. One thing that the recent literature has stressed is the existence of situations in which, rather paradoxically, some married women expressed "agency" not by resisting coverture, but by manipulating it for their own ends.[66]

I close with a comment about the potential dangers of anachronism in treating individuals, rather than households, as the key actors in the commercial economy of late medieval England. A particularly interesting feature of the evidence discussed in this article is the prominence of cases in which husband and wife appear to be described as jointly liable for their debts and other contractual obligations. Such cases offer a reminder that it is potentially narrow or misleading to be searching the evidence for wives or husbands operating independently of each other in the field of contractual relations. These entries suggest instead that people contracted with married couples as a unit, a point that has been underlined in

[61] STRETTON and KESSELRING, "Introduction", op. cit., p. 9.
[62] PHIPPS, *Medieval Women and Urban Justice*, op. cit., p. 9.
[63] Cordelia BEATTIE, "'Living as a Single Person': Marital Status, Performance and the Law in Late Medieval England", *Women's History Review*, 17 (2008), pp. 327-40; see also BUTLER, "Discourse", op. cit., pp. 35-36.
[64] McINTOSH, *Working Women*, pp. 86-90.
[65] For the movement of pre-modern women into the "informal sector" as a result of legal restrictions on their work and earnings, and the often negative consequences of this process, see Sheilagh OGILVIE, *A Bitter Living: Women, Markets, and Social Capital in Early Modern Germany*, Oxford, Oxford University Press, 2003, pp. 347-348.
[66] Teresa PHIPPS and Deborah YOUNGS, "Introduction", in PHIPPS and YOUNGS, *Litigating Women,* op. cit., p. 6.

those parts of the literature that stress the importance of the "marital partnership"[67]. The estimate of a husband's creditworthiness was inseparable from that of his wife, and his wider household. Independent, individualized access to credit might in theory have given medieval wives the best possible chance of using that credit in the way that they, and not their husbands, thought best. That was a starting point of the 2004 study that I referred to at the outset of this article, and it remains obvious that if women wished to start their own businesses or lease land on their own account, it was an advantage to enjoy full property rights in contractual matters. However, to expect such independent, individualized contracting activity for married women to have developed, and to express surprise at evidence that shows it did not do so, is perhaps to misunderstand the nature of the society and economy under observation.

[67] E.g. HANAWALT, *Wealth of Wives*, op. cit., pp. 116-120.