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*H-France Review* Vol. 11 (August 2011), No. 193

Julie Hardwick, *Family Business: Litigation and the Political Economies of Daily Life in Early Modern France*. Oxford and New York: Oxford University Press, 2009. ix + 257 pp. Notes, bibliography, and index. \$135 U.S. (cl). ISBN 9780199558070.

Review by Clare Haru Crowston, University of Illinois at Urbana-Champaign.

In this fascinating, rich, and nuanced study, Julie Hardwick provides a compelling vision of the political economy of everyday life in seventeenth-century France. Through a comparative study of civil litigation in Nantes and Lyon, she reconstructs the dynamics of spousal relations within households as well as the multiple ties binding families to the outside world. Despite their different legal regimes and economic foundations, she finds that in both cities law, work, family, gender, violence, and credit were tightly interwoven and shaped by the interaction of households with kin, community, and the crown. Throughout the book, Hardwick's emphasis is on practice not theory, common people not elites, and on negotiations between unequal actors, rather than the top-down imposition of power or the more subtle hegemony of ideological prescription. Her goal is to demonstrate how little we know about this interaction and how badly we have been led astray both by studies based on elite sources—royal edicts and prescriptive literature in particular—and those which view the common people through the lens of criminality and the criminal justice system.

Hardwick's metaphor of choice to describe these dynamics of interaction is "economy" (or, as she usually prefers, economies), a term she uses to designate the management, deployment, and mobilization of resources. For Hardwick, daily life in the seventeenth century can best be described as the enormously time-consuming, risky, but vital struggle to obtain, maintain, and increase resources, which she interprets broadly to include marital status, the law, litigation, economic credit, and violence. Thus, the five chapters of the book treat four discrete yet inter-related economies of marriage (chapter one), of justice and litigation (chapters two and three), of borrowing (chapter four) and of violence (chapter five). A fifth economy, the "information economy," is threaded throughout the book as a key conduit linking the others and enabling their operation.

The source base for the book consists of a previously untapped but extremely important set of documents: almost 1,000 petitions lodged by wives for a separation of property or property and goods from their husbands as well as substantial records from the cities' merchant courts. This hefty source base lends authority to her claims about the risks and resentments that fractured households in this period; the narratives embedded in the petitions—while not without risks, as I discuss below—enable her to bring the past alive. Part of the joy of reading this book is encountering a cast of ordinary seventeenth-century men and women in all their querulous specificity. Hardwick is also deeply immersed in English and French-language secondary sources on France and frequently turns for comparison to the much deeper literature on non-elite women and the law in England. The work draws on and substantially furthers revisionist studies on working women, marriage and family by scholars such as Daryl Hafer, Janine Lanza, Suzanne Desan, and Jennifer Heuer as well as incorporating the perspectives of important recent works in early modern economic history (with the surprising omission of Jean-Yves

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Grenier's *L'économie de l'Ancien régime*, which might have put more meat on the bones of market transition she scatters through the book).<sup>[1]</sup>

With regard to marriage, chapter one makes the key point that marital negotiations did not end with the signing of the contract but in many ways began at that point. According to Hardwick, women's capacity to re-negotiate their status within marriage derived from the status of lineage property in French property law. The portion of a woman's dowry that did not enter the marital community (often up to one half of her total fortune) was termed lineage property, and it remained within her possession, albeit under the husband's management. This meant that, unlike English women—who did not possess lineage assets—French women could petition for a separation of property if they could demonstrate their husband's gross mismanagement. Separation requests, or even the threat to initiate such a request, provided a woman crucial leverage to re-negotiate the husband's behavior and attitude, including his use of violence. Armed with a separation decree, moreover, wives became the first creditor of the household at the expense of all other lenders; however, Hardwick warns that in reality these women remained in precarious economic situations, most petitions having been lodged only after the disappearance of family resources.

In an important point, Hardwick dispenses with the common notion that these were strategic maneuvers, in which the spouses colluded to shield assets from creditors. Instead, she points to evidence of antagonism (such as the oppositions husbands lodged against the petitions) to claim that most cases represented a genuine breakdown of marital relations. She is too polite to drive the point home but is clearly exasperated by studies of attitudes toward women, marriage, and family, whether from the perspective of the "early modern state" or of "public opinion," which pay little heed to practice. She shows that royal edicts and prescriptive literature utterly fail to capture the daily process of spousal negotiation and contestation in which women exercised a significant capacity to re-negotiate their status vis-à-vis their husband's authority, a capacity enshrined in civil law and respected by local communities and civil courts.

With regard to litigation, the subject of chapter two, Hardwick sheds important new light on low-level civil courts, a black box of the early modern legal apparatus, particularly for the seventeenth century. Again, she finds that assumptions about early modern people's relationship to the law founded on prescriptive literature or even on studies of criminal law do not hold. The low-level civil courts were not expensive, corrupt, or grindingly slow but instead were relatively cheap, accessible, and rapid. This was probably one reason why they were so appealing to the mostly humble working people who flooded their dockets with cases. Hardwick finds surprisingly little difference in patterns of litigation in the customary regime of Nantes compared to the common law of Lyon, other than in apparently local (rather than categorical) preferences for certain types of evidence over others. Despite the oft-expressed horror of contemporary and modern observers at the patchwork of Old Regime legal systems and jurisdictions, working families were well able to navigate the lower courts that she studies. Where we tend to imagine criminal cases as representing an exceptional eruption of disorder, Hardwick argues instead for litigation (and threats of litigation) as deeply embedded in everyday life strategies. Women overall composed a small minority of plaintiffs in the civil courts, with a few exceptional forms of litigation—such as requests for marital separation—which were dominated by women.

This is valuable information about a sector of the justice system that remains almost entirely unstudied. From the perspective of an eighteenth-century historian, it must be noted, it is surprising to hear Hardwick's complaints about the negative historiographical consensus on the judicial system. Scholars such as Arlette Farge, Steven Kaplan, and David Garrioch, have long established the role of the Parisian police *commissaire* as local ombudsman and judge of first

resort as well as the constant recourse on the part of working people to complaints or threats of formal action as an integral part of community and family regulatory systems.<sup>[2]</sup> Lacking this police apparatus, seventeenth-century city-dwellers appear to have turned to the lower-court magistrates for many of the same needs. A more important quibble regards the impact of the source base on the author's findings; the uniqueness of marital separation cases, which could only be filed for women and with a very specific intent, begs the question of how civil cases in general compared to criminal ones.

Chapter three extends Hardwick's examination of the law by focusing not on plaintiffs and defendants themselves but on the "litigation communities" comprised by plaintiffs, defendants, and witnesses (most of whom were drawn from friends, family, and neighbors) as well as lawyers and judges. She argues that not only was litigation a primary node of interaction between state and people, it also gave common people a rare opportunity to express their views and be recognized as legitimate actors in public debates about gender, power, and male authority. For Hardwick, these are essentially political matters, and the constant recourse to litigation and the involvement of many thousands of men and women as plaintiff, defendant, or witness, gave humble working men and women a significant voice in shaping debates hitherto examined only from elite perspectives.

Three findings in particular stand out. First, Hardwick contends that "[w]itnesses' [who were roughly evenly divided between men and women in cases of marital separation] discussions of household roles consistently neglected the legal and religious underpinnings of patriarchal power that early modern authorities of all kinds stressed and that have since seemed so striking to observers. Not a single witness referred to the law or to God as sources of husbandly authority, whereas royal prosecutors' discussions of the same cases were filled with references to laws divine and human" (pp. 107-108). Drawing on this insight, she shows, second, that rather than assuming a static patriarchal authority, witness testimony suggested that such authority derived from proper behavior on the husband's part: working hard, staying sober, engaging in respectable sociability, repaying debts, and refraining from flagrant adultery. Wives had a right to expect such behavior and along with it a reciprocal, collaborative relationship with their husbands. Failure to meet standards of proper behavior led to condemnation within the community and public denunciation by witnesses, which was confirmed by lower-court judges. Third, the predictable gendered discrepancies, in terms of expectations of appropriate conduct, did not exist. Men and women had largely similar expectations for proper male conduct, differing only with regard to levels of tolerance for extra marital relations and socializing outside the home. Women's sexuality, such a central focus of both prescriptive literature and historiography, rarely surfaced in the testimony, which did accord ample attention to male lapses in behavior. Husbands (and witnesses) might have undermined the wives' claims with counter-accusations of sexual misconduct, but they did not. So strongly held were these collective values that servants and apprentices at times used public testimony to reproach the conduct of their masters.

The book's longest chapter, chapter four, addresses borrowing and debt. Here Hardwick unveils the reliance of working households on complex layerings of borrowing and lending. Despite prohibitions on married women's ability to borrow without their husbands' authorization, wives played an integral role in credit networks as both borrowers and lenders. Like men, they spanned a wide spectrum of borrowing, ranging from formal *rentes*—overseen by the notaries who formed the subject of Hardwick's previous book—to informal loans, pawning and barter. Indeed, judges recognized married women's autonomous loans as binding for themselves and their husbands, confirming a crucial practical limit to coverture. Nevertheless, Hardwick does not dispense with gender altogether in the credit markets of the seventeenth century. She argues, for example, that shopkeepers in this period did not run tabs in women's names, as they

did in the eighteenth century. This would be an intriguing finding of cultural and economic discontinuity with the later period; however, the limited number of account books she has studied for this period undercuts the weight of the argument.

The material in this chapter provides a vital counterpoint to the discussion of marital relations in chapter one based on a new set of sources derived from the bankruptcy cases at merchant courts. It confirms Hardwick's point that the key to the marriage relationship was not love, companionship, or parenting but community property, with the tacit assumption that the couple's property would be leveraged by loans. Hardwick rightly emphasizes a key, and hitherto neglected, element of masculinity—the household patriarch as a good manager of the dual risks and potential of credit—but simultaneously shows how fragile and contingent this was given women's access to credit and separate property agreements. One question raised by this chapter is thus how householders' masculinity played out in legal regimes that did not grant women rights over lineage property, such as England. Was French men's masculinity more endangered than others because coverture was such an apparently flimsy shield?

Chapter five returns to the separation petitions in a quest for traces of domestic violence. Hardwick draws on 250 cases—presumably from the larger sample of 1,000 separation petitions—where violence was mentioned. Unfortunately, she does not clarify if this represents all of the cases that mention violence or if she has chosen them for more complex criteria. On her chosen sample, Hardwick brings to bear the by now familiar concepts of negotiated patriarchal authority and litigation communities to argue that while husbands' right to impose physical discipline on their wives was unquestioned, the legitimacy of a man's use of force was subject to family, community, and judicial assessment. Working wives habitually breeched the thin line separating domestic space from public space and exploited publicity to shame their husbands and gain recourse against him. "Publicity" in this sense ranged from the stairways of the apartment building to the street to the court house.

In this chapter, Hardwick broadens the scope of violence to include battery of husbands by wives, of children by parents, and within elite couples. The message she draws is that working wives possessed a greater arsenal of defense against abuse than other victims, in part because for a woman of the lower orders there was little shame associated with experiencing abuse, and thus she could appeal to an array of public forums for help. Returning to her overarching themes, she also argues that women's property rights provided the wedge to gain an official forum to vent their grievances. Hardwick's insight here is important, showing that civil litigation, in this case separation petitions, served as a conduit through which multiple grievances—over physical harm, alcohol abuse, adultery, and other matters—could be aired and redressed. The jurists who accorded women lineage property rights centuries earlier never intended that they serve as a springboard to female agency writ large; this is one of those crucial loopholes of the early modern period that gave disenfranchised people some ability to claim rights and articulate their prerogatives. The fact that the lower-court magistrates, along with the entire community, largely supported the women's claims testifies to broadly shared notions about the reciprocities undergirding highly unequal societies.

My admiration for this point notwithstanding, it is important to note that the insights derived from this unique source cannot entirely overcome its limitations. We hear in separation petitions accounts of violence penned by wives to obtain separate property from their husbands. This provides the obvious answer to Hardwick's query as to why only wives appear to complain about violence, while men and children do not, but leaves open the larger question of how violence might have been depicted or experienced beyond the pages of the petitions. It also begs the question of whether petitioners may have presented different stories to different audiences, as we find in the example of Janne LeTourneux (p. 161) who within the same year presented her

husband in one court as a wife-beating drunk and in another as a hard-working competent family manager.

The book ends with a thoughtful and thought-provoking epilogue suggesting continuities and discontinuities from the seventeenth century through the end of the eighteenth century. Hardwick posits that much remains the same: ordinary people continued to be significant actors in state-building; household economies remained crucial not only to economic production and exchange but to the representation of power. In contrast to those continuities, Hardwick also argues for a new conception of marriage as a union between roughly equal partners based on mutual affection and care for children. Community attention accordingly shifted from reconciling spouses by re-negotiating patriarchal power to dissolving unions in which spouses could not live in harmony. She situates this shift within the overall eighteenth-century rise of sentimentality, but is careful to insist that working people were not just emulating their betters. In tandem with the rise of sentiment, Hardwick suggests, firmer lines were drawn between public and private, leaving battered wives in the shadows of the home and wronged women less likely to brave public scrutiny by filing law suits. As men became breadwinners, women were redefined ideologically, if not in practice, as primarily mothers.

What is disappointing about this conclusion illuminates one of the main sources of contention I had with a book that I otherwise deeply admire. As discussed at length above, Hardwick's position throughout is one of respectful provocation toward studies that attempt to understand the social, cultural, and political impact of law and its interaction with families by reading elite sources. She is entirely convincing in her argument that things look very different on the ground, and it is truly wonderful to have so much fine proof that not only women but also male judges, household heads, witnesses, and neighbors all took for granted that women's work and strategizing was essential to the household, that they could borrow and lend on their own to help the family get by, that they were entitled to possession of their assets, that they should not be grievously beaten, and that patriarchal authority was not automatic and sacrosanct but had to be earned and maintained, with real legal and communal consequences for failure.

What is less clear, despite her attempts in the epilogue, is how to put this "real" world back into dialogue with the royal edicts and the legal briefs. Was it merely that elite and popular culture had retreated so far from each other as to be virtually unrecognizable? Was Robert Muchembled so far wrong in arguing for an acculturation of the popular by the state and Church by the end of the seventeenth century that he failed to recognize two cultures so far apart on the crucial topics of authority, family, and gender?<sup>[3]</sup> Hardwick argues at various points in the book that there were in fact continuities from popular to elite in terms of an agreement on the "political" stakes of household economies, but this seems to me to beg the question of what those politics should entail. Moreover, it seems wise, again, to insist on the narrative and rhetorical nature of the separation petitions, which, as we saw above, no more presented a "real" vision of the workings of the household than did the royal edicts.

Overall, this book is an original, innovative gem, whose insightful teasing out of the tangled strands of early modern daily life deserves high praise and a wide readership.

## NOTES

[1] Daryl M. Hafter, *Women at Work in Preindustrial France* (University Park: The Pennsylvania State University Press, 2007); Janine Lanza, *From Wives to Widows in Early Modern Paris* (Farnham: Ashgate, 2007); Suzanne Desan and Jeffrey Merrick, eds., *Family, Gender and Law in Early Modern France* (University Park: The Pennsylvania State University,

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2007); Jennifer Ngaire Heuer, *The Family and the Nation: Gender and Citizenship in Revolutionary France, 1789-1830* (Ithaca, N.Y.: Cornell University Press, 2007) ; Claire Haru Crowston, *Fabricating Women: The Seamstresses of Old Regime France, 1675-1791* (Durham, N.C.: Duke University Press, 2001); and Jean-Yves Grenier, *L'économie de l'Ancien régime: un monde de l'échange et de l'incertitude* (Paris: Albin Michel, 1996).

[2] Arlette Farge, *La vie fragile: Violence, pouvoirs et solidarités à Paris au XVIII<sup>e</sup> siècle* (Paris: Hachette, 1986); Steven Kaplan, *The Bakers of Paris and the Bread Question, 1700-1775* (Durham, N.C.: Duke University Press, 1986); and David Garrioch, *Neighbourhood and Community in Paris, 1740 - 1790*, (New York: Cambridge University Press, 1986).

[3] Robert Muchembled, *Culture populaire et culture des élites dans la France moderne (XV<sup>e</sup>-XVIII<sup>e</sup> siècle)*, (Paris: Flammarion, 1978), 2nd edition Champs-Flammarion, 1991.

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ISSN 1553-9172